

City of Tecumseh
Johnson County, Nebraska

Zoning Regulations

ORDINANCE NO.

ADOPTED BY THE CITY OF TECUMSEH, NEBRASKA
2019

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ARTICLE 1: TITLE AND PURPOSE

Section 1.01 Title This Ordinance may be known and may be cited and referred to as the Zoning Ordinance of the City of Tecumseh, Nebraska.

Section 1.02 Purposes This ordinance has been made in accordance with a comprehensive plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

ARTICLE 2: DEFINITIONS

Section 2.01 Rules For the purpose of this ordinance the following rules shall apply:

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

Section 2.02 Definitions.

- 2.02.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley
- 2.02.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.02.04 **ACCESS BUILDING** (see Building, accessory)
- 2.02.05 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.02.06 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.02.07 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the

main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

- 2.02.08 **ACREAGE** shall mean any tract or parcel of land which does not qualify as a farm or development.
- 2.02.09 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.02.10 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.11 **ADULT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
- 2.02.12 **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- 2.02.13 **ADULT MASSAGE PARLOR, HEALTH CLUB** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.14 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.02.15 **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- 2.02.16 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.02.17 **ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.
- 2.02.18 **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

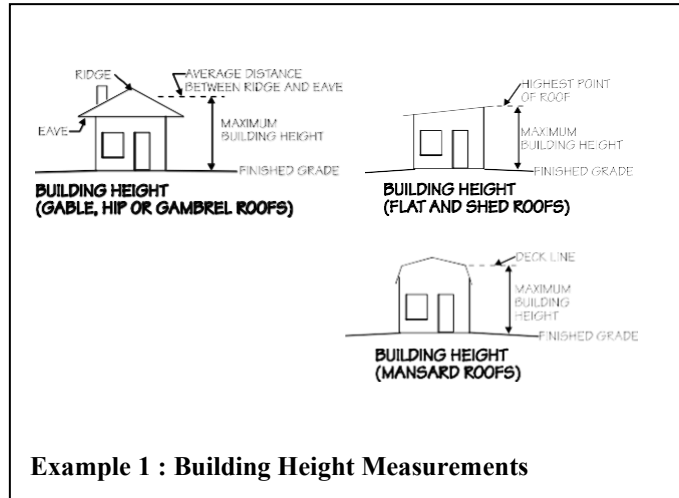
- 2.02.19 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.
- 2.02.20 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.02.21 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.02.22 **AIRPORT** shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.
- 2.02.23 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.02.24 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.
- 2.02.25 **ALTERATION, STRUCTURAL** (see Structural alteration)
- 2.02.26 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.
- 2.02.27 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.
- 2.02.28 **ANIMAL HOSPITAL** shall mean a facility dedicated to treatment of animals, including, cats, dogs, bovine, swine, and other domestic and agricultural animals.
- 2.02.29 **ANIMALS, DOMESTIC** (see Household pet)
- 2.02.30 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)
- 2.02.31 **ANTIQUE SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.
- 2.02.32 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)
- 2.02.33 **APARTMENT HOUSE** (see Dwelling, multiple)
- 2.02.34 **APPEARANCE** shall mean the outward aspect visible to the public.

- 2.02.35 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.
- 2.02.36 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.02.37 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.
- 2.02.38 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 2.02.39 **ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.
- 2.02.40 **AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.
- 2.02.41 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- 2.02.42 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
- 2.02.43 **BASE FLOOD** shall mean any depression 2 feet or more below the land which serves to give direction to a current of water less than 9 months of the year, and which has a bed and well-defined bank.
- 2.02.44 **BASEMENT** shall mean a building space partly underground, and having at least one-half (2) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.
- 2.02.45 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.02.46 **BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
- 2.02.47 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
- 2.02.48 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.02.49 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.02.50 **BILLBOARD** shall mean the same as "Advertising Structure".
- 2.02.51 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, City-County boundaries, or adjoining property lines.
- 2.02.52 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.

- 2.02.53 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
- 2.02.54 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.
- 2.02.55 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sell of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.
- 2.02.56 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.
- 2.02.57 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
- 2.02.58 **BREWERY, CRAFT** shall mean a brew pub or a micro brewery.
- 2.02.59 **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.02.60 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty (50) feet in height shall not be considered broadcast towers.
- 2.02.61 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)
- 2.02.62 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.02.63 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.
- 2.02.64 **BUILDING ACCESSORY** shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.
- 2.02.65 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

2.02.66 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires Building Permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the City that pertain to building construction.

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



2.02.68 **BUILDING INSPECTOR** shall mean the Building Inspector of the City of Tecumseh, Nebraska.

2.02.69 **BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Principal Use.)

2.02.70 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the nearest face of any building or structure related thereto.

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

2.02.72 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

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

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

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

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

2.02.77 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

2.02.78 **CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

- 2.02.79 **CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.
- 2.02.80 **CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.
- 2.02.81 **CITY** shall mean the City of Tecumseh.
- 2.02.82 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Sight Triangle.)
- 2.02.83 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.
- 2.02.84 **CODE** shall mean the Municipal Code of the City of Tecumseh.
- 2.02.85 **COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.
- 2.02.86 **COMMISSION** shall mean the Tecumseh Planning Commission.
- 2.02.87 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.
- 2.02.88 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
- 2.02.89 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.
- 2.02.90 **COMPATIBLE USES** shall mean a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.02.91 **COMPREHENSIVE DEVELOPMENT PLAN** shall mean the Comprehensive Development Plan of Tecumseh, Nebraska as adopted by the City Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Neb. Rev. Stat. §19-903 (R.R.S.1997).
- 2.02.92 **CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

- 2.02.93 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
- 2.02.94 **CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996).
- 2.02.95 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.
- 2.02.96 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility.
- 2.02.97 **CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.
- 2.02.98 **CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.
- 2.02.99 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
- 2.02.100 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see Self-service Station.)
- 2.02.101 **CONTIGUOUS** shall mean the same as "Abut".
- 2.02.102 **COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.
- 2.02.103 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such buildings.
- 2.02.104 **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
- 2.02.105 **COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.
- 2.02.106 **CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

- 2.02.107 **CURVE LOT** see "Lot, Curve".
- 2.02.108 **DENSITY** shall mean the number of dwelling units per gross acre of land.
- 2.02.109 **DETENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.
- 2.02.110 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.
- 2.02.111 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- 2.02.112 **DEVELOPMENT CONCEPT PLAN** (See Site Plan.)
- 2.02.113 **DEVELOPMENT REVIEW** shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.
- 2.02.114 **DOG KENNEL** (See Kennel, commercial)
- 2.02.115 **DOMESTIC ANIMALS** (See Household Pet.)
- 2.02.116 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.
- 2.02.117 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse.
- 2.02.118 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.02.119 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.02.120 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.02.121 **DUPLEX** shall mean the same as "Dwelling, two (2) Family".
- 2.02.122 **DWELLING** Any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.02.123 **DWELLING, MANUFACTURED HOME** A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
- 2.02.124 **DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term

mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

2.02.124.01 **Permanently Attached:** Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.

2.02.124.02 **Permanent Foundation:** Based on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

2.02.125 **DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (R.S.Supp.2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single-family dwelling, and those that do not meet the above criteria shall be considered a mobile home.

2.02.126 **DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

2.02.127 **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

2.02.128 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:

2.02.128.01 The home shall have no less than nine hundred (900) square feet of floor area, above grade, on the main floor;

2.02.128.02 The home shall have no less than an eighteen (18) foot exterior width;

2.02.128.03 The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;

2.02.128.04 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;

2.02.128.05 The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;

2.02.128.06 The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and

2.02.128.07 The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

2.02.128.08 **Permanent foundation:** Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two (42) inches below the final ground level.

2.02.129 **DWELLING, SINGLE FAMILY (ATTACHED)** shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an unpierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.

2.02.130 **DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical walls.

- 2.02.131 **DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.02.132 **DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.02.133 **EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.
- 2.02.134 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.
- 2.02.135 **EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, a mended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 2.02.136 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 2.02.137 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.02.138 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.02.139 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
- 2.02.140 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the City has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.
- 2.02.141 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.02.142 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.02.143 **FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.
- 2.02.144 **FARM** an area containing at least twenty (20) acres or more and produces \$1,000.00 or more per year in agricultural products and which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as

hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

- 2.02.145 **FEEDLOT, COMMERCIAL** shall mean a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinements area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure.
- 2.02.146 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary.
- 2.02.147 **FENCE, OPEN** shall mean a fence, including gates, which has, for each one foot (1') wide segment extending over the entire length and height of fence, fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.
- 2.02.148 **FENCE, SOLID** shall mean any fence that does not qualify as an open fence.
- 2.02.149 **FLOOD** shall mean the water of any watercourse or drainage way that is above the banks or outside the channel and banks of such watercourse or drainageway.
- 2.02.150 **FLOOD PLAIN** shall mean the area adjoining a watercourse which has been or may be covered by flood waters.
- 2.02.151 **FLOODWAY** shall mean the channel of a watercourse or drainageway and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainageway.
- 2.02.152 **FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
- 2.02.153 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
- 2.02.153.01 **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
- 2.02.153.02 **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.02.154 **FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.
- 2.02.155 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
- 2.02.156 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.02.157 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, see Service Station.)
- 2.02.158 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that, which may be used, for the fattening of livestock.

- 2.02.159 **GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guardhouses to simple electronic arms.
- 2.02.160 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.02.161 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.02.162 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridal path, or other similar access-way.
- 2.02.163 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve (12) inches in height at maturity. (Also, see Landscaping.)
- 2.02.164 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.02.165 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.
- 2.02.166 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; (2) A record of having such an impairment; or
- 2.02.167 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.
- 2.02.168 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.02.169 **HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.
- 2.02.170 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
- 2.02.171 **HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.
- 2.02.172 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

- 2.02.173 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.
- 2.02.174 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.
- 2.02.175 **HOME BUSINESS** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within Tecumseh. Home businesses are considered accessory uses to properties in all zoning districts.
- Home businesses include (but not limited to) art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber), shops, and renting of rooms for residential purposes. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child care homes and Child Care Centers are exempt from Home Occupation Permits except for any signage restrictions.
- 2.02.176 **HOME IMPROVEMENT CENTER** shall mean a facility of more than 30,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders’ hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.
- 2.02.177 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.02.178 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.
- 2.02.179 **HOUSE TRAILER** (see Dwelling: Mobile Home)
- 2.02.180 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
- 2.02.181 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.
- 2.02.182 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.02.183 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.02.184 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.
- 2.02.185 **INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the city, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

- 2.02.186 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.02.187 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
- 2.02.188 **INTENT AND PURPOSE** shall mean that the Commission and Council by the adoption of this Ordinance have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.
- 2.02.189 **JUICE BAR** (See Adult Establishment.)
- 2.02.190 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.02.191 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment, resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.02.192 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
- 2.02.193 **KENNEL, COMMERCIAL** shall mean an establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.02.194 **LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services, and any successor agencies. All lagoons shall have the proper permits approved prior to starting construction.
- 2.02.195 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.02.196 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.02.197 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.
- 2.02.198 **LARGE BOX RETAIL** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include: membership wholesale clubs emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point of sale concepts and department stores.

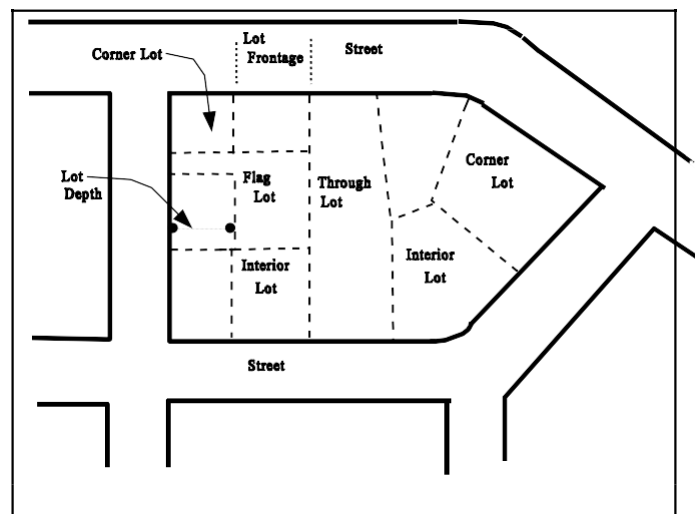
2.02.199 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

2.02.200 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also, see Congregate Housing)

2.02.201 **LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

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

2.02.203 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.



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

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

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

2.02.207 **LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

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

2.02.209 **LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

2.02.210 **LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

- 2.02.211 **LOT, FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
- 2.02.212 **LOT, INTERIOR** shall mean a lot other than a corner lot.
- 2.02.213 **LOT LINE** shall mean the property line bounding a lot.
- 2.02.214 **LOT LINE, FRONT** shall mean the property line abutting a street.
- 2.02.215 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line. On corner lots, the rear lot line shall be opposite of the address side of the property.
- 2.02.216 **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.02.217 **LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.
- 2.02.218 **LOT THROUGH** shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.
- 2.02.219 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Registrar of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.
- 2.02.220 **LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- 2.02.221 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
- 2.02.222 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 2.02.223 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
- 2.02.224 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Tecumseh City Council.
- 2.02.225 **MASSAGE THERAPY ESTABLISHMENT** shall mean any duly licensed place in which a massage therapist practices his or her profession of massage therapy, as defined in Neb. Rev. Stat. § 71-1,278 (R.S.Supp.,2000).

- 2.02.226 **MASSAGE PARLOR** (See Adult Entertainment)
- 2.02.227 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
- 2.02.228 **MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility.)
- 2.02.229 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.
- 2.02.230 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
- 2.02.231 **MOBILE HOME** (See Dwelling, Mobile Home)
- 2.02.232 **MOBILE HOME PARK** (See Manufactured Home Park.)
- 2.02.233 **MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision.)
- 2.02.234 **MOTEL** (See Hotel.)
- 2.02.235 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.
- 2.02.236 **NEB. REV. STAT.** shall refer to the Nebraska State Statutes.
- 2.02.237 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar.)
- 2.02.238 **NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.02.239 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.02.240 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.
- 2.02.241 **NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand (\$1,000) dollars or more of farm products each year.
- 2.02.242 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.02.243 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

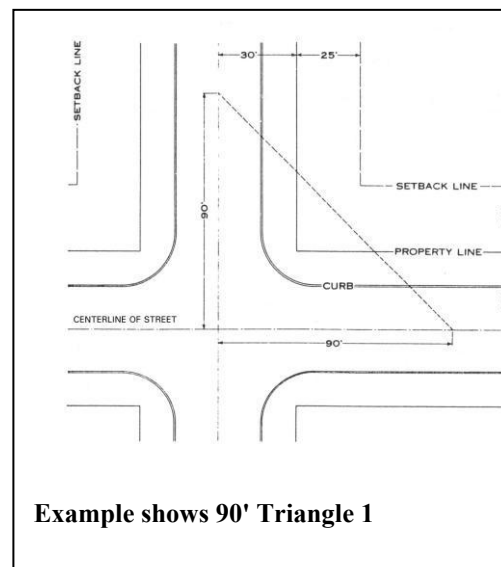
- 2.02.244 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
- 2.02.245 **OFFICIAL MAP** (See Map, Official Zoning District.)
- 2.02.246 **OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
- 2.02.247 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.02.248 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.02.249 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.
- 2.02.250 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".
- 2.02.251 **OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.02.252 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.02.253 **PAINTBALL** shall mean all guns and other devices used for the purpose of firing pellets containing a latex paint at a person or target.
- 2.02.254 **PAINTBALL COURSE, COMMERCIAL** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit by visit basis, that allows individuals to participate in paintball activities.
- 2.02.255 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
- 2.02.256 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.02.257 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.02.258 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.
- 2.02.259 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.

- 2.02.260 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.
- 2.02.261 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.
- 2.02.262 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry block or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.02.263 **PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.
- 2.02.264 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
- 2.02.265 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.02.266 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Tecumseh, Nebraska.
- 2.02.267 **PLANNED UNIT DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
- 2.02.268 **PLANNING COMMISSION** shall mean the Planning Commission of Tecumseh, Nebraska.
- 2.02.269 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.
- 2.02.270 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.02.271 **POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.02.272 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
- 2.02.273 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.02.274 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.
- 2.02.275 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

- 2.02.276 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.02.277 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.02.278 **RAILROAD** shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.02.279 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.02.280 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
- 2.02.281 **RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
- 2.02.282 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
- 2.02.283 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.02.284 **RESTAURANT, DRIVE-IN** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated in parked motor vehicles for consumption either on or off the premises. (Amended August 19, 2002.)
- 2.02.285 **RESTAURANT, ENTERTAINMENT** shall mean an establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.
- 2.02.286 **RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-through; and where food and/or beverages are usually served in paper, plastic, or other disposable containers. (Amended August 19, 2002.)

- 2.02.287 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.02.288 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.02.289 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.02.290 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.02.291 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.02.292 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- 2.02.293 **ROAD** shall mean the same as "Street".
- 2.02.294 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also, see right-of-way and Street.)
- 2.02.295 **ROAD, PUBLIC** shall mean the public right-of-way reserved or dedicated for street or road traffic. (Also, see right-of-way and Street.)
- 2.02.296 **ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.02.297 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
- 2.02.298 **SCHOOL, DAY** shall mean a preschool or nursery school for children.
- 2.02.299 **SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.02.300 **SCREENING** shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.
- 2.02.301 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
- 2.02.302 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

- 2.02.303 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.02.304 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.02.305 **SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.02.306 **SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.
- 2.02.307 **SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.
- 2.02.308 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.
- 2.02.309 **SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one city block or more. Includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.
- 2.02.310 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.
- 2.02.311 **SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.
- 2.02.312 **SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision 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, 60 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection.
- 2.02.313 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:



- 2.02.313.01 A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed 10 square feet.
- 2.02.313.02 Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- 2.02.313.03 Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, City of Tecumseh, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

2.02.314 **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

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

2.02.316 **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs, not over 6 square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.

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



**Sign, Architectural Canopy
Sign, Awning or Canopy**

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

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



Sign, Banner

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

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

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

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

2.02.324 **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a changeable copy sign for purposes of this ordinance.

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

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

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

2.02.328 **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

2.02.329 **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.



**Sign, Billboard
Sign, Off-Premises**



**Sign, Ground (Low Profile)
Sign, Electronic Message
Sign, Flashing**



Sign, Ground (Low Profile)

- 2.02.330 **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
- 2.02.331 **SIGN, GROUND (LOW PROFILE)** shall mean a sign mounted directly to the ground with a maximum height not to exceed six (6) feet.
- 2.02.332 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.
- 2.02.333 **SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
- 2.02.334 **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- 2.02.335 **SIGN, NAMEPLATE** shall mean a sign not exceeding 2 square feet for each dwelling.
- 2.02.336 **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance
- 2.02.337 **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six (6) months after the termination of the existence of such business or the termination of sale of the product advertised.
- 2.02.338 **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.
- 2.02.339 **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.
- 2.02.340 **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- 2.02.341 **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.
- 2.02.342 **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- 2.02.343 **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight (8) inches beyond the surface of such building or wall.



Sign, Projecting

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

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

2.02.346 **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

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

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

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

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

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

2.02.352 **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

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

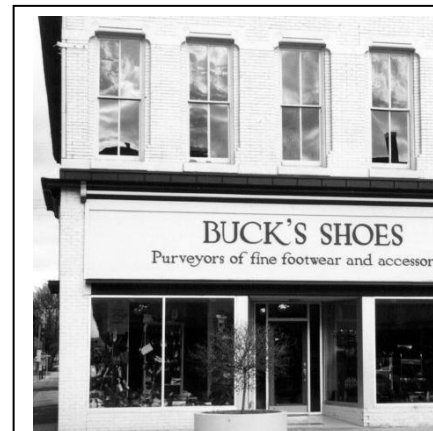
2.02.354 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

2.02.355 **SITE BREAK** shall mean a structural or landscape device to interrupt long vistas and create visual interest in a site development.

2.02.356 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.



Sign, Subdivision



Sign, Wall

- 2.02.357 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.02.358 **SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.
- 2.02.359 **SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for use with skateboards and in-line skates.
- 2.02.360 **SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lays upon the device while it is in motion.
- 2.02.361 **SKATEBOARD PIPE** shall mean a outdoor structure which is shaped into a half circle or oval, that are designed and principally intended to permit persons on skateboards to move continuously from one side to the other.
- 2.02.362 **SKATEBOARD RAMP** shall mean a outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.
- 2.02.363 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.02.364 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.02.365 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of:
- 2.02.365.01 Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
 - 2.02.365.02 Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 2.02.366 **SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:
- 2.02.366.01 Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
 - 2.02.366.02 Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
 - 2.02.366.03 Use of human or animal ejaculation, sodomy, oral copulation, coitus,, or masturbation; or
 - 2.02.366.04 Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
 - 2.02.366.05 Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
 - 2.02.366.06 Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
 - 2.02.366.07 Human excretion, urination, menstruation, vaginal, or anal irrigation.
- 2.02.367 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the

owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

- 2.02.368 **STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.02.369 **STATE** shall mean the State of Nebraska.
- 2.02.370 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.
- 2.02.371 **STORAGE CONTAINER** shall mean any container or vessel originally designated for, or used in, the packing, storage, shipping, movement, or transportation of cargo, freight, goods, furniture, equipment, or commodities and shall include storage pods and similar containers.
- 2.02.372 **STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.
- 2.02.373 **STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.
- 2.02.374 **STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.
- 2.02.375 **STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- 2.02.376 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.02.377 **STORY, ONE-HALF** shall mean the same as "Half-Story".
- 2.02.378 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.
- 2.02.379 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a City with controlled access to abutting property.
- 2.02.380 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.02.381 **STREET, COLLECTOR** shall mean a street or high way, which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
- 2.02.382 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.02.383 **STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

- 2.02.384 **STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
- 2.02.385 **STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.
- 2.02.386 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.02.387 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.
- 2.02.388 **STREETS, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
- 2.02.389 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."
- 2.02.390 **STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 2.02.391 **STREETS LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.
- 2.02.392 **STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.
- 2.02.393 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.02.394 **STRUCTURE, ADVERTISING** shall mean the same as "advertising structure".
- 2.02.395 **STRUCTURAL, ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
- 2.02.396 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.
- 2.02.397 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
- 2.02.398 **TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in

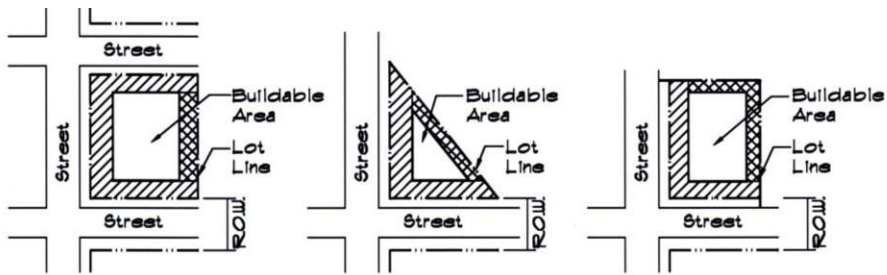
spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

- 2.02.399 **TATOO PARLOR / BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.
- 2.02.400 **TAVERN** (See Bar.)
- 2.02.401 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.02.402 **THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.
- 2.02.403 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)
- 2.02.404 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.02.405 **TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.
- 2.02.406 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.
- 2.02.407 **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
- 2.02.408 **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
- 2.02.409 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)
- 2.02.410 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
- 2.02.411 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
- 2.02.412 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.02.413 **UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.
- 2.02.414 **UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM OF** shall mean the local service distribution circuit or lines and related appurtenances served from a

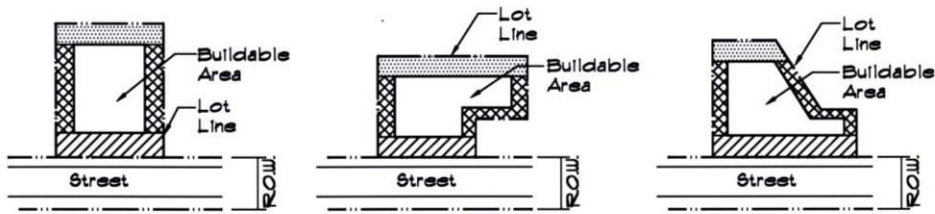
substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

- 2.02.415 **UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
- 2.02.416 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.
- 2.02.417 **VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.
- 2.02.418 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.
- 2.02.419 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.
- 2.02.420 **VEHICLE, MOTOR** (See Motor Vehicle.)
- 2.02.421 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.
- 2.02.422 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.02.423 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.02.424 **WASTEWATER LAGOON** (See Lagoon.)
- 2.02.425 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.02.426 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.02.427 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

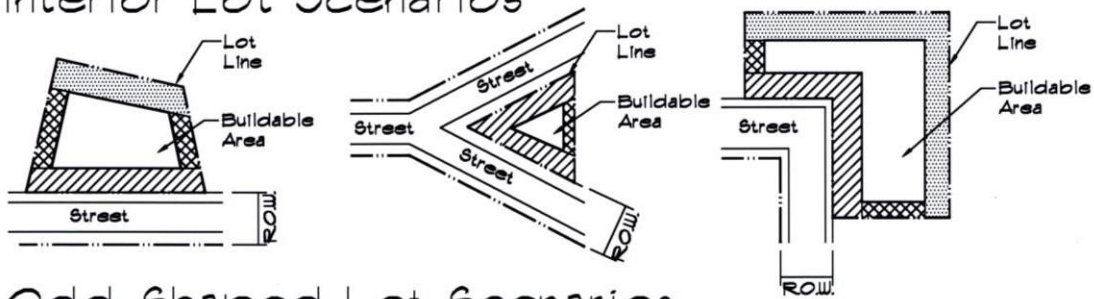
- 2.02.428 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.02.429 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.
- 2.02.430 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
- 2.02.431 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.02.432 **YARD, SIDE** shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.02.433 **ZONE LOT** shall mean A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.
- 2.02.434 **ZONING ADMINISTRATIVE OFFICER** shall mean the person or persons authorized and empowered by the county to administer and enforce the requirements of this chapter.
- 2.02.435 **ZONING DISTRICT** shall mean the same as "District".
- 2.02.436 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zone map of the City.



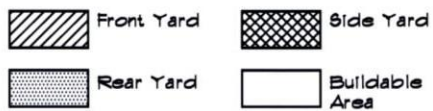
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



ARTICLE 3: DISTRICTS AND OFFICIAL MAP

Section 3.01 Districts. In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the City and the area within one mile of the corporate boundaries, the City is hereby divided into districts.

Section 3.02 Provision for Official Zoning Map.

3.02.01 The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. ***(**) of the City of Tecumseh, Nebraska", together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

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

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

ARTICLE 4: GENERAL PROVISIONS

Section 4.01 Planning Commission Recommendations. Pursuant to Neb. Rev. Stat. § 19-901 (R.R.S.1996), it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendation to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the city.

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

Section 4.02 District Regulations, Restrictions, Boundary Creation. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one (1) time ten (10) days prior to such hearing.

Section 4.03 Jurisdiction. The provisions of this Ordinance shall apply within the corporate limits of the City of Tecumseh, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of One (1) mile, as established on the map entitled "The Official Zoning Map of the City of Tecumseh, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of

building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Section 4.05 Zoning Affects Every Building and Use. No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

Section 4.06 Lot.

- 4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- 4.06.02 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.
- 4.06.02.01 Institutional buildings
 - 4.06.02.02 Public or semi-public buildings
 - 4.06.02.03 Multiple-family dwellings
 - 4.06.02.04 Commercial or industrial buildings
 - 4.06.02.05 Home for the aged
 - 4.06.02.06 Agricultural buildings

Section 4.07 Reductions in Lot Area Prohibited. No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited. A corner lot, within the area formed by the center line of streets at a distance of sixty (60) feet from their intersections, there shall be no obstruction to vision between a height of two and one-half (2 1/2) feet and a height of ten (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. At the intersection of major or arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

Section 4.09 Yard Requirements.

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The Zoning Administrator may permit a variation in front yard setbacks and rear yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than thirty (30) percent of the number of lots on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a majority of such structures have observed or conformed to the requested setback line. (Amended June 21, 2004)
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- 4.09.05 Any yard for an industrial use located within any Industrial District which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening. Included in the increased yard, a solid or semi-solid fence 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 industrial district are separated by a street right-of-way. The owner or owners of the property in the Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.
- 4.09.06 The Zoning Administrator may permit a variation in the rear-yard setback requirements in the C-1, C-3, and I-1 Districts to allow the rear-yard setback at a new commercial structure to conform with the rear-yard setback at a principal building located on the same lot or contiguous lots which are owned by the same person or entity. (Amended August 19, 2002.)
- 4.09.07 Any religion that had a Church located in Tecumseh, Nebraska, which existed on the effective date of this Zoning Ordinance on September 1, 2001, shall be exempted from the maximum lot coverage provisions of this Zoning Ordinance upon the Church's expansion or if the Church builds additional structures on the same lot or an adjoining lot. (Amended March 4, 2002.)
- 4.09.08 Any religion that had a Church located in Tecumseh, Nebraska, at the effective date of this Zoning Ordinance on September 1, 2001, and wishes to expand said Church or wishes to construct additional Church related structures on the same lot or an adjoining lot, shall in addition to the variance permitted under 4.09.03, be permitted a setback variance for front yard, side yard or back yard to allow any new Church structure to conform to the existing setback line of any existing Church structure located on said lot or the adjoining lot. (Amended March 4, 2002.)
- 4.09.09 Accessory buildings in R-2 Residential Districts and accessory buildings and farm buildings in Transitional Agricultural Districts (TA) may be located a minimum of two feet from the side or rear lot line (corner lots have two fronts) if set back 75 feet or more from the front lot line in an R-2 Residential District and 150 feet in a Transitional Agricultural District. Any such accessory building or farm building must be located at least ten feet from the main structure, any other building on the site, and any building on adjacent property.

Section 4.10 Drainage. No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 4.11 Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in the required yards:

- 4.11.01 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty-four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen (18) inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.11.02 *Front Yards:* None
- 4.11.03 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems; decks constructed of wood or similar materials and the floor is no more than 18 inches above the grade of the ground. (Amended December 1, 2008.)
- 4.11.04 *Double Frontage Lots:* The required front yard shall be provided on each street.
- 4.11.05 *Building Groupings:* For the purpose of the side yard regulation a group of commercial, multi-family, or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

Section 4.12 Accessory Building and Uses.

- 4.12.01 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- 4.12.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal

building or structure.

- 4.12.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.12.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet.
- 4.12.05 Detached garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses. Detached accessory garages shall meet the following minimum criteria:
- 4.12.05.01 Be constructed of materials that are in good repair.
 - 4.12.05.02 The sidewalls of said building shall not exceed Twelve (12') feet in height.
 - 4.12.05.03 The garage shall have an overhang of at least six- (6) inches.
 - 4.12.05.04 The garage shall have a maximum width of 36 feet.
 - 4.12.05.05 The garage or outbuilding shall be constructed and finished in materials customarily used in residential construction
- 4.12.06 Regulation of accessory uses shall be as follows:
- 4.12.06.01 Accessory buildings not constructed on a permanent foundation and having 120 square feet or less of floor area are exempt from obtaining a zoning / building permit.
 - 4.12.06.02 Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 - 4.12.06.03 Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.
 - 4.12.06.04 Storage of an unlicensed boat, unlicensed boat trailer, unlicensed camp trailer, or other unlicensed vehicle shall not be permitted in any required yard.
 - 4.12.06.05 No travel trailer, mobile home, recreational vehicles, 5th wheel trailer, or camper shall be used as a home or shelter for any animal or animals.
 - 4.12.06.06 No storage container shall be permitted in any residential district or on any premises used for residential purposes except for the temporary placement of storage containers for the limited purpose of temporary storage to accommodate a move, a remodeling or construction project, or the cleanup after a casualty loss. When permitted under one of the above exceptions, the storage unit shall not remain on the premises for more than 60 calendar days.
- 4.12.07 The Zoning Administrator may allow an Administrative Variance to allow the replacement of an accessory building. Said request for the Administrative Variance shall be requested within six (6) months of the removal or destruction of the original accessory building. Further, the new accessory building shall be located at the same location as the original accessory building. If the new accessory building is enlarged and the enlargement causes any additional nonconformity (i.e. a new or greater setback violation or a new or greater violation of Section 4.12.04), then an Administrative Variance shall not be granted. However, in this case, the owner may request a Conditional Use Permit. (Amended June 21, 2004).
- 4.12.08 Additions to existing accessory building that are in straight lines with the wall(s) of the existing accessory building even though they violate the side or rear setback regulations of the Residential Zoning District or the regulations of Section 4.12.04 may be permitted by obtaining a Conditional Use Permit. (Amended June 21, 2004.)

Section 4.13 Permitted Modifications of Height Regulations.

- 4.13.01 The height limitations of this Ordinance shall not apply to:
- | | |
|-----------------------------|--|
| Belfries | Public Monuments |
| Chimneys | Ornamental Towers and Spires |
| Church Spires | Radio/Television Towers less than 125 feet in height |
| Conveyors | Cooling Towers |
| Elevator Bulkheads | Smoke Stacks |
| Fire Towers | Stage Towers or Scenery Lots |
| Water Towers and Standpipes | Tanks |

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

Section 4.14 Occupancy of Basements and Cellars. No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

Section 4.15 Non-Conforming, General Intent. It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

Section 4.16 Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.

Section 4.17 Nonconforming Structures.

- 4.17.01 *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 4.17.02 *Enlargement, Repair, Alterations:* Any non-conforming structure which is devoted to a use permitted in the zoning district in which it is located may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall create any additional nonconformity (i.e., the addition shall not cause a new or greater violation of any setback requirement or a new or greater violation of the maximum lot coverage requirement for the zoning district where the structure is located), and shall be at least in line with the existing nonconformity of all or any part of such structure. (Amended August 19, 2002.)
- 4.17.03 *Damage or Destruction:* In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.16, shall not have a side yard of less than five (5) feet. When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 4.17.04 *Moving:* No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 4.18 Nonconforming Uses.

- 4.18.01 *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- 4.18.01.01 No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- 4.18.01.02 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
- 4.18.01.03 If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.18.02 *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
- 4.18.02.01 No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
- 4.18.02.02 Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
- 4.18.02.03 If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
- 4.18.02.04 Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
- 4.18.02.05 When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- 4.18.02.06 Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

Section 4.19 Repairs and Maintenance.

- 4.19.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.19.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with

protecting the public safety, upon order of such official.

Section 4.20 Uses under Special Permit not Nonconforming Uses. Any use for which a special permit is issued as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

Section 4.21 Fees. All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be adopted by the City Council by separate Resolution.

ARTICLE 5: ZONING DISTRICTS

5.01	Districts; Uses
5.02	Districts; Boundaries
5.03	District Boundaries; Interpretation
5.04	Districts; Classification of Districts upon Annexation and Conformance with Land Use Plan
5.05	District (TA-1); Transitional Agricultural
5.06	District (R-1); Low Density Residential
5.07	District (R-2); Medium Density Residential
5.08	District (R-3); High Density Residential
5.09	District (C-1); General Commercial District
5.10	District (C-2); Downtown Commercial District
5.11	District (C-3); Highway Commercial District
5.12	District (I-1); Light Industrial District
5.13	District (R-M); Mobile Home Residential
5.14	District (GWAY); Gateway Corridor (overlay)
5.15	District (HD); Historic District (overlay)

Section 5.01 Districts; Use. For the purpose of this Chapter, the Municipality is hereby divided into twelve (12) districts, designated as follows:

(TA)	Transitional Agricultural
(R-1)	Low Density Residential
(R-2)	Medium Density Residential
(R-3)	High Density Residential
(C-1)	General Commercial District
(C-2)	Downtown Commercial District
(C-3)	Highway Commercial District
(I-1)	Light Industrial District
(R-M)	Mobile Home Residential
(GWAY)	Gateway Corridor Overlay
(HD)	Historic District Overlay

Section 5.02 Districts; Boundaries. The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the City of Tecumseh, Nebraska." Said map and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the City Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

Section 5.03 Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be

- construed to follow such center lines;
- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in Sections (5.03.01) -(5.03.05) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) - (F) above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

Section 5.04 Classification of Districts Upon Annexation and Conformance with the Land Use Plan. Areas annexed into the corporate limits of Tecumseh shall be zoned or rezoned to conform to the Land Use Plan.

Section 5.05 TA-1 Transitional Agriculture District

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

5.05.02 Permitted Uses.

- 5.05.02.01 Farming, pasturing, farm buildings, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot, yard or building for more than twelve (12) animals shall be established. (Amended February 6, 2006)
- 5.05.02.02 Farm dwellings for the owners and their families, tenants, and employees.
- 5.05.02.03 Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
- 5.05.02.04 Railroads, not including switching, terminal facilities or freight yards.
- 5.05.02.05 Public overhead and underground local distribution utilities.
- 5.05.02.06 Single family dwelling.
- 5.05.02.07 Churches.
- 5.05.02.08 Nursery and greenhouses.
- 5.05.02.09 Public services.
- 5.05.02.10 Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries or museums.
- 5.05.02.11 Roadside stands offering for sale agriculture products on the premises.
- 5.05.02.12 Mobile Home Courts and RV Parks with same requirements as set out in Tecumseh Municipal Code Sections 10-601 through 10-606

5.05.03 Permitted Conditional Uses:

- 5.05.03.01 Radio, television and wireless communication towers and transmitters, as per Section 7.11
- 5.05.03.02 Sand and Gravel extraction operations, as per Section 7.17
- 5.05.03.03 Airport Landing Strips
- 5.05.03.04 Sale barns
- 5.05.03.05 Cemeteries provided all structures are located at least one hundred (100) feet from all property lines.
- 5.05.03.06 Wastewater treatment facilities.
- 5.05.03.07 Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
- 5.05.03.08 Home businesses, as per Section 7.10.
- 5.05.03.09 Veterinarians' offices and hospitals, and boarding kennels.
- 5.05.03.10 Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
- 5.05.03.11 Wind energy systems, as per Section 7.16.
- 5.05.03.12 Campgrounds.
- 5.05.03.13 Kennels and stables.

- 5.05.03.14 Waste Disposal Sites and Landfills.
- 5.05.03.15 Outdoor storage of RV's, trailers, boats, equipment and vehicles when the storage area is enclosed by a fence, building or wall of at least 6' tall

5.05.04 Permitted Accessory Uses:

- 5.05.04.01 Buildings and uses customarily incidental to the permitted and conditional uses.
- 5.05.04.02 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.05.04.03 Signs as provided for in Section 7.06 through 7.09
- 5.05.04.04 Parking as provided for in Section 7.01 through 7.05
- 5.05.04.05 Fences as provided for in Section 7.12.
- 5.05.04.06 Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
- 5.05.04.07 Solar energy conversion systems, as provided for in Section 7.20.

5.05.05 Height and Lot Requirements:

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

Uses	Lot Area (Acres)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Residential Dwelling	3	100'	75'	25'	*	35'	-
Other Permitted Uses	3	100'	75'	25'	*	45'	-
Other Permitted Conditional Uses	3	100'	75'	25'	*	45'	-
Accessory Buildings	-	-	100'	25'	10'	17'	-

* The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth.

Section 5.06 R-1 Low Density Residential.

5.06.01 Intent:

The Low Density Residential District is intended to permit low-density residential developments to accommodate residential and compatible uses.

5.06.02 Permitted Uses:

- 5.06.02.01 Single family dwellings.
- 5.06.02.02 Public and private schools.
- 5.06.02.03 Churches, temples, seminaries, convents, including residences for teachers and pastors.
- 5.06.02.04 Public Services.
- 5.06.02.05 Publicly owned and operated such as: Community Centers, Libraries, Auditoriums, or Museums.
- 5.06.02.06 Child Care Center and Child Care Home.

5.06.03 Permitted Conditional Uses:

- 5.06.03.01 Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
- 5.06.03.02 Single-family attached
- 5.06.03.03 Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement Housing, convalescent homes, other similar institutions, or philanthropic institutions.
- 5.06.03.04 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.06.03.05 Home businesses, as per Section 7.10.

5.06.04 Accessory Uses:

The following accessory uses are permitted in the R-1 Low Density Residential District:

- 5.06.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.06.04.02 Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
- 5.06.04.03 Parking for permitted uses as per Section 7.01 through 7.05
- 5.06.04.04 Signs allowed in Section 7.06 through 7.09
- 5.06.04.05 Fences as provided for in Section 7.12.

- 5.06.04.06 Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
- 5.06.04.07 Landscaping as required by Section 7.15

5.06.05 Height and Lot Requirements:

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

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family, detached**	20,000	100'	25'	10'	***	35'	35%
Single-family, attached**	12,500 per unit	100'	25'	10'	***	35'	20% per lot
Other Permitted Uses	20,000	100'	25'	25'	***	45'	25%
Accessory Buildings	-	-	50'	25'	10'	17'	13%*

* Provide total area of accessory structure for single family does not exceed 1,630 sq. ft. and the total lot coverage of all buildings does not exceed 45%. Accessory structure for single family may exceed 1,630 sq. ft., 13% of lot coverage, and/or the height of the side walls, if a Conditional Use Permit is granted. (Amended August 19, 2002.) (Amended June 21, 2004.) (Amended December 2, 2019)

** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

*** The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth.

**** The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.

Section 5.07 R-2 Medium Density Residential

5.07.01 Intent:

The purpose of this district is to permit single-family at a medium density residential with an increase of density to include duplexes and similar residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.07.02 Permitted Uses:

- 5.07.02.01 Single family detached dwellings.
- 5.07.02.02 Single-family, attached dwellings.
- 5.07.02.03 Two-family, duplex, dwellings
- 5.07.02.04 Public and private schools
- 5.07.02.05 Churches, temples, seminaries, and convents including residences for teachers and pastors
- 5.07.02.06 Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries
- 5.07.02.07 Public Services.

5.07.03 Permitted Conditional Uses:

- 5.07.03.01 Lodging and boarding houses
- 5.07.03.02 Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement Housing, convalescent homes, other similar institutions, or philanthropic institutions.
- 5.07.03.03 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.07.03.04 Home businesses, as per Section 7.10.
- 5.07.03.05 Child Care Center and Child Care Home
- 5.07.03.06 Bed and Breakfast
- 5.07.03.07 Private and public recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.

5.07.04 Accessory Uses:

- 5.07.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.07.04.02 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 5.07.04.03 Signs as provided for in Section 7.06 through 7.09.
- 5.07.04.04 Parking as provided for in Section 7.01 through 7.05.
- 5.07.04.05 Fences as provided for in Section 7.12.
- 5.07.04.06 Private swimming pool, tennis court, and other recreational facilities in

- conjunction with a residence.
- 5.07.04.06 Landscaping as required by Section 7.15
- 5.07.04.07 Solar energy conversion systems, as provided for in Section 7.20.

5.07.05 Height and Lot Requirements:

5.07.05.01 The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family, detached*** (existing development)	5,000	50'	25'	8'	****	35'	35%
Single-family, detached (future development)**	8,500	75'	25'	10'	****	35'	40%
Single-family, attached***	4,500 per unit	50' per unit	25'	10' *****	****	35'	35% per unit
Two-family Dwelling***	10,000	100'	25'	10'	****	35'	40%
Other Permitted Uses	8,000	75'	25'	10'	****	45'	30%
Accessory Buildings (Amended Dec. 1, 2008)	-	-	50'	5'	10'	17'	13%*

* Provide total area of accessory structure for single family does not exceed 1,630 sq. ft. and the total lot coverage of all buildings does not exceed 45%. Accessory structure for single family may exceed 1,630 sq. ft., 13% of lot coverage, and/or the height of the side walls, if a Conditional Use Permit is granted. (Amended August 19, 2002.) (Amended June 21, 2004.) (Amended December 2, 2019)

** Future development is defined as any subdivision platted after the adoption date of this Ordinance.

*** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

**** The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth.

***** The side yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line.

Section 5.08 R-3 High Density Residential

5.08.01 Intent:

The purpose of this district is to permit high density residential, including single-family dwellings, two-family dwellings, and multi-family dwelling development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

5.08.02 Permitted Uses:

- 5.08.02.01 Single family dwellings.
- 5.08.02.02 Two-family, duplex, dwellings
- 5.08.02.03 Single family attached dwellings
- 5.08.02.04 Public and private schools
- 5.08.02.05 Churches, temples, seminaries, and convents including residences for teachers and pastors
- 5.08.02.06 Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries

5.08.03 Permitted Conditional Uses:

- 5.08.03.01 Multiple family dwellings
- 5.08.03.02 Bed and Breakfast
- 5.08.03.03 Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
- 5.08.03.04 Home businesses, as per Section 7.10.
- 5.08.03.05 Child Care Center and Child Care Home
- 5.08.03.06 Charitable clubs and organizations
- 5.08.03.07 Hospitals, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions.
- 5.08.03.08 Mortuaries, funeral homes and funeral chapels.
- 5.08.03.09 Private and public recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.

5.08.04 Accessory Uses:

- 5.09.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.09.04.01 Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

5.09.04.01	Signs as provided for in Section 7.06 through 7.09.
5.09.04.01	Parking as provided for in Section 7.01 through 7.05.
5.09.04.01	Fences as provided for in Section 7.12.
5.09.04.01	Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
5.09.04.01	Landscaping as required by Section 7.15
5.09.04.02	Solar energy conversion systems, as provided for in Section 7.20.

5.08.05 Height and Lot Requirements:

5.08.05.01 The height and minimum lot requirements shall be follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Single-family, detached*** (existing development)	5,000	50'	25'	8'	****	35'	35%
Single-family, detached (future development)**	7,000	70'	25'	10'	****	35'	40%
Single-family, attached***	4,000 per unit	50' per unit	25'	10'	****	35'	35% per unit
Condominiums***	2,500 per unit	25' per unit	25'	*****	****	35'	35% per unit
Two-family Dwelling, Duplex***	10,000	100'	25'	10'	****	35'	40%
Multi-family Dwelling***	2,250 per unit	100'	30'	(+)	****	45'+	40%
Other Permitted Uses	8,000	75'	25'	10'	****	45'	30%
Accessory Buildings	-	-	50'	10'	10'	17'	13%*

* Provide total area of accessory structure for single family does not exceed 1,630 sq. ft. and the total lot coverage of all buildings does not exceed 50%. Accessory structure for single family may exceed 1,630 sq. ft. and/or 13% of lot coverage if a Conditional Use Permit is granted. (Amended August 19, 2002.) (Amended June 21, 2004.)

** Future development is defined as any subdivision platted after the adoption date of this Ordinance.

*** On Corner Lots the following criteria apply to setbacks. In existing developed areas, the Street Side Yard setback may conform to existing setbacks of existing structures along that street. In new developments, the Street Side Yard setback shall be equal to the Front Yard setback.

**** The Rear Yard setback shall be the lesser of 25 feet or twenty percent (20%) of the lot depth.

***** The side yard along the common wall shall be 0 feet. The common wall shall be on the adjoining lot line.

+ For Multi-family units the side yard shall be 10 feet if the structure is a 3-story (45 feet) building. For structures in excess of 3-stories (45 feet), the side yard shall be increased by 2 feet for each additional story.

Section 5.09 C-1 General Commercial District

5.09.01 Intent:

The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.09.02 Permitted Uses:

- 5.09.02.01 Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
- 5.09.02.02 Child care/day care.
- 5.09.02.03 Dance studio, not including uses defined in Adult Establishment
- 5.09.02.04 Meeting hall, not including uses defined in Adult Establishment
- 5.09.02.05 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
1. Antique store
 2. Automobile parts and supply store
 3. Bank
 4. Barber and Beauty shop
 5. Bicycle shop
 6. Communication services
 7. Computer store
 8. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.

9. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment
 10. Floral shop
 11. Gift and curio shop
 12. Hobby, craft, toy store
 13. Jewelry store
 14. Laundry and dry cleaning pick-up and delivery stations
 15. Liquor store
 16. Locksmith
 17. Photographer
 18. Tavern and cocktail lounge, not including uses defined in Adult Establishment
 19. Picture framing shop
 20. Restaurants, cafes and fast food establishment
 21. Second hand stores
 22. Tanning salon
 23. Video store, not including uses defined in Adult Establishment
 24. Social club and fraternal organizations, not including uses defined in Adult Establishment
 25. Telephone exchange
 26. Telephone answering service
 27. Public overhead and underground local distribution utilities.
 28. Commercial greenhouse.
 29. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
- 5.09.02.06 Storage building providing rental of indoor storage space.

5.09.03 Permitted Conditional Uses:

5.09.03.01	Temporary structure for festivals or commercial events.
5.09.03.02	Recreational establishments not including uses defined in Adult Establishments.
5.09.03.03	Business or trade school.
5.09.03.04	Discotheques, not including uses defined in Adult Establishment
5.09.03.05	Garden supply and retail garden center.
5.09.03.06	Temporary greenhouses.
5.09.03.07	Totally enclosed, automated and conveyor-style car washes.
5.09.03.08	Outdoor Entertainment.
5.09.03.09	Convenience store with limited fuel sales.
5.09.03.10	Residences in conjunction with the principle use when located above the ground floor.
5.09.03.11	Churches, temples, seminaries, and convents including residences for teachers and pastors.
5.09.03.12	Printing and publishing.
5.09.03.13	Retail motor vehicle sales and service.
5.09.03.14	Car wash.
5.09.03.15	Service station and minor automobile repair services.
5.09.03.16	Tire store and minor automobile repair service.

5.09.04 Accessory Uses

5.09.04.01	Buildings and uses customarily incidental to the permitted uses.
5.09.04.02	Parking as permitted in Section 7.01 through 7.05
5.09.04.03	Signs allowed in Section 7.06 through 7.09
5.09.04.04	Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work.
5.09.04.05	Landscaping as required by Section 7.15
5.09.04.06	Solar energy conversion systems, as provided for in Section 7.20.

5.09.05 Height and Lot Requirements:

5.09.05.01	The height and minimum lot requirements shall be as follows:						
Uses	Lot Area (SF)	Lot Width	Front Yard*	Side Yard*	Rear Yard*	Max. Height	Max. Lot Coverage
Permitted Uses	-	-	25' ¹	15'	15'	45'	-
Permitted Conditional Uses	-	-	25' ¹	15'	15'	45'	-
1.	25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.						
*	Yard requirements are subject to the provisions of Section 5.09.06						

5.09.06 Use Limitations:

5.09.06.01	When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.15.04.
5.09.06.02	No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
5.09.06.03	Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

Section 5.10 C-2 Downtown Commercial District.

5.10.01 Intent:

This district accommodates uses typically found in the Central Business District or Downtown portion of the community.

5.10.02 Permitted uses:

- 5.10.02.01 Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment
- 5.10.02.02 Child Care Center.
- 5.10.02.03 Dance studio, not including uses defined in Adult Establishment
- 5.10.02.04 Meeting hall, not including uses defined in Adult Establishment
- 5.10.02.05 Museum, art gallery.
- 5.10.02.06 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
 - 1. Apparel shop
 - 2. Appliance store
 - 3. Antique store
 - 4. Automobile parts and supply store
 - 5. Bakery shop (retail)
 - 6. Bank
 - 7. Barber and Beauty shop
 - 8. Bicycle shop
 - 9. Book store, not including uses defined in Adult Establishment
 - 10. Camera store
 - 11. Computer store
 - 12. Department store
 - 13. Drug store
 - 14. Dry cleaners – establishments (not over 2,000 sq. ft. in floor area) with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
 - 15. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment
 - 16. Floral shop
 - 17. Furniture store or showroom
 - 18. Gift and curio shop
 - 19. Grocery store
 - 20. Hardware store
 - 21. Hobby, craft, toy store
 - 22. Jewelry store
 - 23. Laundry and dry cleaning pick-up and delivery stations
 - 24. Liquor store
 - 25. Meat market, retail
 - 26. Newsstands, not including uses defined in Adult Establishment
 - 27. Paint store
 - 28. Pet shop
 - 29. Photographer
 - 30. Picture framing shop
 - 31. Professional offices including but not limited to attorneys, accountants, architects, engineers, physicians, dentists, chiropractors, but not uses defined in Adult Entertainment
 - 32. Restaurants, cafes and fast food establishments
 - 33. Second hand stores
 - 34. Shoe store
 - 35. Sporting goods
 - 36. Stamp and coin stores

- 37. Tailors and dressmakers
 - 38. Tanning salon
 - 39. Tavern and cocktail lounge, not including uses defined in Adult Establishment
 - 40. Travel bureaus
 - 41. Variety store, not including uses defined in Adult Establishment
 - 42. Video store, not including uses defined in Adult Establishment
 - 43. Social club and fraternal organizations, not including uses defined in Adult Establishment
 - 44. Telephone exchange
 - 45. Public overhead and underground local distribution utilities.
 - 46. Automobile displays, sales, service, and repair.
 - 47. Commercial greenhouse.
 - 48. Lumber yards, hardware stores and building material sales yards.
 - 49. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
- 5.10.02.07 Second-story apartments above other permitted uses in Section 5.10.02. (Amended August 19, 2002.)

5.10.03 Permitted Conditional Uses:

- 5.10.03.01 Temporary structure for festivals or commercial events.
- 5.10.03.02 Recreational establishments, not including uses defined in Adult Establishment.
- 5.10.03.03 Amusement arcades.
- 5.10.03.04 Discotheques, not including uses defined in Adult Establishment
- 5.10.03.05 Garden supply and retail garden center.
- 5.10.03.06 Temporary greenhouses.
- 5.10.03.07 Outdoor Entertainment.
- 5.10.03.08 First Floor Apartments on Clay Street between 2nd Street and 3rd Street. Owner must keep sidewalk and street in front of apartment free from any obstruction, including trash receptacles. Owners must enforce city parking rules.

5.10.04 Accessory Uses:

- 5.10.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.10.04.02 Parking as allowed in Section 7.01 through 7.05.
- 5.10.04.03 Signs as allowed in Section 7.06 through 7.09.
- 5.10.04.04 Temporary buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
- 5.10.04.05 Landscaping as required by Section 7.15
- 5.10.04.06 Solar energy conversion systems, as provided for in Section 7.20.

5.10.05 Height and Lot Requirements:

5.10.05.01 The height and minimum lot requirements shall be as follows:							
Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	-	15'	0'	0'	0'	45'	-
Permitted Conditional Uses	-	15'	0'	0'	0'	45'	-

5.10.06 Use Limitations:

- 5.10.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.15.04.
- 5.10.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 5.10.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.11 C-3 Highway Commercial District

5.11.01 Intent:

This district adds certain design standards in comparison to zoning districts located along U.S. Highway 136 and Nebraska Highway 50. This district is indicated as HC on the Land Use Map. They are designed to promote:

- 5.11.01.01 Safe traffic circulation on and off and across the highway.
- 5.11.01.02 A high quality of design and site planning.
- 5.11.01.03 Flexibility in development in order to provide an attractive, viable employment corridor.

5.11.02 Permitted Uses:

- 5.11.02.01 Agriculture on more than ten (10) acres.
- 5.11.02.02 Public or semi public buildings on more than ten (10) acres.
- 5.11.02.03 Automobile displays, sales, service, and repair.
- 5.11.02.04 Any Permitted Use in the C-1 and C-2 districts.
- 5.11.02.05 Motels, hotels and trailer campgrounds.
- 5.11.02.06 Commercial greenhouse.
- 5.11.02.07 Farm implement display or salesroom.
- 5.11.02.08 Golf driving ranges, miniature golf.
- 5.11.02.09 Lumber yards, hardware stores and building material sales yards.
- 5.11.02.10 Veterinarian or animal hospital provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
- 5.11.02.11 When located at least one hundred (100') feet away from any (R) District Boundary: Bowling alley, Drive-in restaurant, and Drive-in theater.
- 5.11.02.12 Warehouses located in an enclosed building. (Amended December 1, 2008.)
- 5.11.02.13 Storage building providing rental of indoor storage space. (Amended December 1, 2008.)
- 5.11.02.14 Fabrication and assembly of products where fabrication and assembly are done in an enclosed building. (Amended December 1, 2008.)
- 5.11.02.15 Outdoor Storage of RVs, Trailers, boats, equipment, and vehicles when storage area is enclosed by a fence, building or wall of at least 6' tall.

5.11.03 Permitted Conditional Uses:

- 5.11.03.01 Apartments.
- 5.11.03.02 Living quarters used by watchmen or custodians of the commercially used property.
- 5.11.03.03 Any Permitted Conditional Use in the C-1 and C-2 districts.

5.11.04 Accessory Uses:

- 5.11.04.01 Buildings and uses customarily incidental to the permitted use.
- 5.11.04.02 Parking as allowed in Section 7.01 through 7.05.
- 5.11.04.03 Signs as allowed in Section 7.06 through 7.09.
- 5.11.04.04 Temporary buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
- 5.11.04.05 Landscaping as required by Section 7.15.
- 5.11.04.06 Solar energy conversion systems, as provided for in Section 7.20.

5.11.05 Height and Lot Requirements:

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

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	3 acres*	150'	25' ¹	10'	30'	45'	40%
Multi-family Residential	3 acres**	150'	25' ¹	10'***	30'	45'***	40%

* If on City water and sewer minimum lot area can be reduced to 10,000sq. ft.

** If the lot area is reduced under the sewer/water provision than the minimum lot area shall be 4,500 square feet per dwelling unit.

*** For Multi-Family units the side yard shall be 10 feet if it is a maximum of a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

¹. 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50'.

5.11.06 Use Limitations:

- 5.11.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.15.04.
- 5.11.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
- 5.11.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- 5.11.06.04 All lots shall be served by a paved frontage road and may not take access directly from the Highway. When area permits, access roads shall be implemented.

Section 5.12 I-1 Light Industrial.**5.12.01 Intent:**

It is the intent of the Light Industrial District Regulations to provide standards for area suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

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

5.12.02 Permitted Uses:

- 5.12.02.01 Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
- 5.12.02.02 Laboratories.
- 5.12.02.03 Manufacture and assembly of electrical and electronic appliances.
- 5.12.02.04 Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
- 5.12.02.05 Manufacture of light sheet metal products including heating and ventilation equipment.
- 5.12.02.06 Printing and publishing business.
- 5.12.02.07 Stone and monument works.
- 5.12.02.08 Warehouses and wholesale businesses.
- 5.12.02.09 Building materials yards with enclosed and screened storage areas.
- 5.12.02.10 Highway maintenance yards or buildings
- 5.12.02.11 Self-storage units
- 5.12.02.12 Mobile Home Courts and RV Parks with same requirements as set out in Tecumseh Municipal Code Sections 10-601 through 10-606
- 5.12.02.13 Single Family detached dwellings shall be allowed
- 5.12.02.14 Single Family attached dwellings shall be allowed
- 5.12.02.15 Two Family duplex dwellings shall be allowed

5.12.03 Permitted Conditional Uses

- 5.12.03.01 Radio, television and communication towers and transmitters, as per Section 7.11.
- 5.12.03.02 Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
- 5.12.03.03 Auction Sales.
- 5.12.03.04 Grain Storage and Elevators.
- 5.12.03.05 Construction and heavy equipment sales and service.
- 5.12.03.06 Farm implement sales and service.

- 5.12.03.07 Research facilities.
- 5.12.03.08 Truck terminal and dock facilities to include truck washing.
- 5.12.03.09 Auto body repair.
- 5.12.03.10 Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.
- 5.12.03.11 Cabinetry millwork.
- 5.12.03.12 Perimeter security fencing above six (6) feet in height.
- 5.12.03.13 Adult Entertainment establishments
 - 1. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use.
 - 2. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
 - 3. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
 - 4. No adult business shall be open for business between the hours of twelve midnight and six a.m.
 - 5. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property,
 - 6. Such use shall not impair an adequate supply of light and air to surrounding property,
 - 7. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,
 - 8. Such use shall not diminish or impair established property values in adjoining or surrounding property,
 - 9. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Tecumseh, Nebraska,
 - 10. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
 - 11. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
 - 12. Prohibited Activities of Adult Businesses
 - A. No adult business shall employ any person under eighteen (18) years of age
 - B. No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age
 - C. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting,

describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.

- D. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.12.03.14 Outdoor storage of RV's, trailers, boats, equipment and vehicles when the storage area is enclosed by a fence, building or wall of at least 6'

5.12.04 Accessory Uses

- 5.12.04.01 Buildings and uses customarily incidental to the permitted uses.
 5.12.04.02 Parking as permitted in Section 7.01 through 7.05.
 5.12.04.03 Signs as permitted in Section 7.06 through 7.09.
 5.12.04.04 Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.
 5.12.04.05 Landscaping as required by Section 7.15.
 5.12.04.06 Solar energy conversion systems, as provided for in Section 7.20.

5.12.05 Height and Lot Requirements:

5.12.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	3 acres*	150'	50' ¹	30'	25'	45'	-
Permitted Conditional Uses	3 acres*	150'	50' ¹	30'	25'	45'	-

* If on City water and sewer minimum lot area can be reduced to 10,000sq. ft.

¹ 50' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of seventy-five (75) feet.

5.12.06 Use Limitations:

- 5.12.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.14.
 5.12.06.02 No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
 5.12.06.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.12.07 Performance Standards:

See Section 7.14 of the Supplemental Regulations

Section 5.14 GATEWAY CORRIDOR DISTRICT (OVERLAY DISTRICT)

5.14.01 Intent:

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

5.14.02 Purpose:

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect

of Tecumseh's environment. Pertinent to appearance is the design of the site, planting, signs, street hardware, and miscellaneous other objects that are observed by the public.

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

5.14.03 Geographic Area:

The Gateway Corridor Overlay District extends generally east and west on US Highway 136 and north-south along Nebraska Highway 50 within the one-mile extraterritorial jurisdiction of Tecumseh.

5.14.04 Criteria for Application:

- 5.14.04.01 All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar shall be required to rezone the property as either C-3 or R-3 and meet the requirements of said district. The rezoning shall be in conjunction with Preliminary and Final Plat review and approval.

5.14.05 Vehicular Circulation:

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

5.14.06 Landscape and Site Treatment:

- 5.14.06.01 Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.
- 5.14.06.02 Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
- 5.14.06.03 Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
- 5.14.06.04 Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- 5.14.06.05 Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
- 5.14.06.06 Plant material shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
- 5.14.06.07 Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer.
- 5.14.06.08 Exterior lighting, when used, shall enhance the building design and the adjoining building and adjacent areas. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas. Lighting shall be restrained in design and excessive brightness avoided.
- 5.14.06.09 Developments in the Gateway Corridor shall meet all other applicable landscaping regulations as per Section 7.16.

5.14.07 Signs:

- 5.14.07.01 Every sign shall have good scale and proportion in its design and in its visual relationship to buildings and surroundings.
- 5.14.07.02 Every sign shall be designed as an integral architectural element of the building

- and site to which it principally relates.
- 5.14.07.03 The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates.
- 5.14.07.04 The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.
- 5.14.07.05 Each sign shall be compatible with signs on adjoining premises and shall not compete for attention.
- 5.14.07.06 Identification signs of prototype design and corporation logos shall conform to the criteria for all other signs.
- 5.14.07.07 All signage shall comply with the Sign Regulations found in the Supplemental Regulations, as per Section 7.06 through 7.09.

5.14.08 Conflicts:

- 5.14.08.01 All conflicts between this Section and the landscaping and sign sections shall be governed by the most restrictive ection 5.15 HISTORIC DISTRICT (OVERLAY DISTRICT)

5.15.01 Intent:

The intent of this overlay district is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the city's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the city; to promote the use of preservation and historic districts and landmarks for the education, pleasure, and welfare of the people of the city; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property.

5.15.02 Permitted Uses

- 5.15.02.01 Any and all uses indicated in the C-2 Downtown Commercial District provided the following conditions are met:
 - 1. the design is compatible with the existing High Victorian historic style found around the square;
 - 2. Design is subject to review and approval of the Architectural Review Board as outlined in this section.
- 5.15.02.01 Business and information signs provided the following conditions are met:
 - 1. Said signs are in a High Victorian motif;
 - 2. Said signs are not larger than sixty (60) square feet
 - 3. Said signs shall be fixed flat against the wall of buildings or on the face of a marquee wall;
 - 4. No sign shall extend above or beyond the building wall or project more than one (1) foot from the front of the structure or beneath the marquee.

5.15.03 Permitted Conditional Uses

- 5.15.03.01 Any and all Permitted Conditional Uses indicated in the C-2 Downtown Commercial District, provided the following conditions are met:
 - 1. the design is compatible with the existing High Victorian historic style found around the square;
 - 2. Design is subject to review and approval of the Architectural Review Board as outlined in this section.

5.15.04 District Limitations

- 5.15.04.01 In order to promote the general welfare through the preservation of historic places and areas of historic interest, the following general restrictions in addition to those otherwise applicable under the provisions of this ordinance, shall apply to the Historic District Overlay. In addition, all applications shall follow, when determined to be achievable, the guidelines found in Section 7.19:
 - 1. No building located within the District shall be altered in such manner

- that any part of its exterior which is subject to public view is not architecturally in keeping with the historic High Victorian aspects of its surroundings;
2. No building lot located within the District shall be altered or improved in such manner as to materially detract from the historic aspects of its surroundings;
 3. Off-street automobile parking requirements in the Historic District Overlay shall be as required under Section 7.01 through 7.05

5.15.05 Certificates of Appropriateness

- 5.15.05.01 No building in the Historic District Overlay shall be razed, altered, reconstructed or improved, and no building lot in said District shall be altered or improved unless a Certificate of Appropriateness (in addition to the building permit or certificate of occupancy required by other provisions of this ordinance) shall first have been issued by the Board of Architectural Review hereinafter created.
- 5.15.05.02 A certificate of Appropriateness shall consist of a statement, signed by the Chairperson of the Board of Architectural Review, that the exterior architectural features of the proposed construction, reconstruction, alteration or improvement has been approved by said Board, or that the building proposed to be razed is structurally unsound and beyond economic repair.
- 5.15.05.03 Any person desiring a Certificate of Appropriateness shall apply to the Board for same on forms to be furnished by the Zoning Administrator, and shall submit with said application, in addition all necessary plans and specifications, drawings and sketches shall be submitted in sufficient detail to show all exterior architectural aspects of the proposed construction, reconstruction, alteration or improvement.

5.15.06 Board of Architectural Review – Creation – Membership

- 5.15.06.01 A Board of Architectural Review is hereby established. Such Board shall consist of five citizen members, each to be appointed by City Council. Preferably the membership will consist of one member of the City Planning Commission; a resident of Tecumseh and a member of the Tecumseh Historical Society ; a member of the Tecumseh Chamber of Commerce; and two a residents of resident of the City at large.

5.15.06.02 Nominations

Each member shall be appointed by the Mayor and confirmed by the City Council

5.15.06.03 Terms of Office

The term of office of the members shall be for three (3) years, except the terms of two of the members of the original Board shall expire within three (3) years; two (2) within two (2) years, and one (1) within one (1) year of the date of the appointment. An appointment to fill a casual vacancy shall be only for the unexpired portion of the term.

5.15.07 Meetings

- 5.15.07.01 The Board of Architectural Review shall meet within ten (10) days after notification by the Zoning Administrator of the filing of an application for a Certificate of Appropriateness.

5.15.08 Powers and Duties

- 5.15.08.01 It shall be the function and duty of the Board of Architectural Review, upon application, to determine whether a building located within the District is structurally unsound and beyond economical repair (as defined in 5.16.04.01 of this ordinance), and / or whether the exterior architectural features of the proposed construction, reconstruction, alterations or improvements to buildings or building lots within the District (wherever such exterior features are subject to public view from a public street or way) are appropriate to and in keeping with the old historic

aspects of the surroundings.

5.15.09 Review of Plans

- 5.15.09.01 All plans, elevations, and other information necessary to determine the appropriateness of the features to be passed upon, together with a copy of the application for building permit or certificate of occupancy shall be made available to the Board of Architectural Review through the office of the Zoning Administrator.
- 5.15.09.02 The Board of Architectural Review in passing upon cases shall consider, among other things:
1. the general design;
 2. the arrangement, material and color of the building or structure in question;
 3. the landscaping of the lot, and;
 - 4.
 5. the relation of such factors to similar features of buildings and lots in the immediate surroundings.
- 5.15.09.03 The Board of Architectural Review shall not consider the following:
1. detailed design;
 2. relative size of buildings in the plan;
 3. the interior arrangement; or
 4. building features or lot features not subject to public view.
- Nor shall the Board of Architectural Review make requirements except for the purposes of preventing development obviously incongruous to the old historic aspects of the surroundings.
- 5.15.09.04 In case of disapproval, the Board of Architectural Review shall state the reasons therefor in a written statement to the applicant and may advise the applicant and make recommendations thereto in regard to appropriateness of design, arrangement, texture, color and other similar characteristics regarding the property in question.

5.15.10 Approval

- 5.15.10.01 Upon approval of the plan, the Board of Architectural Review shall transmit a report to the Zoning Administrator stating the basis upon which such approval was made and cause a certificate of appropriateness to be issued to the applicant.
- 5.15.10.02 If the Board of Architectural Review fails to take final action within forty-five (45) days after the date of application for permits, the case shall be deemed to be disapproved, except where mutual agreement has been made for an extension of the time limit.

**TECUMSEH, NEBRASKA: LOT AND AREA
REQUIREMENTS**

ZONING DISTRICT	MINIMUM LOT AREA		MINIMUM YARD REQUIREMENTS			MAXIMUM HEIGHT		MAXIMUM LOT COVERAGE
	LOT AREA	LOT WIDTH	FRONT SETBACK	SIDE	REAR	IN STORIES	IN FEET	PERCENT OF LOT AREA
TA-1: Transitional Agricultural	3 acres	100 ft.	75 ft.	25 ft.	*	2 ½	35 ft.	-
R-1: Low Density Residential								
Single-family detached	20,000 sq. ft.	100 ft.	25 ft.	10 ft.	*	2 ½	35 ft.	35%
Single-family attached	12,500 sq. ft. per D.U.	50 ft per D.U.	25 ft.	10 ft.	*	2 ½	35 ft.	20% per D.U.
R-2: Medium Density Residential								
Single-family detached (existing development)	5,000 sq. ft.	50 ft.	25 ft.	8 ft.	*	2 ½	35 ft.	35%
Single-family detached (future development)	8,500 sq. ft.	75 ft.	25 ft.	10 ft.	*	2 ½	35 ft.	40%
Single-family attached	4,500 sq. ft. per D.U.	50 ft. per D.U.	25 ft.	10 ft.	*	2 ½	35 ft.	35% per D.U.
R-3: High Density Residential								
Single-family detached (existing development)	5,000 sq. ft.	50 ft.	25 ft.	8 ft.	*	2 ½	35 ft.	35%
Single-family detached (future development)	7,000 sq. ft.	70 ft.	25 ft.	10 ft.	*	2 ½	35 ft.	40%
Single-family attached	4,000 sq. ft. per D.U.	50 ft. per D.U.	25 ft.	10 ft.**	*	2 ½	35 ft.	35% per D.U.
Two-family	10,000 sq. ft.	100 ft.	25 ft.	10 ft.	*	2 ½	35 ft.	40%
Multi-family dwelling	2,250 sq. ft. per D.U.	100 ft.	25 ft.	***	*	3	45 ft.	40%
Other Permitted	8,000 sq. ft.	75 ft.	25 ft.	10 ft.	*	3	45 ft.	30%
C-1: General Commercial								
Permitted Uses	-	-	25 ft. ¹	15 ft.	15 ft.	3	45 ft.	-
Permitted Conditional Uses	-	-	25 ft. ¹	15 ft.	15 ft.	3	45 ft.	-
C-2: Downtown Commercial								
Permitted Uses	-	15 ft.	0 ft.	0 ft.	0 ft.	3	45 ft.	-
Permitted Conditional Uses	-	15 ft.	0 ft.	0 ft.	0 ft.	3	45 ft.	-
C-3: Highway Commercial								
Permitted Uses	3 acres***	150 ft.	25 ft. ¹	10 ft.	30 ft.	3	45 ft.	40%
Multi-family Residential	3 acres ***	150 ft.	25 ft. ¹	***	30 ft.	3***	45 ft.***	40%
Permitted Conditional Use	3 acres ***	150 ft.	25 ft. ¹	10 ft.	30 ft.	3	45 ft.	40%
I-1: Light Industrial	3 acres ***	150 ft.	50 ft. ²	30 ft.	25 ft.	3	45 ft.	-
Single-family detached residence	20,000 sq. ft.	100 ft.	25 ft.	10 ft.	*	2 ½	35 ft.	35%

Notes:

¹ 25 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50 feet

² 50 feet front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 75 feet

* The Rear Yard setback shall be the lesser of 25 feet or 20% of the lot depth

** The Side Yard along the common wall shall be 0 feet. The common wall shall be along the adjoining lot line

*** For multi-family units the Side Yard shall be 10 feet for a 3-story structure, and 2 feet additional Side Yard on each side shall be provided for each story in excess of 3 stories

See Zoning District, General Conditions and Supplemental Regulations for additional criteria

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions. The City Council may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

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

Section 6.02 Application for Conditional Use Permits. A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Public Hearing. Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Tecumseh, one time at least 10 days prior to such hearing.

Section 6.04 Decisions. A majority vote of the Council shall be necessary to grant a conditional use permit. A conditional use permit shall be valid until use is discontinued for twelve consecutive months or permit is revoked unless otherwise specifically noted in the original permit.

Section 6.05 Standards. No conditional use permit shall be granted unless the Planning Commission or City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Off-Street Automobile Storage.

- 7.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used.
- 7.01.02 If vehicle storage space or standing space required in section 7.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies within four hundred (400) feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- 7.01.03 All parking spaces for Townhouses and two or more unit multi-family dwellings shall be paved with asphalt or concrete.
- 7.01.04 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.05 In all Districts, such parking may be provided either on the same lot or an adjacent lot, provided the lot on which the use requiring off-street parking is located are not separated by more than 400 feet at closest points, measured along a street or streets.
- 7.01.06 Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- 7.01.07 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require a tabulation for classrooms and assembly areas)
- 7.01.08 The Downtown Commercial District shall be exempt from off-street parking regulations.

Section 7.02 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Adult entertainment establishments	One (1) space per 2 persons of licensed capacity	None required
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches, Synagogues, and Temples	One (1) space per 4 seats in main worship area	None required
Clubs, including fraternal organizations	One (1) space per 500 s.f. of gross floor area	None required
College/University	Eight (8) spaces per classroom plus 1 space per employee	Two (2) spaces per structure
Commercial Uses		
Agricultural Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Automotive Rental / Sales	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Automotive Servicing	Three (3) spaces per repair stall	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Body Repair	Four (4) spaces per repair stall	None required
Equipment Rental / Sales	One (1) space per 500 s.f. of gross floor area	One (1) Space
Campground	One (1) space per camping unit	None required
Commercial Recreation	One (1) space per 4 persons of licensed capacity	One (1) per establishment
Communication Services	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Construction Sales / Service	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
Food Sales (limited)	One (1) space per 300 s.f. of gross floor area	One (1) per establishment
Food Sales (general)	One (1) space per 200 s.f. of gross floor area	Two (2) per establishment
General Retail Sales establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Laundry Services	One (1) space per 200 s.f. of gross floor area	None required
Restaurants w/ drive-thru	Greater of the two: One (1) space per 40 s.f. of dining area, or One (1) space per 150 s.f. of gross floor area	One (1) per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Convalescent and Nursing Home Services	One (1) space per 3 beds plus 1 per employee on the largest shift	Two (2) space per structure
Day Care	One (1) space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	Two (2) spaces per classroom	Two (2) spaces per structure
Educational Uses, Secondary facilities	Eight (8) spaces per classroom plus 1 space per employee on largest shift	Two (2) spaces per structure
Funeral Homes and Chapels	Eight (8) spaces per reposing room	Two (2) spaces per establishment
Group Care Facility	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Group Home	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Guidance Services	One (1) space per 300 s.f. of gross floor area	None required
Hospitals	One (1) space per 2 licensed beds	Three (3) spaces per structure
Hotels and Motels	One (1) space per rental unit	One (1) space per establishment
Housing (Congregate)		
Assisted-living facilities	One (1) space per dwelling unit plus 1 space per employee on the largest shift	One (1) per structure
Duplex	Two (2) spaces per dwelling unit	None required
Multi-family / Apartments	One (1) space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Industrial Uses	.75 times the maximum number of employees during the largest shift	Two (2) spaces per establishment
Libraries	One (1) space 500 s.f. of gross floor area	One (1) per structure
Boarding Houses / Bed and Breakfasts	One (1) space per rental units	None required
Medical Clinics	Five (5) spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two (2) per dwelling unit	None required
Offices and Office Buildings	One (1) space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	Two (2) spaces per dwelling unit with 1 required to be enclosed	None required
Roadside stands	Four (4) spaces per establishment	None required
Service Oriented Establishments	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
Theaters, Auditoriums, and Places of Assembly	One (1) space per 5 persons of licensed capacity	One (1) space per establishment
Veterinary Establishments	Three (3) spaces per staff doctor	None required
Wholesaling / Distribution Operations	One (1) space per 2 employees on the largest shift	Two (2) spaces per establishment

Section 7.03 Off-street Parking: Shared Parking requirements

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

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

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

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

7.04.02 Except as provided to Section 7.04.01.01 of this Ordinance, access aisles adjacent to accessible spaces shall be 60 inches (1525 mm) wide minimum.

7.04.02.01 One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches (2440 mm) wide minimum and shall be designated “van accessible” as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.

Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.

Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2%) in all directions.

7.04.02.02 If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.

7.04.02.03 At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:

1. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
2. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.

7.04.02.04 Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.04.06 of this Ordinance located on an accessible route to the

entrance of the facility. Sections 7.04.01, 7.04.02.01, and 7.04.02.03 of this Ordinance do not apply to valet parking.

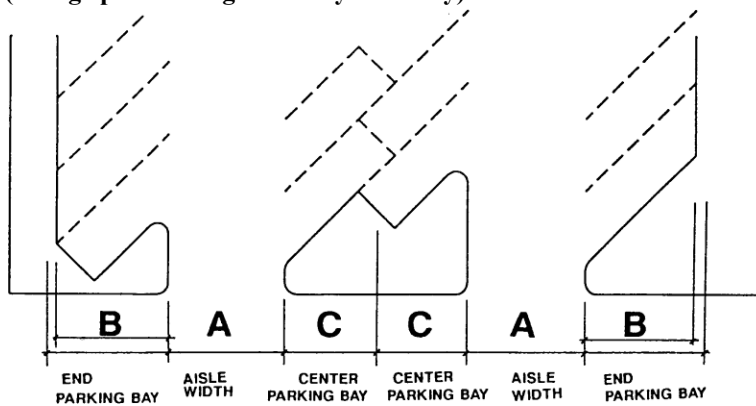
- 7.04.03 Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
- 7.04.03.01 In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- 7.04.03.02 In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
- 7.04.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02.01 shall have an additional sign “Van Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
- 7.04.05 Minimum vertical clearance of 114 inches (2895mm) at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02.01, provide minimum vertical clearance of 98 inches (2490mm) at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- 7.04.06 Passenger Loading Zones shall provide an access aisle at least 60 inches (1525mm) wide and 20 feet (240inches) (6100mm) long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

Section 7.05 Off-Street Parking Design Criteria

- 7.05.01 Standard parking stall dimensions shall not be less than 9 feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least 5 feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by 2 feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

	Parking Configuration		
	90-degree	60-degree	45-degree
Aisle Width (A)			
One-way traffic	Not Allowed	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width (C)	18 feet	18 feet	16 feet

(C)
(change per meeting with City Attorney).



- 7.05.02 Minimum dimensions for a parallel parking space shall be 9 feet by 23 feet
- 7.05.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer

Section 7.06 Signs: Standard of Measurement

- 7.06.01 The total area of all signs permitted on a lot shall include:
- 7.06.01.01 The total area of the faces of all permanent exterior signs visible from a public way, plus
 - 7.06.01.02 The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
- 7.06.02 A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.

Section 7.07 Sign Area Computation

- 7.07.01 Computation of Area of Individual Signs
- The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.
- 7.07.02 Computation of Area of Multi-faced Signs
- The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- 7.07.03 Computation of Height
- The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower.

Section 7.08 Sign Schedules

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

<u>Zoning District</u>	<u>FW</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I-1</u>	<u>GATE</u>
<u>Sign Type</u>										
Real Estate	-	+	+	+	+	+	+	+	+	+
Announcement	-	+	+	+	+	+	+	+	+	+
Wall	-	+	-	-	-	+	+	+	+	-
Name Plate	-	C	+	+	+	+	+	+	+	+
Billboard	-	C	-	-	-	-	C	C	C	-
Ground	-	+	C	C	C	+	+	+	+	C
Off-Premises Advertising	-	-	-	-	-	C	C	C	C	-
Pole	-	-	-	-	-	-	C	C	C	-

+: permitted -: not permitted C: Conditional Use

(change per meeting with City Attorney).

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

<u>Zoning District</u>	<u>FW</u>	<u>TA</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>C-1</u>	<u>C-2</u>	<u>C-3</u>	<u>I-1</u>	<u>GATE</u>
<u>Sign Type</u>										
Real Estate										
Max. Square Ft.	-	32	6	6	6	32	32	32	32	-
Max. Height	-	4'	-	-	-	4'	4'	4'	4'	-
Announcement										
Max. Square Ft.	-	32	6	6	6	32	32	32	32	-
Max. Height	-	4'	4'	4'	4'	4'	4'	4'	4'	-
Wall										
Max. Square Ft.	-	50	-	-	-	100	100	200	200	100
Max. Height	-	15'	-	-	-	45'	45'	45'	45'	45'
Name Plate										
Max. Square Ft.	2	2	2	2	2	-	-	-	-	2
Max. Height	-	-	-	-	-	-	-	-	-	-
Billboard										
Max. Square Ft.	-	700	-	-	-	-	700	700	700	-
Max. Height	-	-	-	-	-	-	25'	25'	25'	-
Ground										
Max. Square Ft.	-	100	-	-	-	100	100	200	200	100
Max. Height	-	10'	-	-	-	10'	10'	10'	10'	10'
Pole										
Max. Square Ft.	-	-	-	-	-	-	100	200	200	-
Max. Height	-	-	-	-	-	-	15'	25'	15'	-

(Amended February 6, 2006)

Section 7.09 Signs, Special Conditions

7.09.01 Real Estate. Not more than two (2) signs per lot may be used as a temporary sign. Signs in the TA District shall be set back 20 feet from the road right-of-way or road easement.

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

- 7.09.02.01 No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
- 7.09.02.02 No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district or similar billboard.
- 7.09.02.03 No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

7.09.03 Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

Section 7.10 Home Businesses

The following are the standards for Home Businesses:

- 7.10.01 No more than one unlighted nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. However, four square feet in area attached flat against the building located on arterial streets.
- 7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.10.03 No more than 50% of the home can be used for the home business,
- 7.10.04 No more than one (1) employee or co-worker other than the resident(s) can work from that site,
- 7.10.05 No retail sales are permitted from the site other than incidental sales related to services provided,
- 7.10.06 No exterior storage (including storage within detached buildings/garages) is permitted,
- 7.10.07 Additional off-street parking may be required for the business,
- 7.10.08 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

All businesses related to Child Care Homes and Child Care Centers shall be licensed in accordance with Neb. Rev. Stat. §§ 71-901 et. seq. and 71-908 et. seq (R.R.S.1996).

Section 7.11 Wireless Communication Towers

7.11.01 Intent:

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the City, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

7.11.02 Definitions:

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

7.11.02.01 **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.

7.11.02.02 **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.

7.11.02.03 **APPLICANT** shall mean any person that applies for a Tower Development Permit.

7.11.02.04 **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation , verbal statements, and representations, in whatever, formal forum, made by an applicant to the City concerning such request.

- 7.11.02.05 **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
- 7.11.02.06 **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
- 7.11.02.07 **OWNER** shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the City who desires to develop, construct, modify, or operate a tower upon such tract of land.
- 7.11.02.08 **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- 7.11.02.09 **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
- 7.11.02.10 **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
- 7.11.02.11 **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications that a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
1. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned TA, R-1, R-2, R-3, R-4, C-1, C-2, I-1 or I-2.
 2. Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.
- 7.11.02.12 **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
- 7.11.02.13 **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the City upon approval by the City Council of an application to develop a tower within the zoning jurisdiction of the City; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
- 7.11.02.14 **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

7.11.03 Location of Towers and Construction Standards

- 7.11.01. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.

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

7.11.04 Application to develop a Tower

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

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

7.11.05 Tower Development Permit: Procedure

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the City Council. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the City Council, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the City Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 9.01 of this regulation. The Planning Commission and City Council may approve the Tower Development Permit as requested in

the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

7.11.06 Setbacks and Separation or Buffer Requirements

- 7.11.06.01 All towers up to fifty (50) feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back one (1) additional foot for each foot of tower height in excess of fifty (50) feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
- 7.11.06.02 Towers exceeding one hundred (100) feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of two hundred (200) feet or one hundred percent (100%) of the height of the proposed tower, whichever is greater.
- 7.11.06.03 Towers of one hundred (100) feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
- 7.11.06.04 Towers must meet the following minimum separation requirements from other towers:
- A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty (750) feet.
 - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred (1,500) feet.

7.11.07 Structural Standards for Towers Adopted

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

7.11.08 Illumination and Security Fences

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

7.11.09 Exterior Finish

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

7.11.10 Landscaping

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

7.11.11 Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the City Council, an exemption from compliance as a condition of the Tower Development Permit.

7.11.12 Inspections

The City reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the City's Building Codes and any other construction standards set forth by the City, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the City's Zoning Office, Building Inspector, or a duly appointed independent representative of the City.

7.11.13 Maintenance

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

7.11.14 Abandonment

If any tower shall cease to be used for a period of one (1) year, the Zoning Office shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy-five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the City Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of Tecumseh codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

7.11.15 Satellite Dish Antennas, Regulation

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

- 7.11.15.01 In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten (10) feet.
- 7.11.15.02 Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
- 7.11.15.03 Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three (3) feet in diameter. Multiple family

- residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter.
- 7.11.15.04 In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
- 7.11.15.05 All satellite dish antennas installed within the zoning jurisdiction of Tecumseh, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

7.11.16 Severability

If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

Section 7.12 FENCES:

No fence over six feet four inches (6'-4") in height shall be constructed within the zoning jurisdiction of the City of Tecumseh unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements:

- 7.12.01 The height limitation for fences shall be six feet four inches (6'-4") above ground level except as provided herein.
 - 7.12.01.01 A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen or fence along and parallel to the front line of a residential lot, shall not exceed four feet (4') in height. (Amended November 7, 2011)
 - 7.12.01.02 A fence constructed within the portion of a side yard and within the required front yard setback of a residential lot, shall not exceed four feet (4') in height, except that if the lot is located on a corner, as defined in Article 2 of this Ordinance. A fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed six feet four inches (6'-4") in height.
 - 7.12.01.03 Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet four inches (6'-4") in height may be approved by through a Conditional Use Permit
 - 7.12.01.04 Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
 - 7.12.01.05 Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet (8') in height.
- 7.12.02 Fences located within a front yard or the portion of the side yard within the required front yard setback of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District. A solid fence may be constructed in a side yard parallel and adjacent to the lot line that is adjacent to a street. (Amended December 1, 2008.)
- 7.12.03 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
 - 7.12.04.01 Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.
 - 7.12.04.02 Farm fencing constructed for agricultural purposes on parcels of land twenty (20) acres or more in the Transitional Agricultural District.
- 7.12.05 All supporting posts for fence construction shall be set in concrete except for agricultural fencing.
- 7.12.06 All fences shall be constructed utilizing only the following materials:
 - a) Prefabricated Residential Fence Panels, such as those sold at hardware stores and lumber yards;

- b) Wood not exceeding twelve inches (12") in width;
- c) Wrought iron;
- d) Masonry;
- e) Galvanized or vinyl-covered chainlink;
- f) Solid vinyl;
- g) Concrete;

All fences shall be constructed of materials in good condition and materials customarily used in the construction of residential fences. (Amended November 7, 2011)

- 7.12.07 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners agree, pursuant to a written agreement filed with the Johnson County Register of Deeds, to build one (1) fence on the common lot line of adjacent side yards or back yards. The City does not monitor or enforce issues regarding disputes on the location of adjacent owners' lot lines or the location of the fence in relation to the lot lines. (Amended November 7, 2011)
- 7.12.08 Electric Fences. No electric fence shall be constructed within the City of Tecumseh or within its extraterritorial zoning jurisdiction except for Agricultural Uses as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Building Inspector shall approve any electrified fencing, it shall be determine that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 7.12.09 Fences in existence as of the date of adoption of this Ordinance. Any existing fence constructed pursuant to a permit issued and approved by the City of Tecumseh which was in conformity with the past provisions and which was in place as of said date, may remain without change in accordance with this section notwithstanding same may be in conflict with one (1) or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

Section 7.13 Performance Standards for Industrial Uses

- 7.13.01 **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 7.13.02 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the City of Tecumseh.
- 7.13.03 **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- 7.13.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- 7.13.05 **Air Contaminants:**
- 7.13.05.01 Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that

- smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
- 7.13.05.02 Particulate mater of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
- 7.13.05.03 Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
- 7.13.06 **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.
- 7.13.07 **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.
- 7.13.08 **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
- 7.13.09 **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

Section 7.14 Screening Requirements:

7.14.01 Intent:

The intent of the screening requirements are to provide for proper separation between conflicting land uses. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.14.02 Screening Requirements

- 7.14.02.01 Reserved. (Amended August 19, 2002.)
- 7.14.02.02 All commercial and industrial uses that abut residential or office districts shall provide screening not less than 6 feet in height along the abutting property line(s).
- 7.14.02.03 Screening required by this section shall be equivalent to the following:
1. Solid fences or walls as approved by the Planning Commission on the final development plan.
 2. Hedges, shrubs, or evergreen trees of 36 inches in height at planting spaced appropriately to provide a solid screen within 3 years after planting.
 3. Berms of not less than 3 feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.14.04.03 (1) above.

4. All projects except one-and-two family dwellings shall include a detailed drawing on the landscape plan indicating the method of enclosure and screening to be used on trash dumpsters. All dumpsters or trash bins shall maintain a solid 6-foot enclosure around each unit. Said enclosure shall be of complementary materials suitable to the Planning Commission.

7.14.03 Installation and Maintenance of Landscaping and Screening:

7.14.03.01 Installation:

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

7.14.03.02 Maintenance:

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

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

7.14.04 Preliminary Plan Approval

A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat or preliminary site plan for development or with a building permit where landscaping and / or screening is required, for review and recommendation by the Planning Commission and approval by the City Council. Said Plan shall be in sufficient detail to provide the Commission and City Council with a reasonable understanding of what is being proposed. Site calculations used in computing quantities shall also be submitted which are proposed to be used to satisfy the required amounts of landscaping.

7.14.05 Final Plan Approval

A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the City Council along with a planting schedule at final development plan submission.

7.14.06 Parking Lot Plan Approval

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

7.14.06.01 New construction.

7.14.06.02 Expansion of existing facilities.

7.14.06.03 Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. The Planning Commission may grant modifications to the required parking lot landscaping and screening after review of submitted plans and in consideration of surrounding uses.

7.14.06.04 No parking lot shall be exempted from these regulations; unless previously exempted.

Section 7.15 Wind Energy Systems

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

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

7.15.05 SETBACK TABLE

<u>Rotor Diameter</u>	<u>Setback Distance</u>	<u>Minimum Lot Area¹</u>
5 feet	100 feet	1 Acre
10 feet	165 feet	2.5 Acres
15 feet	220 feet	4.5 Acres
20 feet	270 feet	6.75 Acres
25 feet	310 feet	9.0 Acres
30 feet	340 feet	10.75 Acres
35 feet	365 feet	12.25 Acres

- 1. Where there are several towers under single ownership the minimum lot areas may be adjusted down provided the minimum setback distances are met on all perimeter units. In addition, the landing areas for all internal towers and rotors shall be within the property owned by the operator.
- 7.15.06 Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.¹
 - 7.15.07 The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

Section 7.16 Sand and Gravel, Mineral, Stone, Rock, and Soil Extraction and Quarries

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

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

Section 7.17 Waste Disposal Sites and Landfills

A Conditional Use Permit may be granted for any waste material disposal, garbage disposal, or land fill operations in the designated zoning district(s); provided the following special conditions shall be considered:

- 7.17.01 The effects on the adjacent property, traffic, and
- 7.17.02 The public necessity and advantage
- 7.17.03 The maintenance of access routes related to all weather conditions and droppings of rubbish and lite
- 7.17.04 The effects on underground water quality
- 7.17.05 The immediate and long term effects on the environment and the public
- 7.17.06 The concerns for public safety
- 7.17.07 The application shall include documents to indicate conformance to all applicable governmental regulations and standards
- 7.17.08 The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

Section 7.18 Preservation Guidelines

The following guidelines are based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- 7.18.01 Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
- 7.18.02 The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- 7.18.03 All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- 7.18.04 Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- 7.18.05 Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
- 7.18.06 Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- 7.18.07 The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- 7.18.08 Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any project.
- 7.18.09 Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- 7.18.10 Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Section 7.19 Guidelines for Applying the Secretary of Interior's Standards

The Environment

Recommended

Retaining distinctive features such as the size, scale, mass, color, and materials of buildings, including roofs, porches, and stairways that

Not Recommended

Introducing new construction into neighborhoods that is incompatible with the character of the district because of size, scale,

give a neighborhood its distinguishing character.

Retaining landscape features such as parks, gardens, street lights, signs, benches, walkways, streets, alleys and building set-backs that have traditionally linked buildings to their environment.

Using new plant materials, fencing, walkways, street lights, signs, and benches that are compatible with the character of the neighborhood in size, scale, material and color.

The Building Site

Recommended

Identifying plants, trees, fencing, walkways, outbuildings, and other elements that might be an important part of the property's history and development.

Retaining plants, trees, fencing, walkways, street lights, signs, and benches that reflect the property's history and development

Basing decisions for new site work on actual knowledge of the past appearance of the property found in photographs, drawings, newspapers, and tax records. If changes are made, they should be carefully evaluated in light of the past appearance of the site.

Providing proper site and roof drainage to assure that water does not splash against the building or foundation walls, nor drain toward the building.

Building: Structural Systems

Recommended

Recognizing the special problems inherent in the structural systems of historic buildings, especially where there are visible signs of cracking, deflection, or failure.

Undertaking stabilization and repair weakening structural members and systems.

Replacing historically important structural members only when necessary. Supplementing existing structural systems when damaged or inadequate.

Building: Exterior Features (Masonry: Adobe, brick, stone, terra cotta, concrete, stucco, and mortar)

Recommended

Retaining original masonry and mortar, whenever possible, without the application of any surface treatment.

Re-pointing only mortar joints where there is evidence of moisture problems or when sufficient mortar is missing to allow water to stand in the mortar joint.

Duplicating old mortar in composition, color, and texture.

Duplicating old mortar in joint size, method of application, and joint profile.

Recommended

Repairing stucco with a stucco mixture that duplicates the original as closely as possible in appearance and texture.

color, and materials.

Destroying the relationship of buildings and their environment by widening existing streets, changing paving materials, or by introducing inappropriately located new streets and parking lots that are incompatible with the character of the neighborhood.

Introducing signs, street lighting, benches, new plant materials, fencing, walkways and paving materials that are out of scale or inappropriate to the neighborhood.

Not Recommended

Making changes to the appearance of the site by removing old plants, trees, fencing, walkways, outbuildings, and other elements before evaluating their importance in the property's history and development.

Leaving plant materials and trees in close proximity to the building that may cause deterioration of the historic fabric.

Not Recommended

Disturbing existing foundations with new excavations that undermine the structural stability of the building.

Leaving known structural problems untreated that will cause continuing deterioration and will shorten the life of the structure.

Not Recommended

Applying waterproof or water repellent coating or surface consolidation treatments unless required to solve a specific technical problem that has been studied and identified. Coating are frequently unnecessary, expensive, and can accelerate deterioration of the masonry.

Repointing mortar joints that do not need pointing. Using electric saws and hammers to remove mortar can seriously damage the adjacent brick.

Repointing with mortar of high portland cement content can often create a bond that is stronger than the building material. This can cause deterioration as a result of the differing coefficient of expansion and the differing porosity of the material and the mortar.

Repointing with mortar joints of a differing size or joint profile, texture or color.

Not Recommended

Cleaning masonry only when necessary to halt deterioration or to remove graffiti and stains and always with the gentlest method possible, such as low-pressure water and soft natural bristle brushes.

Repairing or replacing, where necessary, deteriorated material with new material that duplicates the old as closely as possible.

Replacing missing significant architectural features, such as cornices, brackets, railings, and shutters.

Retaining the original or early color and texture of masonry surfaces, including early signage, wherever possible. Brick or stone surfaces may have been painted or whitewashed for practical and aesthetic reasons.

Wood: Clapboard, Weatherboard, Shingles, and other Wooden Materials *Recommended*

Retaining and preserving important architectural features, whenever possible.

Architectural Metals: Cast Iron, Steel, Pressed Tin, Aluminum, Zinc *Recommended*

Retaining original material, whenever possible.

Cleaning when necessary with the appropriate method. Metals should be cleaned by methods that do not abrade surface.

Roofs and Roofing *Recommended*

Preserving the original roof shape.

Retaining the original roofing material, whenever possible.

Providing adequate roof drainage and insuring that the roof materials provide a weather-tight covering for the structure.

Replacing deteriorated roof coverings with new material that matches the old in composition, size, shape, color, and texture.

Preserving or replacing, where necessary, all architectural features that give the roof its essential character, such as dormer windows, cupolas, cornices, brackets, chimneys, cresting, and weather vents.

Windows and Doors *Recommended*

Retaining and repairing existing window and door openings including window sash, glass, lintels, sills, architraves, shutters,

Sandblasting, including dry and wet grit and other abrasives, brick or stone surfaces; this method of cleaning erodes the surface of the material and accelerates deterioration. Using chemical cleaning products that would have an adverse chemical reaction with the masonry materials. I.e., acid on limestone or marble

Applying new material which is inappropriate or was unavailable when the building was constructed, such as artificial brick-siding, artificial cast stone or brick veneer.

Removing architectural features such as cornices, brackets, railings, windows architraves, and doorway pediments.

Removing paint from masonry surfaces indiscriminately. This may subject the building to damage and change its appearance.

Not Recommended

Removing architectural features such as siding, cornices, brackets, window architraves, and doorway pediments. These are, in most cases, an essential part of a building's character and appearance that illustrates the continuity of growth and change.

Resurfacing frame buildings with new material that is inappropriate or was unavailable when the building was constructed such as artificial stone, brick veneer, asbestos or asphalt shingles, and plastic or aluminum siding. Such material can also contribute to the deterioration of the structure from moisture and insects.

Not Recommended

Removing architectural features that are an essential part of a building's character and appearance, illustrating the continuity of growth and change.

Exposing metals which were intended to be protected from the environment. Do not use cleaning methods which alter the color, texture, and tone of the metal.

Not Recommended

Changing the essential character of the roof by adding inappropriate features such as dormer windows, vents, or skylights.

Applying new roofing material that is inappropriate to the style and period of the building and neighborhood.

Replacing deteriorated roof coverings with new materials that differ to such an extent from the old in composition, size, shape, color, and texture that the appearance of the building is altered.

Stripping the roof of architectural features important to its character.

Not Recommended

Introducing new window and door openings into the principal elevations, or enlarging or reducing window or door openings to fit

doors, pediments, hoods, steps, and all hardware.

Duplicating the material, design, and the hardware of the older window sash and doors if new sash and doors are used.

Installing visually unobstructive storm windows and doors, where needed, that do not damage existing frames and that can be removed in the future.

Using original doors and door hardware when they can be repaired and reused in the future.

Entrances, Porches, and Steps

Recommended

Retaining porches and steps that are appropriate to the building and its development. Porches or additions reflecting later architectural styles often important to the building's historical integrity and wherever possible, should be retained.

Repairing or replacing, where necessary, deteriorated architectural features of wood, iron, cast iron, terra cotta, tile, and brick.

Exterior Finishes

Recommended

Discovering the historic paint colors and finishes of the structure and repainting with those colors to illustrate the distinctive character of the property.

New Construction

Recommended

Keeping new additions and adjacent new construction to a minimum, making them compatible in scale, building materials, and texture.

Designing new work to be compatible in materials, size, scale, color and texture with the earlier building and the neighborhood.

Using contemporary designs compatible with the character and mood of the building or the neighborhood.

Protecting architectural details and features that contribute to the character of the building.

Placing television antenna and mechanical equipment, such as air conditioners, in an inconspicuous location.

Mechanical Systems: Heating, Air Conditioning, Electrical, Plumbing, Fire Protection

Recommended

Installing necessary mechanical systems in areas and spaces that will

new stock window sash or new stock door sizes.

Altering the size of windowpanes or sash. Such changes destroy the scale and proportion of the building.

Installing inappropriate new window or door features such as aluminum storm and screen window insulating glass combinations that require the removal of original windows and doors.

Installing plastic, canvas, or metal strip awnings or fake shutters that detract from the character and appearance of the building.

Discarding original doors and door hardware when they can be repaired and reused in place.

Not Recommended

Removing or altering porches and steps that are appropriate to the building's development and style.

Stripping porches and steps of original material and architectural features, such as handrails, balusters, columns, brackets, and roof decoration of wood, iron, cast iron, terra cotta, tile, and brick.

Enclosing porches and steps in a manner that destroys their intended appearance.

Not Recommended

Removing paint and finishes down to the bare surface; strong paint strippers, whether chemical or mechanical can permanently damage the surface.

Repainting with colors that cannot be documented through research and investigation to be appropriate to the building and the neighborhood.

Not Recommended

Designing new work which is incompatible with the earlier building and the neighborhood in materials, size, scale, and texture.

Imitating an earlier style or period of architecture in new additions, except in rare cases where a contemporary design would detract from the architectural unity of an ensemble or group. Especially avoid imitating an earlier style of architecture in new additions that have a completely contemporary function such as a drive-in bank or garage.

Adding new height to the building that changes the scale and character of the building. Addition in height should not be visible when viewing the principal facades.

Adding new floors or removing existing floors that destroy important architectural details, features and spaces of the building.

Placing television antennae and mechanical equipment, such as air conditioners, where they can be seen from the street.

Not Recommended

Causing unnecessary damage to the plan, materials, and appearance

require the least possible alteration to the structural integrity and physical appearance of the building.

Utilizing early mechanical systems, including plumbing and early lighting fixtures, where possible.

Installing the vertical runs of ducts, pipes, and cables in closets, service rooms, and wall cavities.

Insuring adequate ventilation of attics, crawlspaces, and cellars to prevent moisture problems.

Installing thermal insulation in attics and in unheated cellars and crawlspaces to conserve energy.

of the building when installing mechanical systems.

Attaching exterior electrical and telephone cables to the principal elevations of the building.

Installing the vertical runs of ducts, pipes, and cables in places where they will be a visual intrusion.

Concealing or “making invisible” mechanical equipment in historic walls or ceilings. Frequently this concealment requires the removal of historic fabric.

Installing “dropped” acoustical ceilings to hide mechanical equipment. This destroys the proportions and character of the rooms.

Installing foam, glass fiber, or cellulose insulation into wall cavities of either wooden or masonry construction. This has been found to cause moisture problems when there is no adequate moisture barrier.

Section 7.20 Solar Energy Conversion Systems

7.20.01 Purpose

This ordinance promotes the accommodation of on-site solar energy conversion systems in the City of Tecumseh and associated one-mile planning jurisdiction, with the intent to reduce energy consumption, regulate necessary equipment and promote adequate access to sunlight. This ordinance also addresses utility-scale solar energy conversion systems, or “solar farms”, intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems, excluding solar farms, shall be permitted in all zoning districts as a permitted accessory use.

7.20.02 Definitions

- 7.20.02.01 Battery Back-Up:** A battery system that stores electrical energy from a solar energy conversion system for use in the future.
- 7.20.02.02 Combiner or Junction Box:** Combines the electrical flows from multiple strings of solar panels into a single-source output circuit.
- 7.20.02.03 Electricity Generation -** The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).
- 7.20.02.04 Ground-Mount System -** A solar energy system that is attached to an anchor in the ground and wired to connect to the meter of a home or building.
- 7.20.02.05 Kilowatt (kW) -** Equal to 1,000 Watts; a measure of the use of electrical power.
- 7.20.02.06 Kilowatt-hour (kWh) -** A unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.
- 7.20.02.07 Megawatt (MW) -** Equal to 1,000 Kilowatts; a measure of the use of electrical power.
- 7.20.02.08 Megawatt-hour (MWh) -** A unit of energy equivalent to one Megawatt (1 MW) of power expended for one hour of time.
- 7.20.02.09 Net Metering:** A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.
- 7.20.02.10 Photovoltaic (PV) System:** An energy producing system that utilizes semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight.
- 7.20.02.11 Pole-Mount Systems:** A solar energy system that is directly installed on specialized pole-attached systems, anchored to a concrete foundation in the ground, and wired underground to the meter.

- 7.20.02.12 PV-Direct Systems:** A Solar Energy Conversion System designed to only provide electricity during sunlight.
- 7.20.02.13 Roof-Mount System -** A solar energy system consisting of solar panels installed directly on the roof of a primary or accessory structure.
- 7.20.02.14 Solar Access:** The ability to receive sunlight across property lines without obstruction from another's property.
- 7.20.02.15 Solar Array:** Multiple solar panels combined together to create one system.
- 7.20.02.16 Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation and transfer of electricity.
- 7.20.02.17 Solar Energy Conversion System:** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy which is then transferred to a point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation.
- 7.20.02.18 Solar Farm:** An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.
- 7.20.02.19 Solar Panel/Module:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).
- 7.20.02.20 Tilt:** The angle of the solar panels and/or solar collector.
- 7.20.02.21 Watts (W) -** A measure of the use of electrical power (power (Watts) = voltage (volts) X current (Amps)).

7.20.03 Personal Scale Solar Energy Conversion System Requirements

- 7.20.03.01** A solar energy system shall provide power, solely, for the principal use and/or accessory use of the property on which the solar energy system is located.
- 7.20.03.02** The installation and construction of a *roof-mount solar energy system* shall be subject to the following development and design standards:
- A. A roof or building mounted solar energy system may be mounted on a principal or accessory building.
 - B. Any height limitations of the zoning district within shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - C. Placement of solar collectors on flat roofs shall be allowed, provided that panels do not extend horizontally past the roofline.
- 7.20.03.03** The installation and construction of solar energy conversion systems shall be subject to the following development and design standards:
- A. The height of the solar collector and any mounts shall not exceed 10 feet when oriented at maximum tilt.
 - B. The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - C. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
 - D. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located in proper accordance with local building/electrical code.
 - E. The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

- F. For all roof-mounted systems other than a flat roof, the elevation must show the tilt of the solar collector and the slope of the finished roof surface on which it is mounted.
- G. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- 7.20.03.04** All electrical equipment associated with the operation of solar energy conversion systems shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- 7.20.03.05** Solar panel placement should be prioritized to minimize or negate any glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system.
- 7.20.03.06** A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.
- 7.20.03.07** Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

7.20.04 Solar Farms

- 7.20.04.01** The height of the solar collector and any mounts within an established solar farm shall not exceed 20 feet when oriented at maximum tilt.
- 7.20.04.02** Solar farms with panels located at least one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, shall not require screening.
- 7.20.04.03** Solar farms with panels located less than one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, must provide landscaping and/or trees to visually obscure the facility from the public road.
- 7.20.04.04** Solar Farm Application Requirements.
 - A. A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.
 - B. Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.
 - C. If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal Highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.
- 7.20.04.05** Installation and Design.
 - A. Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
 - B. All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.
 - C. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.

7.20.05 Safety and Inspections

- 7.20.05.01** The design of the solar energy system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing. A building permit reviewed by the City of Tecumseh staff/Planning Commission shall be obtained for a solar energy system.
- 7.20.05.02** The solar energy system shall comply with all applicable regulations of the City of Tecumseh, so as to ensure the structural integrity of such solar energy system.
- 7.20.05.03** Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by City of Tecumseh staff.

- 7.20.05.04** Any connection to the public utility grid must be approved by the local public utility.
- 7.20.05.05** If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of Tecumseh and any other applicable laws and regulations relating to hazardous waste disposal.
- 7.20.05.06** Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

7.20.06 Decommissioning and Abandonment

- 7.20.06.01** The developer/property owner shall submit a decommissioning plan, which shall include at a minimum:
- A. The anticipated life of the project,
 - B. The estimated decommissioning costs and source(s) of financing for removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
 - C. The method or process of ensuring that decommissioning will be properly and timely completed. In considering an acceptable assurance, the County may accept as sufficient decommissioning, the obligations contained in contracts between the wind project owner and the applicable landowners and/or project purchasers.
 - D. The anticipated manner in which the project will be decommissioned, and
 - E. The time period in which the decommissioning shall be completed.
- 7.20.06.02** A ground or pole-mounted solar energy system is considered to be abandoned or defective if it has not been in operation for a period of twelve (12) months. If abandoned, the solar energy system shall be repaired by the owner to meet federal, state, and local safety standards, or be removed by the owner within the time period designated by the Tecumseh Building Code Official. If the owner fails to remove or repair the defective or abandoned solar energy system, the City of Tecumseh may pursue a legal action to have the system removed at the owner's expense.

7.20.07 Appeals

- 7.20.07.01** If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Tecumseh Zoning Regulations.

ARTICLE 8: BOARD OF ADJUSTMENT

Section 8.01 Members, Terms and Meetings. Pursuant to Neb. Rev. Stat. § 19-908 (R.R.S.1997): “The board of adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the board of adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his or her immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment. After September 9,1995, the first vacancy occurring on the board of adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The board of adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.”

Section 8.02 Appeals to Board, Record of Appeal, Hearings and Stays. As provided in Neb. Rev. Stat. § 19-909 (R.R.S.1997): “Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within fourteen (14) days of decision, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.”

Section 8.03 Powers and Jurisdiction on Appeal. The Board of Adjustment shall have the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and (3) to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

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

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

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

Section 8.04 Appeals to District Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. § 19-912 (R.R.S.1997).

ARTICLE 9: AMENDMENT

Section 9.01 Amendments. As provided in section 19-905, Neb. Rev. Stat., 1943: Such regulations, restrictions, and boundaries may from time to time be modified, or repealed. In case of a protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4th) of all the members of the legislative body of such municipality.

The provisions of section 19-904 relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor.

If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten (10) days prior to such hearing. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate located within three hundred (300) feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten (10) days prior to the date of the hearing if they can be served with a written notice within the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last known addresses at least ten (10) days prior to such hearing.

The provisions of this section in reference to notice shall not apply (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of section 19-904 shall be applicable.

Section 9.02 Planning Commission Review. No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

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

At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited the sum set in Section 4.21 as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

Section 9.03 Zoning Administrator. The provisions of this Ordinance shall be administered and enforced by a Zoning Administrator appointed by the City Council, who shall have the power to cause inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

Section 9.04 Building, Demolition & Moving Permits. The following shall apply to all new construction and all applicable renovations, remodels, demolitions and structure relocations within Tecumseh's Zoning Jurisdiction as provided by § 9-101 of the Tecumseh Municipal Code:

- 9.04.01 It shall be unlawful to commence the excavation for the construction or to commence the construction of any building, or any accessory buildings, or to commence the demolition, moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a building, demolition or moving permit for such work. (Amended November 7, 2011) (Amended May 4, 2015)
- 9.04.02 In applying to the Zoning Administrator for a building, demolition or moving permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered, demolished or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed building, demolition or moving in the application is in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Zoning Administrator shall issue a building, demolition or moving permit. If a building, demolition or moving permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. (Amended May 4, 2015)
- 9.04.03 Building permits shall expire and become void in one (1) year after their issuance for homes, garages, sheds and other Residential accessory structures and in one and one-half (1½) years for Commercial Buildings. If the structure for which the Building Permit was issued is not completed and a Certificate of Occupancy issued therefore before the expiration of the Building Permit, an Applicant must stop work on the structure until such time as he/she has obtained a renewal Building Permit. In order to renew an expired Building Permit, the Applicant must pay a new full Building Permit Fee and obtain a renewal Building Permit. Said renewal Building Permit shall be valid for an additional 180 days and said permit shall be so marked. After the first extension of a Building Permit, no Building Permit shall be extended or renewed except upon clear and convincing proof by the Applicant that the delay in completion has not been due to the fault, negligence or failure to act on the part of the owner or his/her agent and said Building Permit shall only be extended or renewed for such time as the Building Inspector determines is appropriate. (Amended May 4, 2015)
- 9.04.04 Demolition Permits shall expire in 180 days after their issuance. If the structure for which the Demolition Permit is not demolished and a Certificate of Completion issued therefore before the expiration of the Demolition Permit, an Applicant must stop work on the demolition until such time as he/she has obtained a renewal Demolition Permit. In order to renew an expired Demolition Permit, the Applicant must pay a new full Demolition Permit Fee and obtain a renewal Demolition Permit. Said renewal Demolition Permit shall be valid for an additional 180 days and said permit shall be so marked. After the first extension of a Demolition Permit, no Demolition Permit shall be extended or renewed except upon clear and convincing proof by the Applicant that the delay in completion has not been due to the fault, negligence or failure to act on the part of the owner or his/her agent and said Demolition Permit shall only be extended or renewed for such time as the Building Inspector determines is appropriate. (Amended May 4, 2015)
- 9.04.05 Moving Permits shall expire in one (1) year after their issuance. If the structure for which the Moving Permit was issued is not moved and a Certificate of Occupancy issued therefore before the expiration of the Moving Permit, an Applicant must stop the moving of the structure and/or any work on the structure until such time as he/she has obtained a renewal Moving Permit. In order to renew an expired Moving Permit, the Applicant must pay a new full Moving Permit fee and obtain a renewal Moving Permit. Said renewal Moving Permit shall be valid for an additional one (1) year and said permit shall be so marked. After the first extension of the Moving Permit, no Moving Permit shall be extended or renewed except on clear and convincing proof by the Applicant that the delay in completion has not been due to the fault, negligence or failure to act on the part of the owner or his/her agent, and said Moving Permit shall only be extended or renewed for such time as the Building Inspector determines is appropriate. (Amended May 4, 2015)
- 9.04.06 Any Building Permit, Demolition Permit, or Moving Permit that has been issued prior to the passage of Sections 9.04.06 of this Zoning Code shall expire and become void 180 days after the passage of

Section 9.04.06 and the Applicant must reapply for a new Building, Demolition or Moving Permit and pay a new full permit fee. (Amended May 4, 2015)

Section 9.05 Certificate of Occupancy. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator or their designated agent shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within a reasonable amount of time after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to cause a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

Section 9.06 Penalties. Pursuant to Neb. Rev. Stat. § 19-913 (R.R.S.1997), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

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

Section 9.07 Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §§ 19-901 to 19-914 (R.R.S.1997), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 10: COMPREHENSIVE PLAN RELATIONSHIP

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

ARTICLE 11: LEGAL STATUS PROVISIONS

Section 11.01 Separability. Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 11.02 Purpose of Catch Heads. The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 11.03 Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 11.04 Effective Date. This Ordinance shall take effect and be in full force on _____, after its passage and publication according to law.

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

This _____ day of _____, 2019.

(Seal)

ATTEST: _____
(CITY CLERK)

(MAYOR)