

## ARTICLE 3

### GENERAL DEFINITIONS

#### **3.1 GENERAL PROVISIONS**

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Ordinance.

**3.11 TENSE:** Words used in the present tense include the future tense.

**3.12 NUMBER:** Words used in the singular include the plural, and words used in the plural include the singular.

**3.13 SHALL AND MAY:** The word "shall" is mandatory; the word "may" is permissive.

**3.14 HEADINGS:** In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

#### **3.2 GENERAL TERMINOLOGY**

The word "City" shall mean the City of Osceola Nebraska. The word "Governing Body" shall mean the City Council of Osceola, Nebraska. The words "Planning Commission" shall mean the Planning Commission of Osceola duly appointed by the governing body of the City of Osceola.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

#### **3.3 DEFINITION**

For the purpose of this Ordinance certain words and terms used herein are defined as follows;

**ACCESSORY USE OF BUILDING:** A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers of less than 100 feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure. Accessory use of building shall not include a commercial trailer defined in section 60-301(5) RS Neb. that is placed on property after its wheels, axles, springs and towing tongue have been removed and is intended to be used for the shelter, protection or storage of property.

**AGRICULTURAL FARM OR OPERATION:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

**ALLEY:** Is a public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

**BED AND BREAKFAST:** Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensations.

**BUILDABLE AREA:** The portion of a lot remaining after required yards have been provided.

**BUILDING:** An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

**BUILDING HEIGHT:** The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

**CAMP GROUNDS:** Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

**CHILD CARE CENTER:** A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

**CHILD CARE HOME:** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

**DWELLING:** Any building or portion thereof which is designed and used exclusively for residential purposes.

**DWELLING, MULTIFAMILY:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

**DWELLING, SINGLE FAMILY:** A dwelling having accommodations for and occupied by one (1) family.

**DWELLING, TWO-FAMILY:** A residential building containing two (2) dwelling units entirely surrounded by open space on the same lot.

**DWELLING UNIT:** Consists of one or more rooms which are arranged, designed or used as a separate living quarters by a single family or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each “dwelling unit”.

**EASEMENT:** A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

**FARM RESIDENCE:** Residential dwellings located on a farm, including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

**FARMSTEAD:** Any building site that includes at least two (2) buildings that have combined assessed valuation for tax purposes of at least \$5,000 as of the date on which these regulations go into effect.

**GROUP HOME:** Means a facility which houses more than five (5) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

**HOME OCCUPATION:** An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

**KENNELS, COMMERCIAL:** Any place, area, building, or structure where domestic animals (including those under 1 year of age) are boarded, housed, cared for, fed, or trained by other than the owner.

**KENNEL-BREEDER:** Any place, area, building or structure where more than one domestic animal is kept for purposes of breeding or raising for a fee.

**LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS:** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

**LANDFILL:** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**LOT:** A parcel of land occupied or intended for occupation by a use permitted in this Ordinance and fronting upon a street or road.

**LOT, CORNER:** A lot abutting two or more streets or roads at their intersection.

**LOT DEPTH:** The average horizontal distance between the front and rear lot lines.

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street or road.

**LOT OF RECORD:** A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

**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 to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

**MOBILE HOME:** A year-round, transportable structure which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or those manufactured in sections or parts away from the site and transported thereto for assembly, provided that when completely erected on and connected to a permanent foundation such units shall in all respects comply with the International Building Code, 2003 Edition; the International Residential code, 2003 Edition, including Appendix Chapter G; and Amendments thereto, recommended the International Conference of Building Officials, and adopted by Ordinance of the City of Osceola. (*Ordinance Number 524, March 9, 2004*)

**MOBILE HOME PARK:** Any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

**MODULAR HOME:** 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 units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

**NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the approval date of this Ordinance and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

**NONCONFORMING STRUCTURE:** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

**NONCONFORMING USE:** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

**PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

**RECYCLING CENTER:** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and cardboard; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

**RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

**SANITARY LANDFILL:** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SANITARY TRANSFER STATION:** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SALVAGE OR JUNK YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

**SPECIAL USE PERMIT:** A written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

**STREET:** All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

**STREET, CENTER LINE:** A line midway between street lines.

**STREET LINE:** A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, street signs, bridges and culverts.

**STRUCTURAL ALTERATION:** Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

**TOWNHOUSE:** One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

**VARIANCE:** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

**YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

**YARD, FRONT:** A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

**YARD, REAR:** A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

**YARD, REQUIRED:** The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in these regulations.

**YARD, SIDE:** A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

**ZONING BOARD OF ADJUSTMENT:** The legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official maps as defined within this ordinance and in accordance with the laws of the State of Nebraska.

**ZONING DISTRICT:** The term "Zoning District" means an area delineated on a zoning map for which uniform use regulations are specified.

**ZONING MAP:** The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.

**ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the governing body to administer the requirements of the zoning regulations.