

ORDINANCE NO. 133

AN ORDINANCE REGULATING THE LOCATION, SIZE, USE AND HEIGHT OF BUILDINGS;  
THE USE OF LAND, THE ARRANGEMENT OF BUILDINGS ON LOTS; ESTABLISHING DISTRICTS;  
ADOPTING REGULATIONS FOR SAID DISTRICTS; ADOPTING DISTRICT MAP CONTAINING SAID  
DISTRICTS AND THE BOUNDARIES THEREOF; MAKING PROVISIONS FOR PARKING; DEFINING  
CERTAIN TERMS USED HEREIN; PROVIDING FOR AMENDMENTS AND APPEALS; PROVIDING  
FOR ADMINISTRATION AND ENFORCEMENT AND IMPOSING PENALTIES FOR VIOLATION  
AMENDING ORDINANCE NO. 96.

The City Council of the City of Hokah, Houston County, Minnesota ordains;

## SECTION I. GENERAL PROVISIONS

### A. TITLE

This ordinance from and after its passage and enactment according to law shall be known as:

“CITY OF HOKAH ZONING ORDINANCE”

### B. PURPOSE

This ordinance is enacted for the purpose of promoting the health, safety, morals and general welfare of the citizens and residents of the City of Hokah.

### C. LEGAL AUTHORITY

This ordinance is enacted pursuant to Section 462.357, Minnesota General Statutes, as amended.

### D. COMPLIANCE

No structure, after the effective date of this ordinance, located in the City of Hokah shall be erected or altered which does not comply with the regulations of this ordinance nor shall any structure or premises be used for any purpose other than uses permitted in the respective districts prescribed hereinafter and established by this ordinance.

## SECTION II. DEFINITIONS

For purposes of interpreting this ordinance, certain terms and words are herein defined as follows:

Words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular.

The word “Shall” is mandatory and not discretionary, and the word “May” is permissive. The word “City” used in this ordinance shall allude to the City of Hokah.

**AGRICULTURE:** The use of land for farming purposed, including dairying, pasturing of livestock, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses of packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of the normal agricultural activities. Construction and maintenance of feedlot operations are not, considered ordinary agricultural activities.

**AGRICULTURAL BUILDING:** Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

**HOME OCCUPATION:** Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or exhibit any exterior evidence of

such secondary use. The occupation shall be carried on or conducted only by the members of a family residing in the dwelling and in connection therewith there shall be no stock in trade kept for sale visible from the exterior of the dwelling and no more than 25% of the usable floor space of the dwelling shall be devoted to the operation. No home occupation shall be permitted in any district except as may be allowed by Conditional Use Permit.

**MOBILE HOME:** A factory assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be as a dwelling unit or units without a permanent foundation. The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner all references to mobile home(s) herein shall include and relate to manufactured homes as well.

**MOBILE HOME PARK (MANUFACTURED HOME PARK):** Any site, lot, field or tract of land upon which two or more occupied mobile homes are located, either free of charge or for revenue purposes.

**KENNELS:** The keeping of three or more dogs on the same premises, whether owned by the same person or not, and for whatever purpose kept, shall constitute a kennel, except that a fresh litter or pups, may be kept for a period of three months before such keeping shall be deemed to constitute a kennel.

#### **LANDSCAPING ACTIVITY.**

**NON-CONFORMING USES:** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of these official controls or amendments hereto which would not have been permitted to become established under the terms of these official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

**SIGN:** Any word, lettering, parts of letters, figures, numbers, phrases, sentences, emblems, logos, devices, designs, trade names or trade marks by which anything is publicized and such as are commonly used to designate an individual, a firm, an association, or corporation, profession, business or a commodity or products and which is visible from any public street and used to attract the attention of the public.

**STRUCTURE:** Anything constructed or erected with a fixed location on or under the ground. Structure is not meant to include certain fences and utility facilities as defined in Section V. Paragraph J of this ordinance, but is intended to include private sewage treatment facilities and wells. Shall likewise be construed to include land alterations, be the same excavations or fills involving 100 cubic yards of material or more or regardless of the volume if natural drainage, lateral or subjacent support are affected or modified thereby.

**VARIANCE:** A modification or variation from the strict technical provisions of this ordinance, as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed not of the property owner’s making upon him by this ordinance. Economic considerations alone shall not constitute a hardship. A variance shall normally be limited to height, bulk, density and yard requirements (setbacks). A modification in the allowable users within a district must be done as a zoning ordinance amendment and not through a variance. “Use Variances” are prohibited.

**YARD:** A required open space along all sides of a piece of property which shall not be used to support any structure on, over or below the surface.

**YARD, FRONT:** A yard extending between side lot lines across the front of a lot.

**YARD, REAR:** A yard extending across the rear of a lot between inner side yard lines.

YARD, SIDE: A yard existing from the real line of the required front yard to the rear lot line.

### SECTION III. ZONING USE DISTRICTS

#### A. DEFINITION

For the purposes of this ordinance, the following Zoning Use Districts are hereby established:

1. Agricultural (A)
- 2 Residential A (RA)
3. Residential B (RB)
4. Commercial ( C )
5. Industrial (I)

#### B. BOUNDARIES

The boundaries of the zoning use districts indentified above are hereby established as indicated on the official map entitled “Zoning Use Districts, Hokah, Minnesota,” which accompanies this ordinance and is made a part hereof as if set out here at in full. All notations, dimensions, and designations shown thereon shall be as much a part of this ordinance as if the same were all fully described herein. Said map shall be duly authenticated by the City Council and shall be kept and maintained by the City Clerk and which map shall be the final authority the location concerning the zoning districts. Distances not specifically indicated on the map shall be determined by the scale of the map and where physical features or other monuments existing on the ground are at variance with those shown on the map, the City Board of Appeals shall interpret boundaries and shall likewise resolve all other questions which may arise with reference to the interpretation of said map.

#### C. INTERPRETATION

Interpretation and administration of the provisions of this ordinance shall conform to such requirements as are reasonably necessary for the promotion of the stated purpose for which this ordinance is enacted. It is not the intent of this ordinance to interfere with nor abrogate or annul any easements, covenants, or other agreements between or among parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, easements, covenants or agreements, the provisions of this ordinance shall govern.

### SECTION IV. DISTRICT REQUIREMENTS.

#### A. PERMITTED USES

The Zoning Use Districts defined by this ordinance provide for the following uses:

- 1.(A) Agricultural

a. All uses herein defined as agricultural, with no restrictions as to the operation of such vehicles or machinery as are incident to such uses, provided that poultry and livestock shall be provided adequate shelter and shall not be allowed to roam at large. Feedlots are not a permitted use.

b. One family, accessory to agricultural usages, year-round or seasonal dwellings (not to include mobile homes) and their normal accessory building.

c. Field crops and horticultural

d. Farm drainage and irrigation systems

e. Roadside stands for the sale of agricultural products

f. Public recreation areas

g. Bread and Breakfast home

## 2. (RA) Residential

a. Single family dwellings (not to include mobile homes) and their normal accessory buildings.

b. Two-family dwellings

c. Churches, chapels, temples and synagogues including Sunday schools, convents and parish houses meeting the requirements of the district, "day activity centers and nursery schools

d. Parks, playgrounds and elementary schools

e. Offices of recognized professions provided such office is located in the residence of he professional person.

f. Home occupations in the residence provided that such occupations are carried on in the main building and provided further that not more than twenty-five (25%) percent of the floor space of the residence is used for this purpose, and that no article for sale be displayed so as to be visible from the exterior of the dwelling and subject to other home occupations regulations in this ordinance including the requirement of a Conditional Use Permit.

## 3. (RB) Residential B

a. All uses permitted in (RA) zone

b. Multiple dwelling housing

## 4. (C) Commercial

All uses of a legitimate commercial nature such as retail, wholesale, service, office, financial, recreational, professional and lodging; provided that no industry, manufacturing or killing of poultry or livestock shall be permitted; and provided further that they must meet the general requirements for such uses as established in Section V. of this ordinance.

a. Banks, financing and real estate services

- b. Medical, dental, architectural and attorneys' offices
- c. Retail establishments such as groceries, bakery, department stores, hardware, drug stores, clothing & furniture stores, flower shops.
- d. Personal service establishments, laundry, barber, shoe repair shop, and photography studios
- e. Restaurants, cafes, supper clubs, taverns
- f. Repairs services, jewelry, radio, television repair
- g. Theaters and art galleries
- h. Public and semi-public buildings such as post office, city hall, fire and police stations and community center.

i. Industrial

Any production, processing, cleaning, servicing, testing, repair or storage of material, goods or products; provided that all storage within 500 feet of any other zoning use district or within 500 feet of any public right-of-way shall be within a completely enclosed building or effectively screened by appropriate landscaping and/or solid wall or fence including solid entrance and exit gates not less than eight (8) feet in height; and provided further that they meet the general requirements for such uses as established in Section V of this ordinance.

- a. Warehousing, packing and crating establishments
- b. Storage yards used by contractors such as roofing, electrical, heating, ventilating or air conditioning, welding, fencing, construction, etc.
- c. Veterinary or animal clinics
- d. Rental storage units.

**B. CONDITIONAL USES**

The following uses may be permitted within the defined Zoning Use Districts upon the granting of a Conditional Use Permit under the provisions of Paragraph D, Section VI.

1. (A) Agricultural

- a. The uses permitted Section IV, Sub-paragraph A, paragraph 2c, d, e.
- b. Federal, state or local government buildings and facilities.
- c. Nursing homes, hospitals or sanatoria.
- d. Resorts, campgrounds and other recreational oriented commercial uses.

e. Mobile home parks.

f. Occupations in the residential, provided that such occupations are carried on in the principal structure and involving not more than twenty-five (25%) percent of the useable floor space of the residence is used for this purpose and consistent with other regulations contained herein with reference to home occupations.

g. Accessory structures other than private garages and customary agricultural structures.

h. Junior and senior high schools and incidental uses when situate on the same site or unit of property.

i. Cemeteries

j. Feedlots

## 2. (RA) Residential A

a. Accessory buildings other than private garages.

b. Nursing Homes, hospitals or sanatoria in appropriate harmony with the area.

c. mobile home parks.

d. Junior and senior high schools and incidental uses situate on the same site or unit of property.

e. Cemeteries and funeral homes.

## 3. (RB) Residential B

All uses by special permit in (RA) Zone

## 4. Commercial

a. Apartment units as an integral part of commercial structures and are located on the upper floors of the structure.

b. Veterinary and animal clinics.

c. Publically owned and operated recycling facilities.

## 5. Industrial

a. Outdoor storage of vehicles or materials or open sales lots.

b. Mining, gravel and sand operations and such other extraction operations but only with Conditional Use Permit to assure maintenance of lateral and subjacent support and the stabilization and restoration of the site subsequently.

c. Junkyard or salvage yard operations consistent with other regulations with respect to junkyards contained elsewhere herein.

### C. YARD AREA AND SET BACK REQUIREMENTS.

1. Lot area set back and height requirements for various zoning use districts are set forth in Table 1 which appends this ordinance. Said requirements are not necessarily applicable to integrated developments under single ownership which developments themselves shall be treated as Conditional Uses. Plans for developments shall include architectural drawings indicating function, floor plans, elevations and typical vehicular circulation system, ingress/egress points and control, special landscape and fencing treatment along abutting land uses of different type and the layout of adequate off street parking and loading and unloading facilities.

2. A structure may be erected on a lot having less than the minimum area specified in Table I provided it existed as a recorded plat or the legal description of which is contained in an instrument or deed of record at the time of the effective date of this ordinance.

3. All lots shall front on and have ingress/egress by means of a public right-of-way.

4. In cases where an accessory building is attached to the main building, it shall be considered as structurally a part thereof and shall comply in all respects with the requirements of this ordinance applicable to main buildings. An accessory building, unless attached to and made a part of the main building as above provided, shall not be closer than ten (10) feet to the main building and in such instances it shall not be closer than five (5) feet to adjoining lot lines and shall be so located as to be behind the principal building.

5. In cases where the lot lines of a given parcel to which an application for building permit relates are in dispute or otherwise not determined to the satisfaction of the contiguous property owners, side yard, rear yard, and front yard setbacks shall be determined by relating the setbacks to existing structures on adjacent parcels, which structure(s) shall be construed to have been located at minimum setbacks. Where adjacent parcels are not improved with structures, the lots or parcels located beyond, or all the lots or parcels on a given block or addition shall be scaled off and the dimensions thereof averaged and minimum setbacks thus determined. Lot lines thus determined shall not be accorded any significance in any proceedings to judicially determine boundary line locations, but shall be regarded theoretically located for purposes only of implementing this portion of the City Ordinance, that is to say having to do with setback regulation.

### D. PARKING REQUIREMENTS

Off-street parking requirements shall be in accordance with the proscriptions contained in Table II which appends this ordinance.

## SECTION V. GENERAL REQUIREMENTS

Pursuant to the purpose of this Ordinance, certain requirements deemed to have general applicability are the following:

### A. SIGNS

1. Approval of plans and location.

a. No sign shall be erected by any person until the plan therefore has been reviewed by the Planning Commission and approved by the City Council and a permit issued for its erection and inspection.

Permit fees shall be payable in accordance with the schedule established by the City Council by resolution duly enacted.

2. The following regulations shall apply to all signs erected in the City except those excluded from the regulation of this ordinance. No sign shall be permitted:

- a. In location interfering with the view of any traveler on any roadway of approaching vehicles or of traffic control devices or signs for a distance of 500 feet.
- b. On rocks, trees or other perennial plant or on any public utility pole.
- c. Containing a rotating beam or beam of light resembling an emergency vehicle.
- d. Which simulates an official, directional or warning sign erected or maintained by the state, county, or other governmental-municipal subdivision or which incorporates or makes use of light simulating or resembling traffic signals or control signs.
- e. Which casts a distracting or confusing ray of light on or visible from a public roadway.
- f. Which interferes with public utility facilities or the maintenance thereof.
- g. Which obstructs any window, door, fire escape, stairway or opening essential to the provision of light, air, or ingress/egress from any building.
- h. Within three hundred (300) feet of a church or school structure along a public roadway.
- i. Which contain more than two surface areas or facings.

3. No sign shall be permitted within the right-of-way of any public road except as erected by an official unit of government for the direction of traffic or necessary public information.

4. All signs shall be constructed in a good workmanlike manner and the copy thereof shall be neat and legible. The property immediately surrounding signs shall be maintained in a clean and unoffensive condition, free of unsightly vegetative growth and rubbish.

5. the following signs shall be exempt from the provisions of this section:

- a. Signs which advertise goods or services made and/or sold on the premises provided that they meet the setback requirements established for the use and do not contain combined surface areas in excess of two hundred fifty (250) square feet, limited to two (2) in number and located within the plot limits of the use, that is on-premises as distinguished from off-premises signs.
- b. Farm produce signs, provided they are located on the farm residence property and relate to farm products, merchandise or services sold, produced, manufactured or furnished on such farm, and provide, further, that no such sign shall exceed twenty (20) square feet in area.
- c. For sale or for rent signs upon real property and advertising the same as being for sale or for rent.
- d. Directional signs, provided they are of such design and meet such specifications as may be imposed by the City Council, the County Highway Department or other public authority.

e. Signs which either identify personal property or a residence and provided that they are affixed flat thereto and do not contain more than two (2) square feet area.

f. Signs or posters of a miscellaneous character which advertise temporary events, provided they are self supporting and not tacked, posted, painted or otherwise affixed to walls of buildings, trees, fences or poles. Said signs shall be removed forty-eight (48) hours after the culmination of the special event. "Temporary event" for purposes of this ordinance shall include, but no be limited to, political campaigns of all kinds.

## 6. BILLBOARD TYPE SIGN REGULATIONS

So-called Billboard signs are prohibited except on-premises signs advertising the business and products conducted or manufactured or produced on the premises where the sign is to be located and except as may be erected no nearer than 500 feet from (including on-premises billboards) any other billboard signs and/or such sign structure existing as of the effective date of these provisions.

### B. RESIDENTIAL YARD STORAGE

In the (A), (RA), and (RB) zoning use districts, all materials and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties except for the following: laundry drying and recreational equipment, equipment temporarily being used on the premises, agricultural equipment and materials if they are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks.

### C. REFUSE

In all zoning use districts, all waste materials, debris, refuse, and garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of offensive and unsightly growth and refuse.

### D. SCREENING

Where any business or industrial use including the principal structure thereof, parking or storage is adjacent to property zoned for residential use, that business or industry shall provide appropriate screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of the business or industry considered to be the front as "front" may be determined by the Planning Commission in any specific instance.

### E. LANDSCAPING

In all zoning use districts developed uses shall provide a landscaped yard along all streets but no landscaping activity shall be done upon or within any public right-of-way. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both sides in the case of a corner lot.

### F. NON-CONFORMING USES

Any lawful use existing at the time of the adoption of this Ordinance may be continued after the adoption of this ordinance except as follows:

1. No non-conforming use shall be renovated, expanded or reconstructed, except that it may be restored to its original use and size if damaged by any cause not to exceed fifty (50%) percent of its replacement cost as satisfactorily demonstrated to the Planning Commission and the City Council.

2. Should a non-conforming use ceased to be used and properly maintained for a period of twelve (12) consecutive months, or is changed to a conforming use any subsequent use shall meet the requirements of the zoning use district wherein located.

3. A non-conforming use shall not be moved to any other part of its site or to another site where it would still constitute a non-conforming use.

#### G. MOBILE HOME PARK – MANUFACTURED HOME PARK

All references in these regulations, this ordinance, to “mobile home” shall mean “manufactured home,” as defined by Minnesota General Statutes.

No mobile home park shall be permitted within the City unless it is located in an (A), (RA), or (RE) zoning use district and approved and granted a special use permit by the City and has been approved and licensed by the State of Minnesota in accordance with the provisions of Chapter 327, Minnesota General Statutes, as amended. In considering the special use permit application for the establishment of a mobile home park, the Planning Commission shall look particularly for the reasonable provision of the following facilities:

1. A continuing supply of safe and potable water.
2. Sanitary facilities and a safe method of sewage disposal.
3. Electricity for artificial lighting and to serve equipment used in the mobile home.
4. Patio or outdoor sitting space equal to one hundred eighty (180) square feet for each mobile home space.
5. Tenant storage to the extent of ninety (90) cubic feet of individual storage space per mobile home space.
6. Parking space equal to one (1) space per mobile home plus adequate on-site parking to serve the visiting public.
7. Laundry drying facilities and public toilets
8. Recreational facilities
9. Management office and storage space.
10. Garbage and trash disposal facilities.
11. Adequate and safe access and egress to major public roads.

#### H. CAMP SITES

No camp sites shall be permitted within the City unless it located in an (A) zoning use district and approved and granted a special use permit by the City and has been approved and licensed by the State of Minnesota in accordance with applicable state regulations. In considering special use permit therefore, the Planning Commission shall look particularly for the reasonable provision of the same level and type of facilities outlined above under G. Mobile Home Park.

#### I. ABANDONMENTS

1. A sign structure not used and any building, vehicle, machine or any other piece or article of real or personal property abandoned or permitted in any public or private place because of disuse or neglect to become unsightly or offensive to the public is deemed a public nuisance and violates this ordinance.

2. Any non-conforming use or use authorized by this ordinance, when abandoned or discontinued, shall be removed and the area from which it is removed, restored to as near its original state as is practicable. Non-use for a period of twelve (12) months shall be presumptive evidence of intention to abandon or discontinue.

#### J. EXEMPTIONS

The following uses, being essential for the operation of any zoning use district, are exempt from all the provisions of this ordinance and are permitted in any district; poles, towers, wires, cables, conduits, vaults, pipelines, laterals or any other similar distribution equipment of a public utility; and provided further that fences, walls, hedges or shrubbery may be erected, placed, maintained or grown to a height not exceeding five (5) feet unless as otherwise specified in this ordinance.

#### K. JUNKYARDS

For the purposes of this ordinance, a junk yard, is the accumulation of junk, or unused motor vehicles, farm implements, machinery, of any kind or any part or parts thereof.

#### L. PUBLIC NUISANCE DEFINED.

The following are declared to be nuisances affecting public peace and safety: Accumulations in the open of discarded or unused machinery in a manner conducive to the harboring of rats, mice, snakes, or vermin thus conducive to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated.

Whoever by his act or failure to perform & legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor.

1. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose or any considerable number of members of the public; or

2. Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way or water used by the public; or

3. Is guilty of any other act or omission declared by law or this ordinance to be a public nuisance and for which no sentence is specifically provided.

M. ANIMALS. General Prohibition. No person shall keep any horse, cattle, sheep, or goat in the city or permit such animal to be kept on premises owned, occupied, or controlled by him except under the conditions prescribed by this chapter.

**AREAS WHERE KEEPING PROHIBITED.** No horse, cattle, sheep, goat or poultry shall be kept in the city except within the agricultural zone.

**TREATMENT.** No person shall treat any animal in cruel and inhumane manner.

**ANIMALS AT LARGE.** No person shall permit any horse, mule, donkey, pony, cattle, sheep, goat, swine, rabbit, chicken, geese, duck, or turkey of which he is the owner, caretaker, or custodian to be at large within the city. Any such animal is deemed to be at large when it is off its owner's premises whether owned or rented by the owner or his agent and not under his individual restraint. The owner and/or custodian of the premises may be charged as well as the owner of the at large animal.

**MANNER OF KEEPING.** No person shall keep any dog, cat, or other animal in the City in an unsanitary place or condition or in a manner where objectionable odors result or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise or in such a way as to permit the animal to annoy, injury, or endanger any person or property. Any dog or cat kept in the City in non-conformance with any City licensing ordinance or ordinance prescribing inoculation shall be deemed a nuisance and violative of these provisions.

## SECTION VI. ADMINISTRATION

It shall be the duty of the city Clerk to cause the provisions of this ordinance to be properly enforced, implemented and administered.

### A. BUILDING (ZONING) PERMITS.

A zoning (building) permit is required and shall be obtained prior to erecting or moving from one location within the City to another, or the moving of any structure from outside the City into the City or for the construction of any structure or part thereof to assure that the provisions of this ordinance are met. Permit fees shall be as may be determined by the City Council by resolution duly enacted. If a building permit is not utilized by the applicant within a period of 90 days from the date of its issue, said permit shall thereupon become null and void. It is a violation of this ordinance to construct a building and/or to initiate any use in the City without first obtaining the requisite building or zoning permit and likewise a public nuisance. Each day a violation exists is a separate offense and in addition to the landowner of the location where the structure or land use or alteration occurs, his contractor(s), his agents and assigns shall be deemed to have violated these ordinance provisions and any one or all of them are subject to prosecution.

### B. LAND ALTERATIONS.

Any substantial alteration to the surface of lands located within the City, be the same by fill or excavation where the cubic volume of material involved exceeds 100 cubic yards, shall be construed a land alteration and a building permit shall be required. All permits for land alterations shall be submitted by the Building Official to the Planning Commission whose findings and written recommendations concerning said permit application shall be referred to the City Council for final approval. The City Council may require that the area to be affected by the land alteration be cross-sectioned and may require such other engineering data as it deems necessary in the circumstances.

In considering land alteration permit applications, the city Zoning authority shall take into account the affects upon adjacent lands of resulting surface water drainage, the elevation of the proposed final grade in relation to adjoin lands, and that the finished alterations will not dispose any lands to erosion or render the general maintenance thereof for, among other purposes, weed control impractical. The lands whereat and hereon the land alteration occurs shall be effectively stabilized during and following the land alteration. Silt

fences and other such precautionary devices shall be required and vegetative cover established all in accordance with a written plan which shall be compiled prior to initiating the land alteration activity and as precondition of an issuance of permit.

### C. BUILDING OFFICIAL

The City Council may by ordinance duly enacted establish the office of City Building Official whose duties shall be to administer the Zoning Ordinance, to act as Building Inspector, and to perform such other duties with respect to the administration of this Ordinance which should be performed by the City Clerk if the Office of Building Official is not established and filled.

### D. CERTIFICATE OF OCCUPANCY.

A certificate of occupancy, stating that the provisions of this ordinance have been satisfactorily met, is required prior to any occupancy or use of any structure, prior to any change of use of an existing structure, or prior to any change of any non-conforming use. Application for a certificate of occupancy shall be made to the City Clerk or Building Official prior to occupancy of the structure or use. Within ten (10) days thereafter he shall inspect the same and shall sign and issue a certificate of occupancy only if found to be in conformity with the provision of this ordinance.

### E. APPEALS.

1. An appeal may be taken by the lot owner or permit applicant from any ruling or order of the City Clerk or Building Official within thirty (30) days after the making of the ruling or order appealed from the filing with the City Clerk a written notice of appeal and specifying the grounds thereof in writing.

2. The City Clerk shall then transmit to the Planning Commission all permit applications where variances(s) are needed, who under the terms of this ordinance shall be designated the Board of Appeals, the notice of appeal and the grounds thereof upon which the appeal is based, and shall call the same to the attention of the Planning Commission at the next regular meeting of said commission. The Planning commission shall then make its recommendation and written findings to the City Council. The Council shall then have the authority to grant the permit and such minimal, reasonable variation of setback and lot line regulations as will prevent undue hardship when practical difficulties occur. See ¶ F. Variances, p.22 infra.

### F. CONDITIONAL USE PERMITS AND VARIANCES

1. A special use is one that may or may not be compatible with other uses in the district within which it is located. The compatibility must be judged on the basis of the particular circumstances and may require the imposing of conditions. The Procedure for issuance of conditional use permits are provided for in this ordinance is as follows:

a. The applicant for special use permit shall file his application in writing in the office of the City Clerk and pay the fee to the City established by resolution of the City Council.

b. The City Clerk shall refer the application to the Planning Commission. Property owners within two hundred fifty (250) feet of the property in question shall be given not less than ten (10) days notice of pendency of petition and when the same will be considered at public hearing, although failure of any property owner to receive such notification shall not invalidate the proceedings.

c. The planning Commission shall consider the application at its next regular meeting after compliance with the provisions of notice above specified.

d. The applicant or his representative shall appear before the Planning Commission and answer any questions with respect to the proposed special use.

e. The Planning Commission shall consider possible adverse affects of the proposed special use and what additional requirements may be necessary to prevent such adverse affect.

f. The written report of the Planning Commission shall be referred to the City Council and placed on the agenda of the Council at its next regular meeting following referral from the Planning Commission.

g. The city Council shall take action on the application within sixty (60) days after receiving the report of the Planning Commission. If it grants the special use permit, the City Council may impose any special conditions it considers necessary to protect the public health, safety and welfare.

2. No special use shall be recommended by the Planning Commission unless said Commission shall find:

a. That the special 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 general vicinity and especially those of nearby properties.

b. That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

c. That adequate utilities, access roads, drainage and other necessary facilities have been, or can be provided.

d. That adequate measures have been, or will be taken, to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring residents will result.

### 3. VARIANCES

a. Variances as hereinbefore defined are a procedure which may be used to relieve a permit applicant from strict compliance with technical standards prescribed in these regulations having to do principally with setbacks, height limitations, parking requirements and other strictly technical regulation.

b. When the zoning authority receives a zoning permit to construct any structure or to move a building from one location in the City to another or to move a building or structure from outside the City into the City or for a land alteration, the Zoning Administrator or the officer duly authorized by the City Council shall ascertain from the permit application, which application shall contain a diagram drawn to scale setting forth the dimensions of the lot or site to which the permit relates and shall show the proposed structure, to scale, to enable the Zoning Authority to determine whether or not the subject matter of the permit application, as proposed to be located or build, conforms to all technical standards, setbacks, front rear or side yard, height and parking.

c. If the permit application indicates conformance with all technical standards and the structure is a permitted use, the permit applied for upon tender therewith of the requisite fee, shall issue.

d. In cases where the technical requirements cannot be met without modification, the permit applicant, shall in writing, make application for all variances which may be required if the proposed structure is to be fully compliant with these regulations.

e. Variance applications shall be submitted to the Planning Commission which shall promptly make Fact Findings concerning the variance application following public hearing preceded by 10 days written notice to the property owners, of record, of all properties in the City, lying and being within 250 feet of any point on the perimeter of the permit applicant's premises.

*f. The City Council, at its very next meeting or at a special meeting duly convened, shall issue or deny the issuance of the variances(s) based upon its written Findings of Fact and in cases where variance(s) are granted, shall cause to be issued a certificate thereof in recordable form which shall be placed of record in the Office of the County Recorder.*

g. As provided elsewhere herein, no variance may be granted, the subject matter whereof is land use, but may be granted only for technical matters.

The City Council shall by resolution duly enacted establish a fee schedule which fees prescribed are intended to defray the expense entailed in the public hearing process including the requisite notices for the recordation of evidence of variance(s) granted.

h. Structures erected and buildings moved which violate any technical standard prescribed which are the proper subject matter of variances, are violations of these regulations and are nuisances and each technical standard violated is a separate offense and each day a structure or building is non-compliant is a separate offense.

## H. AMENDMENTS

1. An amendment to the zoning ordinance may be initiated by the City Council, the Planning Commission or by petition of affected property owners. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study, report and recommendation and may not be acted upon by the City Council until it has received this report from the Planning Commission on the proposed amendment or until sixty (60) days have elapsed from the date of reference of the amendment without a report from the Planning Commission. No amendment shall be adopted until a public hearing has been held thereon by the City Council. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. When an amendment involves changes in district boundaries affecting an area of five (5) acres or less, a similar notice shall be mailed at least ten (10) days before the date of the hearing to each owner of affected property and property situate wholly or partly within two hundred fifty(250) feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and address of owners. Names and addresses of the owners maintained in the Offices of the Houston County Treasurer on the tax lists shall be deemed adequate for mailing notice purposes. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the person affecting the mailed notice and shall be made a part of the record of the proceedings. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bonafide attempt to comply with this provision has been made.

2. any affected property owner petitioning for an amendment to the Zoning Ordinance shall make application in writing to the City Clerk and pay such fee as may be established by resolution by the City Council and fees may, by resolution duly enacted, be modified from time to time.

## I. FEES

Permit fees and other fees required under the terms of this ordinance shall be established by resolution of the City Council, and such fees may, by resolution duly enacted be modified from time to time as required in the discretion of the City Council.

## J. ENFORCEMENT AND PENALTIES

1. any resident or property owner of the City of Hokah, or any other person having standing under the laws of the State of Minnesota or other laws, rules, and regulations appertaining may institute indicated legal action to secure compliance with all the terms and conditions, rules and regulations of this ordinance. Proceeding may be brought in equity for mandamus or injunctive relief or at law as indicated in the circumstances. Penalty for such offense shall be the obligation to remove or to correct the conditions which gave rise to the action and to restore the property within such time as may be determined in the context of such enforcement litigation. In such cases where it is ordered that a condition be corrected, the corrective action may be taken by the City and the reasonable costs thereof, including the costs of litigation in connection therewith, may in the discretion of the City Council be certified to the Houston County Auditor to be levied as a special assessment upon the real estate in and whereon said offending conditions existed.

2. Any person violating the terms and provisions of this ordinance shall, upon conviction thereof, be deemed guilty of a misdemeanor punishable by a fine of not more than \$1,000 or by imprisonment in the county jail not to exceed ninety (90) days, or both, together with the costs of prosecution consistent with the law applicable. Violations may, in the discretion of the Zoning Authority, be charged petty misdemeanors in which case upon conviction be punishable according to applicable Minnesota law.

3. Each day a violation of this ordinance exists shall be deemed a separate offense.

## SECTION VII. SEVERABLE PROVISION.

In the event a court of competent jurisdiction declares any part of this ordinance to be invalid, all other provisions of this ordinance shall never-the-less remain in full force and effect.

## SECTION VIII. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its due passage and enactment and publication according to law.

Passed and enacted this 6<sup>th</sup> day of April, 2004.

APPROVE:

Jerry R. Martell  
Mayor

ATTEST:

Renee A. Mierau  
City Clerk

Table 1

LOT AREA SET-BACK AND HEIGHT REQUIREMENTS

| Zoning District        | Lot Size   | Height | Width | Lot Depth | Lot Yard* | Front Side Yard*     | Rear Yard                  |
|------------------------|--|--------|-------|-----------|-----------|----------------------|----------------------------|
| <b>(A)</b>             |  |        |       |           |           |                      |                            |
| Farm Dwelling          | None   | 20'    | None  | None      | 50'       | 30' interior         | none<br>50' corner         |
| Non-Farm Dwelling      | Once Acre  | 20'    | 150'  | 200'      | 50'       | 30' interior         | 30'<br>50' corner          |
| <b>(RA)</b>            |  |        |       |           |           |                      |                            |
| Single Family Dwelling | 10,000 Sq. Ft.   | 30'    | 75'   | 120'      | 30'       | 6ft. interior        | 25'                        |
| Two Family Dwelling    | 15,000 Sq. Ft.   | 30'    | 100'  | 120'      | 30'       | 30' corner           | 25'                        |
| <b>(RB)</b>            |  |        |       |           |           |                      |                            |
| Single Family Dwelling | 7,200 sq ft  | 30'    | 50'   | 120'      | 30'       | 6 ft. interior       | 20'                        |
| Two Family Dwelling    | 10,000 sq ft   | 30'    | 75'   | 120'      | 30'       | 30' corner           | 20'                        |
| Apartment Dwelling     | 800 sq ft/Apt. dwelling unit, none less than 7,500 sq. ft. | 36'    | 75'   | 120'      | 30'       |                      | 20'                        |
| <b>(C)</b>             |  |        |       |           |           |                      |                            |
|                        | none   | 36'    | none  | none      | 30**      | none, except 30' 10' | When abutting another zone |
| <b>(I)</b>             |  |        |       |           |           |                      |                            |
|                        | none   | none   | none  | none      | 30***     | same as (C)          | 10'                        |

No Structure as hereinbefore defined shall be erected or moved within 75' of the normal, non-flood waters edge, of any creek, river or stream.

\*Measured from edge of right-of-way

\*\*Except as may be granted by the City Council

NOTE: AGRICULTURAL, RELIGIOUS, PUBLIC INSTITUTIONAL AND EDUCATIONAL BUILDINGS ARE EXEMPT FROM HEIGHT AND LOT REQUIREMENTS BUT MUST MEET SETBACK REQUIREMENTS.

Table 2

MINIMUM OFF-STREET PARKING REQUIREMENTS

| USE                                   | PARKING SPACE   |
|---------------------------------------|---|
| Residences (one and two family)-----  | 2/dwelling unit   |
| Apartments-----                       | 1.5/dwelling unit   |
| Commercial Building-----              | 3 square feet of parking per one square foot of building space, but not less than 3 spaces.                     |
| Industrial Buildings-----             | Adequate to serve employees and the visiting Public as determined by the Planning Commission                    |
| Churches-----                         | 1/each four seats   |
| Public Halls-----                     | Equal in number of 50% Capacity   |
| Schools, elementary-----              | 1 space every 2 employees   |
| Schools, secondary-----               | 1 space every 7 students  |
| Recreation Facilities-----            | 1 space every 2 employees plus additional to serve the visiting Public as determined by the Planning Commission |
| Hospitals and medical Facilities----- | 1 space every 2 employees<br>1 space each doctor<br>1 space each 2 beds   |

NOTE: An off-street parking space shall be located on the piece of property proposed for development and shall comprise an area of not less than three hundred (300) square feet of the maneuvering and storage area. Alternative provisions for parking on locations removed from the site may be granted as a Special Use.