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CHAPTER 10 – MUNICIPAL PLANNING

Article 1 – Zoning Regulations

SECTION 10-101: SHORT TITLE

These regulations, including the zoning district maps made a part hereof, shall be known and may be cited and referred to as the St. Edward, Nebraska, Zoning Ordinance.

SECTION 10-102: DEFINITIONS

For the purpose of these zoning regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

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

B. “Accessory use” means a subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbeque ovens, solar panels, dish antennas and fireplaces.

C. “Agriculture” is the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept within ten acres or more in the area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.

D. “Building” is any structure including a roof supported by walls, designed or intended for the enclosure, shelter or protection of persons, animals or property.

E. “Dwelling” is any building or portion thereof, not including mobile or manufactured homes but including modular homes, which is designed and used exclusively for residential purposes.

F. “Dwelling, single-family” is a dwelling having accommodations for and occupied exclusively by one family.

G. “Dwelling, two-family” is a dwelling designed for and occupied by two families, independently.

H. “Dwelling, multi-family” is a dwelling having accommodations for and occupied exclusively by more than two families, independently.

I. "Family" is (1) one person or more than one person related by blood, marriage or adoption, living together as a single housekeeping unit or (2) a group of not more than five unrelated persons living together as a single housekeeping unit; plus, in either case, usual domestic servants. A fraternity or sorority house, club, lodging house, hotel or motel shall under no circumstances be construed as a family.

J. "Junkyard" is any area where waste, discarded or salvaged materials are brought, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards of storage of salvaged house-wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.

K. "Trailer" is any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks or skirtings and which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" shall include trailer coaches, houses or camp cars or other portable or mobile shelters.

SECTION 10-103: ZONING MAP; DISTRICTS AND GENERAL REQUIREMENTS

A. The Zoning District Map adopted by Ord. No. 351 of the City of St. Edward, Nebraska, and passed on the 6th day of May, 1974, is hereby adopted as the official Zoning District Map. No changes shall be made on the Zoning District Map except as may be required by amendments to these regulations. Such changes shall be promptly indicated on the Zoning District Map and the ordinance number, nature of change, and date of change shall be noted on the map.

B. For the purposes of these regulations, the City is hereby divided into four zoning districts which are designated as follows:

1. "A-1" Agricultural District
2. "R-1" Residential District
3. "B-1" Business District
4. "M-1" Industrial District

The boundaries of these districts are shown on the official Zoning District Map which is made part of these regulations. Said map and all information shown thereon shall have the same force and effect as if fully set forth or described herein.

C. No building shall be erected, converted, enlarged, moved or structurally altered nor any premises or building be used for any purpose other than permitted in the district where such premises or building is located. No building shall be erected, enlarged, moved or structurally altered except to conform with the height, yard, area per family, parking and other regulations prescribed herein for the district in which such lot is located; and every part of the required yard shall be open to the sky unobstructed,

except as provided, and no yard or lot area shall be reduced so as to be smaller than the applicable district requirement.

D. Every building hereafter erected or structurally altered shall be located on a lot and in no case shall more than one residential building be located on a lot except as provided herein.

SECTION 10-104: PERMITTED USES

A. In the A-1 Agricultural District, only the following uses are permitted:

1. Single-family dwellings.
2. Agriculture or truck gardening, provided that any building for the enclosure or for the shelter of animals shall be at least 50 feet from all street and lot lines.
3. Churches, schools and libraries.
4. Public parks, playgrounds or community centers.
5. Golf courses or private clubs not operated for profit.
6. Colleges.
7. Educational, religious or philanthropic institutions, not including mental institutions.
8. Nursing homes.
9. Home occupations.
10. Parking for permitted uses.
11. Accessory buildings or uses customarily incidental to the above uses, including a church, school or similar bulletin board or sign not exceeding ten square feet in area, pertaining to the lease, hire or sale of the building or premises or the sale of products grown only on the premises, provided that any necessary accessory building is not constructed prior to the beginning construction of the main building.

B. In the R-1 Residential District only the following uses are permitted:

1. Single family dwellings.
2. Multiple family dwellings.
3. Office of a resident physician, dentist, attorney or similar professional person when located within his or her residence, including one name plate not over one square foot in area.
4. Boarding and lodging house.
5. Parking for permitted uses.
6. Accessory building or use customarily incidental to the above uses.

C. In the B-1 Business District only the following uses are permitted:

1. Any use permitted in the R-1 Residential District.

2. Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery store, drugstore, meat market, bank, beauty parlor, electrical repair or similar retail sales, services or repair shops.
3. Hotels.
4. Offices.
5. Filling stations.
6. Public garages, when located at least 50 feet from any "R" District boundary.
7. Business or commercial schools or dancing or music academies.
8. Clinics.
9. Printing shops.
10. Automobile or trailer display or sales rooms or, when located at least 50 feet from any "R" District, automobile or trailer sales or storage lots.
11. Frozen food lockers.
12. Commercial greenhouses.
13. Milk distributing stations.
14. Farm implement display or sales rooms.
15. Motels.
16. Funeral homes or mortuaries.
17. Veterinary or animal hospitals, provided any such building, kennel or exercise runway is located at least 100 feet from any "R" District boundary.
18. Painting, plumbing, tinsmithing, upholstering or similar general service shops.
19. When located at least 100 feet from any "R" District boundary: bowling alleys; drive-in restaurants or similar establishments; drive-in theaters; other similar places of entertainment or amusement.
20. Offstreet parking.
21. Accessory buildings or uses customarily incidental to a permitted use, including an advertising sign or bulletin board.

D. In the M-1 Industrial District only the following uses are permitted:

1. Any use permitted in the B-1 Business District.
2. Bottling works.
3. Carting, express or storage yards.
4. Contractors' yards.
5. Coal, coke or lumberyards.
6. Grain elevators.
7. Livestock auction or sales barns.
8. Auto wrecking yards or junkyards only when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than 8 feet in height and in which the openings or cracks are less than 15% of the total area.
9. Any other business, industry or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal

amount of dust, odor, gas, smoke or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials or equipment.

- 10. Offstreet parking.
- 11. Any other use not in conflict with local or state-enacted laws regulating nuisances, provided that no use emitting or likely to emit a substantial amount of dust, odor, gas, smoke or noise and none of the following specific uses shall be permitted without approval of the mayor and City Council after a review and report of the Planning Commission subject to adjacent property and prevent objectionable, deteriorating or offensive conditions: acid or chemical manufacture; distillation of bones; explosives manufacture or storage; fat rendering; garbage; offal or dead animals reduction or dumping; glue manufacture; stockyards or slaughter of animals; wholesale or retail bulk storage of gasoline and propane; any similar use that would be hazardous to the public health, safety and welfare.

E. In authorizing the uses in this subsection, there may be imposed reasonable requirements as to landscaping, screening and other features of the development as are deemed necessary to protect adjacent property and prevent objectionable or hazardous conditions.

SECTION 10-105: OFFSTREET PARKING REQUIREMENTS

No building shall be erected, enlarged or changed in use unless there is provided on the lot or tract of land enough space for the parking of automobiles or trucks in accordance with the following minimum requirements:

Dwellings	One parking space for each dwelling unit
Commercial uses	One parking space for each 200 square feet
Industries	One parking space for each 3 employees
Places of public assembly	One space for each ten seats in the main auditorium

SECTION 10-106: SPECIAL USES

A. The mayor and the City Council may, after a public hearing, imposing such conditions and protective restrictions that are deemed necessary, and issuing a special permit, authorize the following special uses in any district in which they are otherwise prohibited:

- 1. Cemetery or mausoleum.
- 2. Greenhouse or nursery, not less than 100 feet from all property lines.
- 3. Hospital, clinic or institution, except for the mentally ill or those with contagious diseases, provided that less than 40% of the total land area is occupied by buildings and that all the required yards are increased by one foot for each foot of building height.
- 4. Landing field or strip for aircraft.
- 5. Radio tower or broadcasting station.

6. Removal of gravel, topsoil or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.
7. Riding stable.
8. Roadside stand, commercial amusement, or recreational development for temporary or seasonal periods.
9. Sanitary fill for the disposal of garbage or trash.
10. Trailer court observing all appropriate state and county regulations, provided there is at least 2,000 square feet of lot per trailer, no trailer or service building is closer than 25 feet to any side or rear lot line, and such hard surface drives, landscaping and similar improvements as may be deemed necessary for its proper development and for the protection of the surrounding area are provided.
11. Housing Projects. The owner or owners of any tract of land comprising an area of not less than three acres in the A-1 or R-1 district may submit to the City Council a plan for the use and development of the tract for residential purposes and shall present specific evidence and facts showing whether or not the proposed plan meets the following conditions: (a) that property adjacent to the area included in the plan will not be adversely affected; (b) that the plan is consistent with the intent and purpose of these regulations to promote the public health, safety, morals and general welfare; (c) that the building shall be used for only single-family dwellings, two-family dwellings, or multiple dwellings and the usual accessories, such as garages, storage space or community or administrative activities; (d) that the average lot area contained in a site will not be less than 2,000 square feet per family; (e) that the buildings do not exceed two stories in height.

B. The plan need not provide for the customary street and lot layout or the normal application of the yard and area requirements to individual building units.

C. If the City Council approves the plans, after public hearing thereon, building permits may be issued even though the location of the building to be erected in the area and the yards and open spaces contemplated by the plan do not conform in all respects to the regulations or the district in which the building is located.

SECTION 10-107: NONCONFORMING USES

A. The lawful use of a building existing at the time of adoption of these regulations or of a change in the district classifications may be continued even though such use does not conform with the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification; but whenever a nonconforming use is changed to a more restricted use or to a conforming use, it shall not thereafter be changed to a less restrictive use.

B. The nonconforming use of a building may be extended throughout these

parts which were manifestly arranged or designed for prior to the adoption of these regulations.

C. No building which has been damaged by fire, explosion, an act of God, or the public enemy to the extent of more than 60% of its reproduction value shall be restored, except in conformity with the district regulations.

D. In the event that the nonconforming use of a building or premises is discontinued for a period of two years or more, such building or premises shall be thereafter used only in conformity with the regulations of the district of which it is located.

SECTION 10-108: BOARD OF ADJUSTMENT; POWERS AND DUTIES

A. A Board of Adjustment is hereby created which shall consist of five members appointed by the mayor and confirmed by the City Council. The term of office for each member shall be five years. The board shall appoint its own chairman.

B. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the 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 transmit to the board all the papers constituting the record upon which the action appealed from was taken. A fee shall accompany all notices of appeals, which shall be as set by resolution by the City Council and kept on file in the office of the city clerk.

C. In exercising the above-mentioned powers, the board may reverse or affirm, wholly or in part, or may modify the order, requirement, or 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 an appeal is taken.

D. The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative official or to decide in favor of applicant on any matter upon which it is required to pass under in these regulations or to affect any variation of these regulations; however, the board shall not pass on zoning district changes.

E. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the appeal within a reasonable time. The hearing shall be open to the public and any party interested may appear in person or by agent or attorney.

SECTION 10-109: ENFORCEMENT AND ADMINISTRATION

A. It shall be the duty of the person designated by the mayor and confirmed by the City Council as an administrative official to enforce and administer the regulations contained herein.

B. No building shall be constructed or altered without a building permit nor without an occupancy permit as required by this section. Application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape, and location of the building to be erected, and such other information as may be necessary for the enforcement of these regulations.

C. Subsequent to the effective date of these regulations, no change in the use or occupancy of land or in the use or occupancy of an existing building other than for single-family dwelling purposes shall be made; nor shall any new building be occupied until a certificate of occupancy has been issued by the administrative official.

D. A record shall be kept on file in the office of the administrative official.

SECTION 10-110: AMENDMENTS

These regulations may from time to time be amended by the City Council after a public hearing and in accordance with state statutes.

SECTION 10-111: INTERPRETATION

A. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, morals and welfare. It is not intended by these regulations to interfere with or repeal any easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

B. In respect to the boundaries of a district as shown on the District Map or uncertainty exists, the following rules shall apply: (1) The district boundaries are either streets or alleys unless otherwise shown; and where the district designated on the map is bounded approximately by a street or alley line, the street or alley shall be construed to be such boundary. (2) Where the district boundary is not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, such boundaries shall be construed to be the lot lines; and where the district designated on the District Map is bounded approximately by lot lines, such lot lines shall be construed to be the boundary of the districts unless otherwise indicated on the map.

SECTION 10-112: VIOLATION; PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of these regulations shall be deemed guilty of a misdemeanor and shall be fined not more than \$500.00 for each offense. Each day that such violation continues shall constitute a separate offense. In any case, when any building or structure is erected, constructed, altered, repaired, converted or maintained or a building, structure or land is used in violation of these regulations, the City, in addition to other remedies, may institute appropriate action or proceedings to prevent such unlawful erection, alteration, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

SECTION 10-113: VALIDITY

Should any section, clause or provision of these regulations be declared by a court to be invalid, the same shall not affect the validity of these regulations as a whole or in part, other than the part so declared to be invalid.

Article 2 – Penal Provision

SECTION 10-201: VIOLATION; PENALTY

Any person, whether as owner, proprietor, or as the agent, attorney, or representative of any owner or proprietor of land who shall plat or subdivide any tract of land within the corporate limits of the City or adjoining and contiguous to the same, except as herein authorized, or who shall sell, transfer, deed or convey, contract, or agree to sell, transfer, or offer for sale any lot or piece of ground in any addition or subdivision of three or more parts within said corporate limits or adjoining and contiguous thereto without having first obtained the acceptance and approval of the plat or map thereof by the City Council. Any person who shall violate or who shall fail, neglect, or refuse to comply with any of the provisions hereinbefore as now existing or as hereafter amended shall, upon conviction, be fined in any sum not exceeding \$500.00. (Neb. Rev. Stat. §18-3315)