

CHAPTER 11
MUNICIPAL PLANNING
Article 2. Zoning Regulations

§11-201 ESTABLISHMENT OF ZONING DISTRICTS. District regulations shall be as set forth in the Schedule of District Regulations, hereby of this Article, as set out in Sections 11-212 through 11-230.

For the purposes hereof, the following zoning districts and zoning map designations are established:

- A-1 Agricultural
- R-1 Low Density Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- R-4 Mixed Residential
- C-1 Central Commercial
- C-2 General Commercial
- C-3 Highway Commercial
- I-1 Light Industrial
- I-2 Heavy Industrial
- P Public
- PO Parking Overlay
- WPO Wellhead Protection Overlay
- SF-1 Selected Floodway Overlay District
- F-1 Floodway Overlay District
(Amended by Ord. No. 1142, 08/06/91; 1926, 05/19/15)

§11-202 OFFICIAL ZONING MAP. The City and certain properties within two (2) miles in all directions of its corporate limits is hereby divided into zones, or districts, as shown on the Official Zoning Map, which together with all explanatory matters thereon, or as determined and described in the FIRM Flood Hazard Boundary Map, on May 19, 2015, to date or passage of this ordinance, is hereby adopted by reference and declared to be a part of this Chapter.

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 1 of Ordinance Number 2036 of the City of Crete, Nebraska" together with the date of adoption of this Article.

The Official Zoning Map, and all changes, amendments or additions thereto shall be located in the office of the City Clerk. (Amended by Ord. Nos. 988, 5/7/85; 1142, 8/6/91; 1438 12/15/98; 1463, 8/24/99; 1773, 10/05/10; 1926, 05/19/15; 2031, 11/7/17; 2036, 01/16/18)

§11-203 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where

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uncertainty exists as to the boundaries of the districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center lines of roads, streets, highways or alleys shall be construed to follow such center lines;

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as approximately following City limits shall be construed as following such City limits;

D. Boundaries indicated as following standard survey subdivision lines such as one-quarter (1/4) or one-eighth (1/8) section lines shall be so construed;

E. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

F. 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;

G. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;

H. 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 in Subsections A through E above, the City Council shall interpret the district boundaries;

I. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Article, the City Council may permit, as a special exception, the extension of the regulations for either portion of the lot.

§11-204 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this Article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

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

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regulations herein specified for the district in which it is located; Provided, however, that outside of the corporate limits of the City, and outside of the Commission floodway the use of land for farming or agricultural purposes, except feed lots, is specifically exempt from the provisions of this Article.

B. No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk;
2. To accommodate or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein required; or in any other manner be contrary to the provisions of this Article.

C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Article, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

D. No yard or lot existing at the time of passage of this Article shall be reduced in dimension or areas below the minimum requirements set forth herein. Yards or lots created after the effective date of this Article shall meet at least the minimum requirements established by this Article.

E. Districts or parts of districts which are also included within the boundary of a selected floodway district or a floodway district shall comply with all use regulations of the selected floodway district or floodway district, whichever may apply, and with the use regulations of the primary district to which it is attached, except in the case of conflicting regulations, in which case the more restrictive of the regulations shall apply.

§11-205 NONCONFORMING USES; INTENT.

Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses.

Any lawful use of land or structure existing at the time of enactment or subsequent amendment of this ordinance, but not in conformity with its provisions, may be continued subject to the following conditions:

A. NONCONFORMING LOTS OF RECORD:

The Zoning Administrator may issue a Permit for any nonconforming lot of record provided that:

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Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all required yard regulations for the district in which it is located.

B. NONCONFORMING STRUCTURES

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 use regulations, and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, unless the property owner receives a Special Use Permit in accordance with the Zoning District in which it is located.

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 50 percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.

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

C. NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing

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nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.

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

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

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

Damage or Destruction: In the event that a nonconforming building or use is damaged to the extent of more than fifty (50) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use.

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More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Nonconforming Accessory Uses: No use, which is accessory to a principal nonconforming use, shall continue after such principal use shall cease or terminate. (*Amended by Ord. No. 1142, 08/06/91; 1926, 05/19/15*)

§11-206 SCHEDULE OF FEES, CHARGES AND EXPENSES The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this Article. The schedule of fees shall be posted in the office of the Administrative Official and may be altered or amended only by the City Council.

Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

§11-207 AMENDMENTS. The regulations, restrictions and boundaries set forth in this Article may from time to time be amended, supplemented, changed, modified or repealed, provided that such modification or repeal shall in each instance be proposed in an ordinance presented to the Governing Body for adoption in the same manner and upon the same notice as required for the adoption of the original article.

Prior to consideration of amending, supplementing, changing, modifying, or repealing this Article by the Governing Body, notice of public hearing shall be provided as follows:

A. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen (18") inches (45.72 centimeters) in height and twenty-four (24") inches (60.96 centimeters) in width with a white or yellow background and black letters not less than one and one-half (1-1/2") inches (3.81 centimeters) in height.

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Such posted notice shall be so placed upon such premises that it is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

B. At least ten (10) days before the date of hearing, the City Clerk shall have published in a weekly newspaper having a general circulation in the City of Crete, a notice of the time, place and subject matter of such hearing. *(Amended by Ord. No. 1169, 4/21/92)*

§11-208 PROVISIONS DECLARED MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Article are at variance with the requirements of any other lawfully adopted rules, regulations, resolution, deed restrictions or covenants, the most restrictive or that imposing the higher standards, shall govern.

§11-209 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this Article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Administrative Official. He shall properly record such complaint, immediately investigate same, and take action thereon as provided by this Article.

§11-210 PENALTIES FOR VIOLATION. Violation of the provisions of this Article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred (\$500.00) dollars and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person, who knowingly commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

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