

# CITY OF BENNET

## LANCASTER COUNTY, NEBRASKA

### ZONING ORDINANCE

ADOPTED BY THE CITY OF BENNET, NEBRASKA

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Prepared By





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## **Article 1: Title and Purpose**

### **Section 1.01 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Bennet, Nebraska.

### **Section 1.02 Purpose**

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

### **Section 1.03 Comprehensive Plan Relationship**

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

## Article 2: Definitions

### Section 2.01 Rules

For the purpose of this ordinance, the following rules shall apply:

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

### Section 2.02 Abbreviations and Acronyms

For purposes of this ordinance this section contains a listing of abbreviations and acronyms used throughout this document.

- ADA = Americans with Disabilities Act  
A.U. = Animal Unit  
CFR = Code of Federal Regulations  
DU = Dwelling Unit  
DNR= Department of Natural Resources  
FAA = Federal Aviation Administration  
FCC = Federal Communication Commission  
FEMA = Federal Emergency Management Agency  
FT = Foot or Feet  
HUD = US Department of Housing and Urban Development  
KV = Kilovolt  
KW = Kilowatt  
NDEE= Nebraska Department of Environmental and Energy  
NDOT= Nebraska Department of Transportation  
NEMA= Nebraska Emergency Management Agency  
NDHHS= Nebraska Department of Health and Human Services  
NPDES = National Pollutant Discharge Elimination System  
NRCS = Natural Resources Conservation Service  
SF = Square Foot or Square Feet  
SY = Square Yard  
USC = United States Code  
USACE = United States Army Corps of Engineers  
USDA = United States Department of Agriculture  
YD = Yard



**Section 2.03 Definitions****A**

**ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

**ABUT or ADJACENT** shall mean to border on, be contiguous with or have common property or district lines, including property separated by a public street or alley

**ACCESS or ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Ordinance.

**ACCESSORY BUILDING or STRUCTURE** shall mean a detached subordinate building or structure located on the same lot with the principal building or structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory buildings and structures include farm buildings, garages, carports, and storage sheds but not portable storage containers.

**ACCESSORY DWELLING UNIT** shall mean a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure, also referred to as "Granny Flats".

**ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

**ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building.

**ACREAGE** shall mean any tract or parcel of land, used for single-family residential purposes, that does not qualify as a farm or farmstead.

**ADVERSE EFFECT** shall mean a zoning ordinance or zoning decision that normally has a material effect on neighboring properties or use of neighboring properties including, but not limited to property values, rights of way, easements, setbacks, or height and area of structures.

**ADVERTISING STRUCTURE** shall mean any structure used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

**AGENT** shall mean any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.



Example of an accessory building



Example of an Accessory Use



Example of an Agricultural Cooperative Production/ Distribution Facility



Example of an Agricultural Sales and Service

**AGRICULTURAL COOPERATIVE PRODUCTION/DISTRIBUTION FACILITY:** shall mean any facility owned and operated by a cooperative or other corporation for the purpose of manufacturing, distributing, and storage of fertilizers, herbicides and grain. This includes the offices, scales and parking areas necessary for trucks and other vehicles.

**AGRICULTURAL OR FARM BUILDINGS** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of hired persons, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

**AGRICULTURAL INDUSTRIES** shall mean establishments or uses engaged in the large-scale storage or initial processing of agricultural products and supplies that cannot be otherwise categorized as light, general, or heavy industries, some of which may involve storage of potentially hazardous materials. Typical uses include grain elevators and anhydrous ammonia storage facilities.

**AGRICULTURAL SALES AND SERVICE** shall mean an establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service farms.

**AGRICULTURE** shall mean the use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use.

**ALLEY** shall mean a public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

**ALTERATION** shall mean any change, addition or modification to the construction or occupancy of an existing structure.

**AMENDMENT** shall mean a change in the wording, context, or substance of this Ordinance, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.

**AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

**ANIMAL, DOMESTIC** see Household Pet.

**ANIMAL GROOMING SERVICE:** shall mean any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

**ANIMAL HOSPITAL** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**ANIMAL UNIT** shall mean any farming operation or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than 6 months in any one calendar year, and where the number of animals so maintained exceeds 300 Animal Units as defined below. The confined area of the Livestock Feeding Operation (LFO) shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:

- One (1) A.U. = One Cow/Calf combination;
- One (1) A.U. = One Slaughter, Feeder Cattle;
- One (1) A.U. = One-half Horse;
- One (1) A.U. = Seven Tenths Mature Dairy Cattle;
- One (1) A.U. = Two and One Half Swine (55 lbs. or more);
- One (1) A.U. = Twenty-Five Weaned Pigs (less than 55 lbs.);
- One (1) A.U. = Two Sows with Litters;
- One (1) A.U. = Ten Sheep;
- One (1) A.U. = One Hundred Chickens;
- One (1) A.U. = Fifty Turkeys;
- One (1) A.U. = Five Ducks.

**ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. Also, see Satellite Dish Antenna and Tower.

**ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, that is at least 30 years old.

**APARTMENT** shall mean a room or a suite of rooms within an apartment building or multiple family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit, including culinary accommodations.

**APARTMENT COMPLEX** shall mean a building or buildings containing apartments used as a place of residence for more than two households.

**APARTMENT HOUSE** see Dwelling, Multiple.

**APIARY** a place where bee colonies are kept.



Example of an Apartment Complex

**APPLICANT** shall mean the owner or duly designated representative of land proposed to be subdivided, or for which a special use permit, conditional use permit, temporary use permit, zoning amendment, variance, appeal, building permit, or certificate of occupancy and other similar administrative permits has been requested. Consent shall be required from the legal owner or his legal representative in writing except for building permits.

**APPROPRIATE** shall mean fitting the context of the site and the whole community.

**APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.



Example of Aquaculture  
Source: [www.bing.com](http://www.bing.com)

**AQUACULTURE** shall mean land and/or buildings devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**ARBORIST** shall mean an individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

**ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

**ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

**ATTACHED** shall mean a foundation, wall or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

**ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

**AUTO BODY REPAIR** shall mean the Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

**AUTO SERVICES** shall mean the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, but excluding dismantling, salvage, or body and fender repair services.



**AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

**AUTOMOBILE RENTAL AND SALES** shall mean sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

**AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

**AUTOMOTIVE AND MACHINERY REPAIR SHOP** shall mean a building used for the repair of motor vehicles or machinery, when such repair shall be wholly within a completely enclosed building. This definition also includes body repair and painting.

**AUTOMOTIVE SALES AREA** shall mean an open area, other than a street, used for display or sale of new or used motor vehicles and trailers by one required to be licensed as a motor vehicle dealer by the State of Nebraska, and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed and sold on the premises.



Example of an ATM

## B

**BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also, see Nightclub and Tavern.

**BARN** shall mean an accessory structure upon a lot customarily used for the housing of livestock or for the storage of crops or machinery used in bona fide agricultural activities.

**BARN, POLE** shall mean a nonresidential structure where wooden post and beam act as the main structural support for roof and walls. No concrete/masonry support under posts; walls and roof covered with metal skin.

**BASE FLOOD** shall mean the flood, from whatever source, having a one percent chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.

**BASE FLOOD ELEVATION** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent or greater chance of flooding in any given year.

**BASE ZONING DISTRICT** shall mean a district established by this Ordinance that prescribes basic regulations governing land use and site development standards.

**BASEMENT** shall mean the substructure or foundation of a building, the lowest habitable story of a building, usually below ground level. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.

**BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**BED AND BREAKFAST "INN"** shall mean a dwelling that is used for the purpose of offering overnight lodging and meals to travelers for a fee which dwelling has unique structural and/or site characteristics which create the appearance of an Inn type setting. Such dwelling shall have a maximum of six guest rooms available for travelers lodging and no more than 12 guests may stay at any time. Guests who stay at the bed and breakfast shall not remain for a period of more than 30 consecutive days.

**BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

**BEER GARDEN** shall mean a permanent establishment which includes any area out-of-doors and not completely contained within a building in which alcoholic beverages or food is served.

**BEGINNING OF CONSTRUCTION** shall mean that site grading is the beginning of construction.

**BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.

**BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not the interest of the immediate neighborhood.

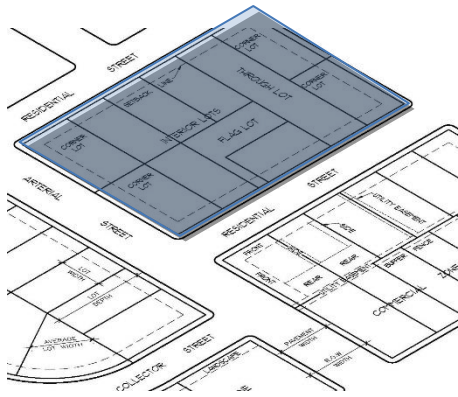
**BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, non-platted land, City or County boundaries, or adjoining property lines.

**BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or another block boundary.

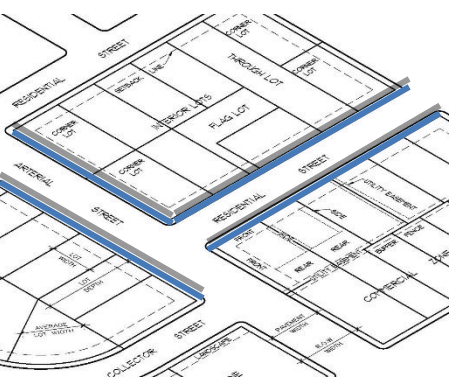
**BOARD OF ADJUSTMENT** shall mean that Board that has been created by the City, and which has the statutory authority to hear and determine appeals from, interpretations of, and variances to the zoning ordinance.

**BOARDING OR ROOMING HOUSE** shall mean a building other than a hotel or motel but containing a single dwelling unit and provisions for three but not more than 20 guests, where lodging is provided with or without meals for compensation.

**BREEZEWAY:** shall mean a roofed open passage connecting two otherwise detached buildings. Breezeway connections shall not be construed to alter the detached status of the buildings so connected.



Example of a Block



Example of Block Frontage

**BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

**BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging shall not exceed 25 percent of the total floor area of the commercial space. Also see Brewery, Craft.

**BREWERY** shall mean a facility for brewing ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 20,000 barrels of beverage (all beverages combined) annually.

**BREWERY, CRAFT** shall mean a brew pub or a micro-brewery.

**BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 20,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

**BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. Also, see Screening.

**BUFFER AREA** shall mean an open and unobstructed ground area of a plot in addition to any no building zones or street widening around the perimeter of any plot where required.

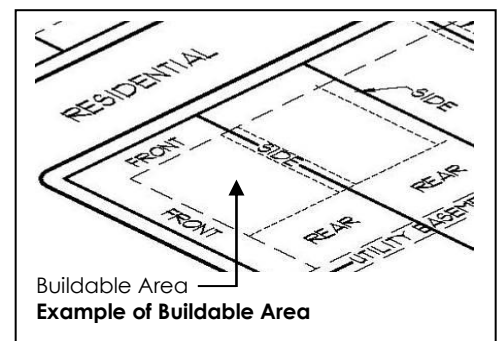
**BUFFER YARD** shall mean a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**BUILDABLE AREA** shall mean that part of a zoning lot not included within the required yards or subject to other restrictions herein required.

**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered buildings.

**BUILDING AREA** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

**BUILDING CODE** shall mean the various codes of the City of Bennet that regulate construction and require building, electrical, mechanical, plumbing and other permits to as well as other codes adopted by the City that pertain to building construction.

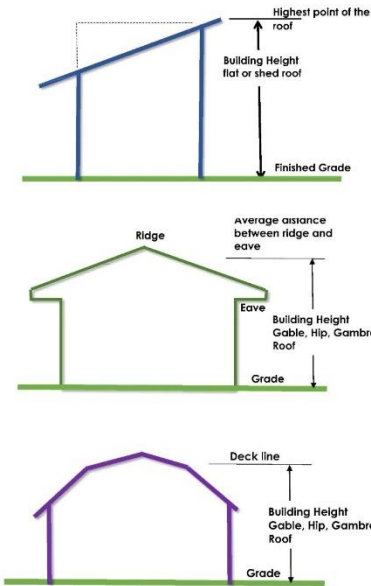


**BUILDING, COMMERCIAL** shall mean any structure used for and housing a commercial use.

**BUILDING COVERAGE** shall mean the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

**BUILDING ENVELOPE** shall mean the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

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



**BUILDING, INDUSTRIAL** shall mean any structure used for or housing any manufacturing, warehouse storage, or similar functions.

**BUILDING LINE** shall mean the outer boundary of a building established by the location of its exterior walls.

**BUILDING OFFICIAL** shall mean the designee of the City Council, responsible for the enforcement of the building and land use ordinances of the City of Bennet.

**BUILDING, PUBLIC** shall mean any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business.

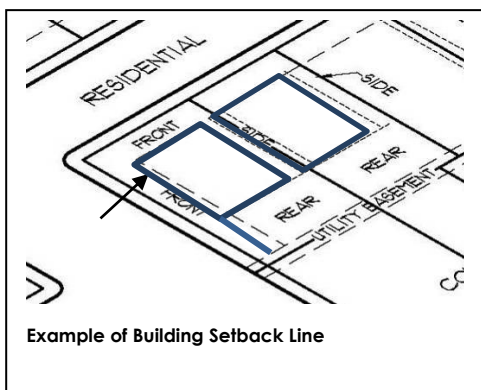
**BUILDING, SEMI-PUBLIC** shall mean structures principally of an institutional nature and serving a public need, such as churches, hospitals, museums, but not including the operation of a public bar, restaurant, or recreational facility as a commercial enterprise.

**BUILDING SETBACK LINE** shall mean the required zoning distance between a building and the lot line.

**BULK REGULATIONS** shall mean regulations controlling the size and relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height (2) maximum lot coverage and (3) minimum size of yard and setbacks.

**BUSINESS** shall mean activities that include the exchange or manufacture of goods or services on a site.

**BUSINESS CENTER** shall mean a building containing more than one commercial business, or any group of nonresidential buildings within a common development, characterized by shared parking and access.





**BUSINESS INCUBATOR** shall mean a facility dedicated to the start-up and growth of small businesses, accomplished through management and facility support systems. For purposes of this definition, management support systems include access to professional advice, information on small business regulations, management, advertising, promotion, marketing, sales, inventory, employees, labor relations, and financial counseling. Facility support systems include clerical and reception staff, cleaning and building security, and access to copy machines, computers, faxes, and other electronic equipment.

**BUSINESS SERVICES** shall mean uses providing services to people, groups, businesses, dwellings and other buildings. Business services shall include janitorial services, carpet and upholstery cleaning, painting and decorating, building maintenance, swimming pool maintenance, security service, graphics/advertising agency, photocopying/ duplication, quick print shops, printing, blueprinting, sign painting, non-vehicle equipment rental, photographic studios.

**BUSINESS SUPPORT SERVICES** shall mean establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

**C**

**CABIN** shall mean a small one-story house built and designed for temporary use.

**CABIN, HUNTING AND FISHING** shall mean buildings used only during hunting and fishing season as a base for hunting and fishing, and outdoor recreation.

**CAMPER** see Recreational Vehicle

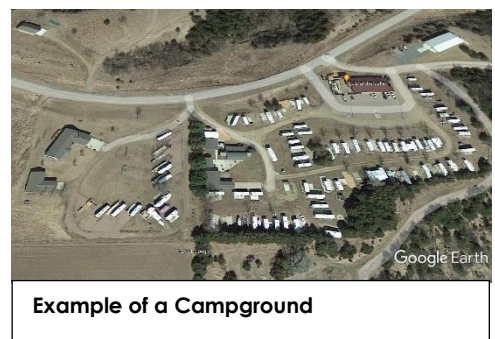
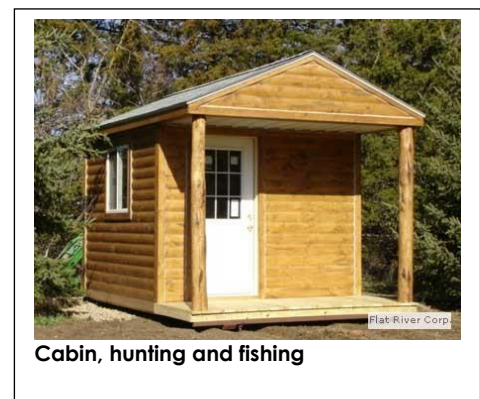
**CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles for which the primary purpose is recreational and having open areas that are natural in character.

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

**CARGO CONTAINER DWELLING**, see Dwelling Unit, Special Types

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

**CELLAR** shall mean a building space having less than one-half of its height below the average adjoining grade lines.





Example of a Cemetery

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

**CERTIFICATE OF OCCUPANCY** shall mean an official certificate issued by the Building Official or his/her designee, upon finding of conformance with the zoning ordinance and other applicable ordinances of the City and authorizing legal use of the premises for which it is issued.

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

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

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



Example of a Channel

**CHILD CARE HOME** shall mean an operation in the provider's place of residence, which serves at least four, but not more than eight children at any one time from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

**CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation, including but not limited to, barns, stores, warehouses, old public buildings, and single-family dwellings.

**CITY** shall mean the City of Bennet, Nebraska. Also, "City Council" or "Governing Body."

**CITY ATTORNEY** shall mean the City Attorney of the City of Bennet or his/her authorized deputy, agent or representative.

**CITY COUNCIL** shall mean the City Council of Bennet, Nebraska.

**CITY ENGINEER** shall mean the City Engineer as hired or appointed by the Mayor and City Council or his/her authorized deputy, agent or representative.

**CITY LIMITS** shall mean the established corporate boundary of the City of Bennet.

**CLEAR VIEW ZONE** See Sight Triangle.

**CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

**CLUSTERED DEVELOPMENT** shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**CODE** shall mean the Municipal Code of the City of Bennet, Nebraska.

**COMMERIAL USE** shall mean any use involving in part or in whole the sale of merchandise, materials or services.

**COMMISSION** shall mean the Planning Commission of Bennet, Nebraska.

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

**COMMON DEVELOPMENT** shall mean a development proposed and planned as one unified project not separated by a public street or alley.

**COMMON OPEN SPACE** shall mean land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

**COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

**COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

**COMPATIBLE USE** shall mean the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

**COMPOST** shall mean decomposed organic material resulting from the composting process. Used to enrich or improve the consistency of soil.

**COMPOSTING** shall mean processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.



Example of a Composting

**COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Bennet, Nebraska as adopted by the City Council, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in the Neb. Rev. Stat. §19-903.

**CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and City Council that authorizes the recipient to make a conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon or required by said permit.

**CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1997).

**CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, and water vapor, or consists of mismatched land uses, density, height, mass, or layout of adjacent uses, or results in a loss of privacy.

**CONGREGATE HOUSING** shall mean a residential facility for four or more persons aged 55 years or over and their spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. Also, see Life Care Facility.

**CONSERVATION** shall mean the management of natural resources to prevent waste, destruction, or degradation.

**CONSERVATION AREA** shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

**CONSERVATION DEVELOPMENT** shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.



**CONSERVATION SUBDIVISION** shall mean wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.

**CONSTRUCTION BATCH PLANT** shall mean a temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

**CONSTRUCTION YARDS** shall mean establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

**CONVALESCENT SERVICES** shall mean a use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

**CONVENIENCE STORE** shall mean a one-story, retail store containing floor area that is designed and stocked to sell primarily food, beverages, and other household supplies, and may also sell gasoline, to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on and is designed to attract and accommodate large volumes of stop-and-go traffic.

**CONTIGUOUS** see Abut.

**CORPORATE LIMITS** shall mean all land, structures and open space that has been annexed into the City's jurisdiction. This does not include the extraterritorial jurisdiction of the City.

**COTTAGE INDUSTRY BUSINESSES** shall mean a business in a residential area conducted primarily by the residents of the property manufacturing artistic, handicraft, and other craft items.

**COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two or more sides by such building or buildings.

**COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

**COURT, OUTER** shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

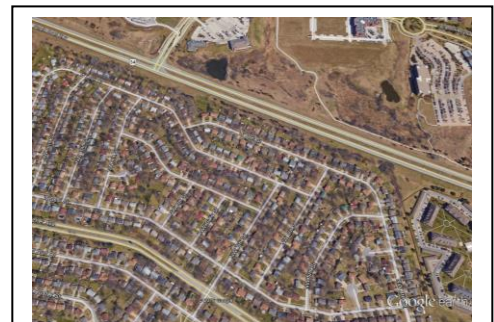
**COURTYARD** shall mean an open, unoccupied space, bounded on two or more sides by the walls of the building.

**COUNTY** shall mean Lancaster County

**CONVENTIONAL SUBDIVISION** shall mean a subdivision which literally meets all nominal standards of the Subdivision Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.



Convenience Store



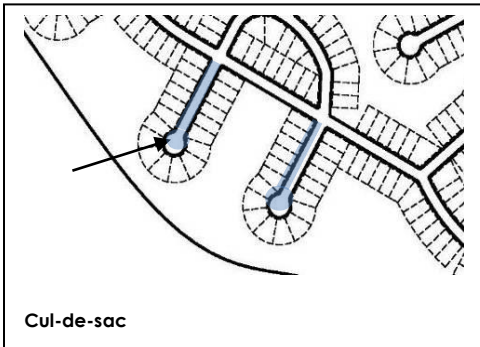
Conventional Subdivision  
Source: Google Earth



Creative/Conservation/Clustered Subdivision  
Source: Google Earth

**CREATIVE SUBDIVISION** shall mean a subdivision that, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Subdivision Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and New Urban Residential Districts.

**CROP PRODUCTION** shall mean the raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.



**CUL-DE-SAC** shall mean a short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

**CULTURAL SERVICES** shall mean a library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

**CURVE LOT** see Lot, Curve.

**CRYPTO MINING** shall mean the process of digitally searching for Bitcoin and/or digital tokens. Crypto mining may occur in a specially design building similar to a data center.

**D**



**DATA CENTER** shall mean an establishment primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing mainframe computers and storage devices. This term does not include general business offices, computer-related sales establishments, and business or personal services.

**DATE OF SUBSTANTIAL COMPLETION** shall mean the date certified by the local building inspector or zoning administrator when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.

**DECIDUOUS SCREEN** shall mean landscape material consisting of plants which lose their leaves in winter and eventually will grow and be maintained at six feet in height, at least.



**DECK** shall mean a flat, floored, roofless structure. Roofless does not include a roll-out awning or a canopy provided that all the vertical sides, other than the residential structure are open.

**DENSITY** shall mean the number of dwelling units per gross acre of land.

**DENTENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.

**DENTENTION FACILITY** shall mean a publicly or privately operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

**DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

**DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

**DEVELOPMENT CONCEPT PLAN** see Site Plan.

**DEVELOPMENT REVIEW** shall mean the review, by the City, of subdivision plats, site plans, rezoning requests, or permit review.

**DISTRICT OR ZONE** shall mean a section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.

**DOG DAY CARE FACILITY** shall mean a facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

**DOG KENNEL** see Kennel, Boarding or Training, and Kennel, Commercial.

**DOG PARK** shall mean a specifically designated and fenced off for the exercise of canines and other domestic animals.

**DOMESTIC ANIMALS** see Household Pet.

**DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district, such as from commercial district to residential district or from a multiple family residential district to single family residential district.

**DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that when there is doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.

**DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.

**DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

**DUPLEX** see Dwelling, Two Family.



Example of a Dog Park



Example of a Drainage way



Example of a Duplex





Example of Dwelling, Courtyard Building

**DWELLING** shall mean any building or portion thereof, which is designed and used exclusively for single family residential purposes, excluding mobile homes.

**DWELLING, CONDOMINIUM** shall mean a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units, with each owner having an undivided interest in the common real estate.

**DWELLING, COTTAGE COURT** shall mean a residential form for either renter-occupied or owner-occupied which contains multiple units, likely grouped in pairs around an open space or courtyard.

**DWELLING, COURTYARD BUILDING (MULTI-FAMILY)** shall mean a residential structure where the units have internal excess and are built around an outer or inner courtyard.

**DWELLING, LIVE-WORK UNIT** shall mean a small- to medium-sized attached or detached structure consisting of one dwelling unit above or behind a ground floor space accommodating a non-residential use.



Example of a Dwelling, Manufactured Home

Source: <http://transportablehomesspecialist.com/>

**DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the HUD. In order to be considered the same as a stick-built residential dwelling unit, the following standards shall be met:

- a) The home shall have no less than 900 sf of floor area, above grade, for single story construction.
- b) The home shall have no less than an 18 ft exterior width.
- c) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
- d) The exterior material shall be of a color, material and scale comparable with existing site-built, single-family residences.
- e) The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. However, standing seam roofs are allowable provided it's non-reflective.
- f) The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- g) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
- h) The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

**DWELLING, MULTIPLE-FAMILY (APARTMENT BUILDINGS)** shall mean a building or portion thereof containing three or more dwelling units.



**DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motor power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

- a) Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
- b) Permanent Foundation: Base on which building rests, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

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

- a) The home shall have no less than 900 square feet of floor area, above grade, for single story construction.
- b) The home shall have no less than a 18 feet exterior width;
- c) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
- d) The exterior material shall be of a color, material and scale comparable with existing site-built, single-family residences.
- e) The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. However, standing seam roofs are allowable provided it's non-reflective.
- f) The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- g) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
- h) The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.



Example of a Dwelling, Mobile Home



Dwelling, Single-family Attached; Townhouses, row houses



Example of Single-Family Attached



Dwelling, Multi-family



Example of a Dwelling, Multiple Family

**DWELLING, MODULAR (HOME SEAL)** shall mean a device or insignia issued by the Nebraska Department of Health to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards.

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

**DWELLING, SINGLE FAMILY or SINGLE-FAMILY, DETACHED** shall mean a building having accommodations for or occupied exclusively by one family.

**DWELLING, SINGLE-FAMILY ATTACHED (GROUP, ROW AND TOWNHOUSES)** shall mean a residential building joined horizontally to another residential building at one or more sides by a party wall or walls.

**DWELLING, TWO FAMILY (DUPLEX)** shall mean a residential building containing two dwelling units, either attached or detached.

**DWELLING, TWO FAMILY STACKED** shall mean a residential building with two units stacked one on the other. These can be an older single-family dwelling unit converted into two separate units.

**DWELLING, TRIPLE STACKED** shall mean a residential structure containing three to six units stacked through three stories.

**DWELLING UNIT** shall mean one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

**DWELLING UNIT, SPECIAL TYPES** shall mean any dwelling type consisting of single-family detached; single-family attached, multi-family, mobile home that is not meet the typical construction style of traditional stick framed structures.

1. **Cargo Container Dwelling:** a dwelling unit constructed of one or more new or used cargo containers used for multi-modal shipping.
2. **Grain Bin Dwelling Unit:** A dwelling unit constructed of one or more grain bins, new or used meeting the definition of dwelling unit above.
3. **Quonset home:** A home constructed beneath and in a structure referred to as a Quonset.
4. **Shouse:** A combination of a dwelling unit and machine shed under a common or connect roofing system.
5. **Tiny House:** A structure containing living spaces including sleeping and kitchen areas which measure 500 square feet or less in area. Tiny houses can be either portable, on wheels similar to a recreational vehicle, or on a permanent foundation.
6. **Tree House:** A dwelling unit where the primary structure of the unit is based on one or more tree clusters.



Cargo Container Apartment



Cargo Container Home



Cargo Container Home



Grain Bin Home



Grain Bin Home



Shouse



Shouse



Grain Elevator Apartment



Tiny House



Tiny House



Tree House



Tree House



Quonset home



Quonset home



Quonset home

## E

**EASEMENT** shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

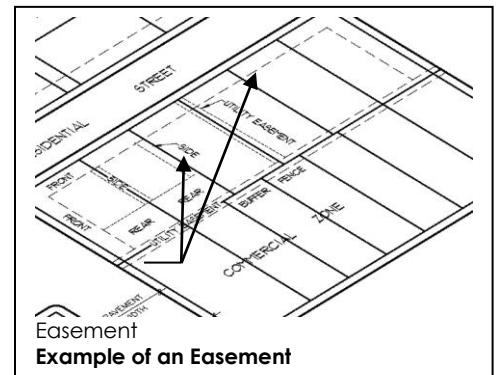
**EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.

**EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

**EMERGENCY RESIDENTIAL SERVICES** shall mean a facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

**ENCROACHMENT** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.

**ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.





**EQUIPMENT RENTAL AND SALES** shall mean the sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

**EQUIPMENT REPAIR SERVICES** shall mean the Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

**ERECTED** shall mean constructed upon or moved onto a site.

**ETHANOL PLANT** shall mean a facility where the conversion of biomass into an alcohol fuel product is undertaken. The facility also includes the processing of certain by-products resulting from the fermentation and distillation process.

**EVERGREEN OR CONIFEROUS SCREEN** shall mean landscape material consisting of plants which retain leaves or needles throughout the year which eventually will grow and be maintained at six feet in height, at least.

**EXOTIC BIRDS OR ANIMALS** shall mean birds or animals not commonly kept domestically or that are not native to Nebraska and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, tigers, cougars, wolves, half-breed wolves, and snakes. Birds in the ratite family, llamas and buffalo or bison shall not be considered as exotic birds or animals.

**EXPANSION** shall mean the enlargement of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

**EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits of the City, in which the State has granted the City the power to exercise zoning jurisdiction and building regulations.

**F**



**FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

**FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

**FAMILY** shall mean one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than 4 of whom may be unrelated. The following persons shall be considered related for the purpose of this title:

1. Persons related by blood, marriage, or adoption.
2. Persons residing with a family for the purpose of adoption.
3. Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
4. Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
5. Person(s) living with a family at the direction of a court.

**FAMILY CHILD CARE HOME I** shall mean a childcare operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FAMILY CHILD CARE HOME II** shall mean a childcare operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FARM** an area containing at least 20 acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals, and which produces 1,000 dollars or more per year of farms products raised on the premises. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

**FARMER'S MARKET** shall mean an occasional or periodic market held in an open area or in a structure where groups of sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include secondhand goods) dispensed from booths located on-site.

**FEDERAL** shall mean the federal government of the United States of America.

**FEEDLOT, COMMERCIAL** shall mean a lot or building, or combination of lots and buildings intended to be used for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure. This definition does not include the pasturing of livestock.

**FENCE** shall mean a structure serving as an enclosure, barrier or boundary above ground.



Example of a Farmer's Market  
Copyright American Planning Association

**FENCE, INVISIBLE** shall mean an electronic pet containment system that includes the burying of wire and the use of transmitters for complete enclosure of a yard or creating sectional areas within a yard.

**FENCE, OPEN** shall mean a fence, including gates, which has 50 percent or more of the surface area in open spaces, which affords direct views through the fence.

**FENCE, SOLID** shall mean any fence, which does not qualify as an open fence.

**FINANCIAL SERVICES** shall mean the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies.

**FIREWORKS STAND** shall mean any tent used for the retail sale of fireworks, on a temporary basis.

**FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

**FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPLAIN** shall mean any land area susceptible to being inundated by water from any source.

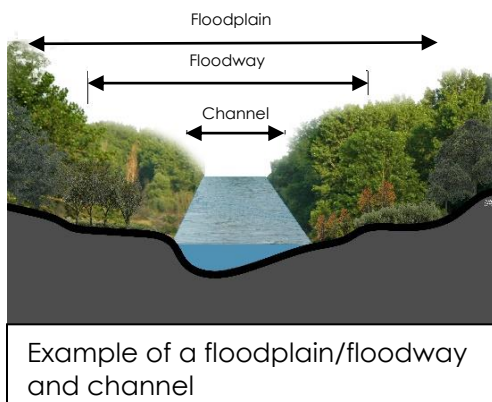
**FLOOD PROOFING** shall mean any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOOR AREA** shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.

**FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

**FOOT CANDLE** shall mean a unit of illumination. Technically, the illumination of all points one-foot distance from a uniform point source of one candle power



**FLORIST** shall mean a retail business whose principal activity is the selling of plants which are not grown on the site and conducting business within an enclosed building.

**FOUNDATION** shall mean that part of a building or wall, wholly or partly below grade, that constitutes a structural base for such building or wall.

**FREESTANDING CANOPY** shall mean a permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

**FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.

**FUEL STATION** shall mean a designated facility offering the sale gasoline, diesel fuel and propane.

**FUEL STORAGE** shall mean tanks used to storage fuel either above- or below-ground as part of an agricultural operation.

**FUNERAL HOME OR MORTUARY** shall mean a building used for the storage, preparation, and display of the deceased and for the performance of rituals and ceremonies connected therewith before burial or cremation. Crematoriums are permitted as an accessory use to a funeral home or mortuary.



Freestanding Canopy

**G**

**GARAGE, PRIVATE** shall mean a detached accessory building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.

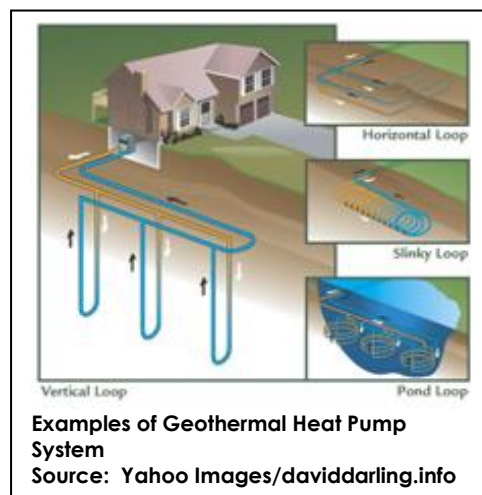
**GARAGE, PUBLIC** shall mean any garage other than a private garage designed or used for equipment, repairing, hiring, servicing, selling, or storing motor driven vehicles.

**GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. Also, see Service Station.

**GARAGE, STORAGE** shall mean a detached accessory building on the same lot as a dwelling, used to house vehicles, recreational vehicles, and other consumables owned by the occupants of the dwelling.

**GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

**GARDEN CENTER** shall mean a place of business where retail and whole-sale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils



Examples of Geothermal Heat Pump System  
Source: Yahoo Images/daviddarling.info



**GENERAL OFFICES** shall mean the use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

**GEOHERMAL HEAT PUMP SYSTEM** shall mean a well, constructed for the purpose of utilizing the geothermal properties of the earth.

1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground.
2. Closed Loop Heat Pump well shall mean a well, constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
3. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
4. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.

**GRADE** shall mean the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

1. For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
2. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
3. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

**GRAIN BIN DWELLING**, see Dwelling Unit, Special Types

**GRAIN ELEVATOR** shall mean a structure or group of structures whose purpose is limited to the receiving, processing, storage, drying and transporting of bulk grain.

**GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.



Graphic Element



Green Roof

**GREEN ROOF** shall mean a roof covering of vegetation material, typically consisting of the following components: an insulation layer, a waterproof membrane to protect the building from leaks, a root barrier to prevent roots from penetrating the waterproof membrane; a drainage layer, usually made of lightweight gravel, clay, or plastic; a geotextile or filter mat that allows water to soak through but prevents erosion of fine soil particles; a growing medium; plants; and, sometimes, a wind blanket.

**GREEN ROOF, EXTENSIVE** shall mean a green roof system that ranges from as little as one to five inches in soil depth. Extensive green roof systems generally add less load and require less maintenance than intensive green roof systems.



**GREEN ROOF, INTENSIVE** shall mean a green roof system that requires a minimum of one foot of soil depth to create a more traditional rooftop garden, with large trees, shrubs and other manicured landscapes. They are multiple layer constructions, often including elaborate irrigation and drainage systems, adding considerable load to a structure, and requiring intensive maintenance.

**GREENHOUSE** shall mean a building or premises used for growing plants, preparing floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

**GREENHOUSE, NONCOMMERCIAL** shall mean a building constructed primarily of glass, plastic or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants intended for private use and not for sale.

**GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridle path, or other similar access-way.

**GROSS FLOOR AREA** shall mean the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

**GROUND COVER** shall mean plant material used in landscaping which remains less than 12 inches in height at maturity.

**GROUNDWATER** shall mean water naturally occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

**GROUP CARE HOME** shall mean a home, which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide 24-hour care for individuals in a residential setting.

**GROUP HOME** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.

**GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.



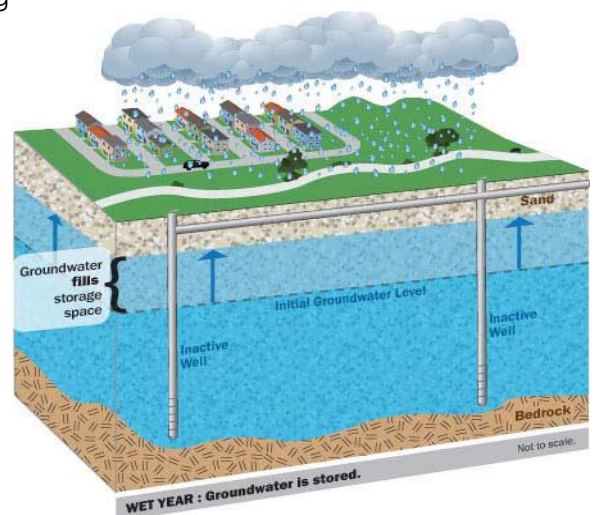
Greenhouse



Greenway



Example of Ground Cover



Groundwater  
Source: [municipalpumping.jpg](http://municipalpumping.jpg)

**GUEST ROOM** shall mean a room, which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

# H

**HALF-STORY** shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet above the floor of such story.

**HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

**HAZARDOUS WASTE** shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.

**HEALTH CLUB** shall mean A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

**HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

**HELIPORT** shall mean any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

**HELISTOP** shall mean an area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

**HOME BASED BUSINESS** shall mean an accessory use to a residential structure which may have additional employees beyond the immediate residents. A home-based business would consist of service-oriented uses and typically be more in-tense than a home occupation, due to factors such as intensity of use or clients coming to the residence.

**HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within Bennet. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child Care Homes and Child Care Centers are not considered a Home Occupation.

**HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.



Example of a Heliport

**HORTICULTURE** shall mean the growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

**HOSPICE** shall mean a facility serving as a medical and residential facility for end-of-life treatment, providing inpatient services and support services for families of the residents and patients.

**HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.

**HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

**HOUSING FOR THE ELDERLY** shall mean a multiple-family structure, controlled by either a public body, institutional body, or nonprofit corporation, whose occupants are typically 65 years of age or over.

**IMPERVIOUS COVERAGE** shall mean the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

**IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roofs, sidewalks, parking lots, and driveways.

**INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.

**INDUSTRIAL USES** shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

**INDUSTRIAL, GENERAL** shall mean enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

**INDUSTRIAL, HEAVY** shall mean enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

**INDUSTRIAL, LIGHT** shall mean establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

**INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominantly built-up area.

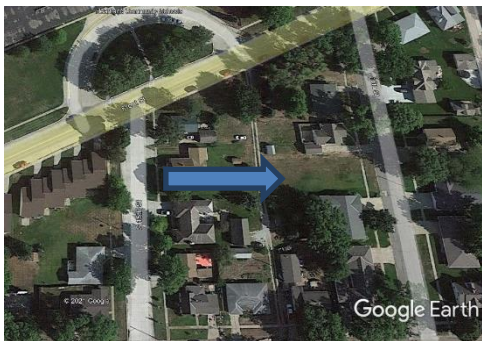
**INFILL SITE** shall mean any vacant lot, parcel or tract of land within developed areas of the City and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.

**INFRASTRUCTURE** shall mean facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water lines, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which is disassembled or wrecked in part or in whole, or is unable to move under its own power; or, (3) is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

**INSTUTIONAL BUILDINGS** shall mean building or premises occupied by a nonprofit corporation or a nonprofit establishment for public use.

**INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensity uses.



Potential Infill Site

**J**

**JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.



**JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment result from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".

## K

**KENNEL, BOARDING, or TRAINING** shall mean a use on any lot or premises in which dogs, cats or any other household pets, at least four months of age, are raised, boarded, bred, or trained.

**KENNEL, COMMERCIAL** shall mean an establishment where three or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, boarded, trained, groomed and/or sold as a business.

**KENNEL, PRIVATE** shall mean an establishment where three or more dogs or cats, or combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, and/or boarded.

## L

**LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the NDEE and the NHHS. All lagoons shall have the proper permits approved prior to starting construction.

**LANDFILL, CONSTRUCTION MATERIAL** shall mean the use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.

**LANDFILL, SOLID WASTE** shall mean the use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the EPA and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

**LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.



City of Bennet wastewater lagoon

**LANDSCAPED AREA** shall mean the area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

1. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
2. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

**LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Ordinance and the continued maintenance thereof.

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

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

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

**LIQUOR SALES** shall mean establishments or places of business engaged in retail sale for off-premises consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

**LIVESTOCK FEEDING OPERATION (LFO):** Any farming operation in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 1,000 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other and utilize a common area of system for the disposal of livestock wastes. Each operation type shall be classified in one of four levels according to total number of A.U. in the operation at any one time. Levels will include:

- Class I Facility = 301-1,000 animal units;
- Class II Facility = 1,001-5,000 animal units;
- Class III Facility = 5,001-10,000 animal units; and
- Class IV Facility = 10,001 or more animal units.

LFOs having more than one type feeding operation at one location shall be categorized according to the total number of animal units.

**LIVESTOCK SALES** shall mean the use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sale barns.



Example of a Livestock Feeding Operation

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

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

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

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

**LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

**LOT, INTERIOR** shall mean a lot other than a corner lot.

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

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

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

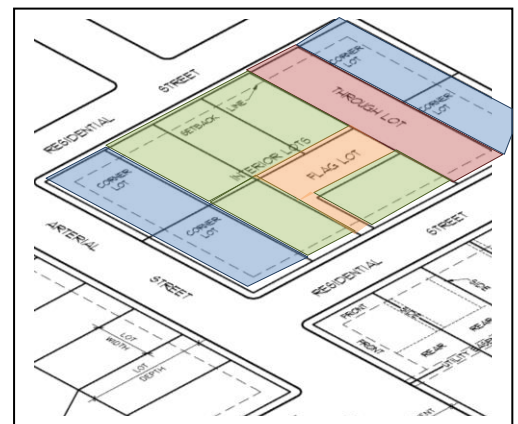
**LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

**LOT LINE** shall mean the property line bounding a lot.

**LOT LINE, FRONT** shall mean the property line abutting a street.

**LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

**LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.



**LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the Lancaster County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Ordinance.

**LOT OF RECORD** shall mean a lot or parcel of land, the deed to which has been recorded in the records of the Lancaster County Register of Deeds at the time of the passage of an ordinance establishing the zoning district in which the lot is located.

**LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

## M

**MANUFACTURED HOME** see Dwelling, Manufactured Home.

**MANUFACTURING** shall mean the mechanical or chemical transformation of materials or substances into new products. Manufacturing uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Assembling component parts of manufactured products is also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

**MANUFACTURING, CUSTOM** shall mean an establishment primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

**MASSAGE PARLOR** shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. Also, see Adult Uses.

**MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the City of Bennet and passed, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, and Subdivision activities.



**MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**MEDICAL OFFICES** shall mean the use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Nebraska.

**MINI-STORAGE OR MINI-WAREHOUSE** see Self-Service Storage Facility.

**MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, walls, kennels, and transformers.

**MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

**MIXED USE BUILDING** shall mean a building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

**MIXED USE DEVELOPMENT** shall mean a single development that incorporates complementary land use types into a single development.

**MOBILE FOOD UNIT** shall mean a temporary food service establishment that is a vehicle-mounted and is designed to be readily movable.

**MOBILE HOME** see Dwelling, Mobile Home.

**MOBILE HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale. The terms "manufactured home park" or "mobile home park".

**MOBILE HOME SUBDIVISION** shall mean a parcel of land that has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.

**MOTEL** see Hotel.

**MOTOR FREIGHT TERMINAL** shall mean a building or area in which freight brought by motor truck is received, assembled or stored and dispatched for routing by motor truck which may include motor truck storage.



Example of Mixed-use Buildings



Example of Mobile Home Park

**MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheelchairs.

**N**

**NANOBREWERY** shall mean a scaled-down microbrewery that produces three barrels or less of beer batches.

**NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. Also, see Bar.

**NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

**NONCONFORMING BUILDING/DEVELOPMENT** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning ordinance.

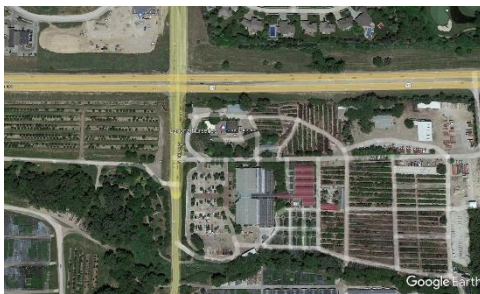
**NONCONFORMING LOT** shall mean a lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

**NONCONFORMING SIGN** shall mean a sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

**NONCONFORMING STRUCTURE** shall mean a structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

**NONCONFORMING USE** shall mean any use existing and lawful at the time of adoption of this ordinance occupying a building, structure or land but is no longer allowed.

**NON-FARM BUILDINGS** shall mean all buildings except those buildings utilized for agricultural purposes on a farm.



Example of a Nursery

**NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses including, but not limited to noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

**NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

**NURSING HOMES OR CONVALESCENT HOMES** shall mean an institution or agency licensed by the State of Nebraska for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

## O

**OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

**OFFICIAL ZONING DISTRICT MAP** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Bennet City Council.

**OFF-STREET PARKING AREA** shall mean all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

**OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

**OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

**OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

**OUTDOOR ADVERTISING** see Advertising Structure and Sign.

**OUTDOOR STORAGE** shall mean the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

**OUTDOOR STORAGE CONTAINERS** shall mean a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement and not exceeding 8 feet in width, 12 feet in height, and 40 feet in length or a total enclosed floor area of 320 square feet. The unit must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use.

**OUTLOT** shall mean a lot depicted on a final subdivision plat which does not meet the requirements of this code for lots of record and which may not be used for building or parking lots.

**OVERLAY DISTRICT** shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.

**OWNER** shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

**P**

**PACKAGE LIQUOR STORE** shall mean an establishment in which alcoholic beverages in original containers are sold for consumption off the premises.

**PAINTBALL COURSE** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit-by-visit basis that allows individuals to participate in paintball activities.

**PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

**PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

**PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

**PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

**PARKING LOT** shall mean an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles.

**PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

**PAVED** shall mean permanently surfaced with poured concrete, concrete pavers, or asphalt.

**PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with this ordinance as well as with approved plans and specifications of a development.

**PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

**PERMANENT STORAGE** shall mean the long-term storage on-site within an accessory building or structure.

**PERMITTED USE** shall mean any land use allowed without condition within a zoning district.

**PERMANENTLY ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

**PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, city, county, special district or any other group or combination acting as an entity, except that it shall not include Bennet, Nebraska.

**PERSONAL SERVICES** shall mean uses providing human services exclusively to private individuals as the ultimate consumer. Personal services shall not be limited to but including grocery shopping services, tailoring and alterations, hair salons, spas, nail salons, barber shops, private household services and temporary personal in-home care.

**PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals.

**PLANNED UNIT DEVELOPMENT (PUD)** shall mean a process intended to encourage flexibility in design by allowing for a mix of land uses (such as residential, retail, office, and public) as part of a single overall development plan.

A PUD may also be used in newer developments to encourage creative design by allowing for variations in lot size, subdivision layout, public infrastructure, and other plat elements.

**PLANNING COMMISSION** shall mean the Planning Commission of Bennet, Nebraska.

**PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.

**PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.

**POLE BUILDING** shall mean a structure built with no foundation or footings, using poles embedded directly in the ground as its primary support to hold metal, plastic, fiberglass or wood covering to form the building.

**POLICY** shall mean a statement or document of the City, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.



**PORCH, UNENCLOSED** shall mean a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

**PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

**PRESERVATION** shall mean the act of protecting an area, parcel of land, or structure from being changed or modified from the present character to another that is not representative of a specific period or condition.

**PRINCIPAL STRUCTURE** shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.

**PRINCIPAL USE** shall mean the main use of land or structure, as distinguished from an accessory use.

**PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use, conditional use or accessory use within a zoning district.

**PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.

**PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Ordinance.

**PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

**PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

## Q

**QUARRY** shall mean an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

**QUARRY REHABILITATION** shall mean providing slopes to be covered with a layer of soil and revegetated where practical. It applies to the rehabilitation of all kinds of sand, gravel, and rock excavations to obtain fill or construction materials and from which no further removal of materials is intended, as well as to resource extraction. Rehabilitation is intended to minimize the hazardous and unsightly nature of abandoned pits, and if practical, to return the area to some productive use.

**QUONSET HOME**, see Dwelling Unit, Special Types



An Aerial of a Quarry  
Source: Google Earth

## R

**RECREATION, INDOOR** shall mean a facility for relaxation, diversion, amusement or entertainment where such activity occurs within a building or structure.

**RECREATION, OUTDOOR** shall mean a facility for relaxation, diversion, amusement or entertainment in which some or all of the activities occur on the exterior but within the property of the facility.

**RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheatres, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

**RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit primarily designed as a temporary living quarter for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

**RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

**RECYCLING CENTER** shall mean a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products. The facility is not junkyard.

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

**RECYCLING PROCESSING** shall mean any site which is used for the processing of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

**REDEVELOPMENT** shall mean the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purpose of a new use or building.

**REMOTE PARKING** shall mean a supply of off-street parking at a location not on the site of a given development.

**RENEWABLE ENERGY** shall mean energy sources including wind, solar power, biomass, and hydropower, that can be regenerated and that is much less polluting than nuclear or fossil fuels.

**RENEWABLE RESOURCE** shall mean a natural resource that is able to regenerate, either by itself or with human assistance, over a short to moderate time period, including food crops and trees.

**RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.

**RESTAURANT** shall mean a public eating establishment operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.

**RESTAURANT, DRIVE-IN** shall mean a restaurant establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

**RESTAURANT, ENTERTAINMENT** shall mean a restaurant establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.

**RESOURCE EXTRACTION** shall mean a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

**RETAIL SALES** shall mean establishments engaged in selling of goods or merchandise to the general public for personal or household consumption.

**RETAIL SERVICES** shall mean establishments engaged in selling of goods or merchandise including household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

**RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.

**RETIREMENT RESIDENCE** shall mean a building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

**REZONING** shall mean an amendment to or change in the zoning ordinance either to the text or map or both.

**REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

**RIGHT-OF-WAY** shall mean a strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

**ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also, see Right-of-way and Street.

**ROAD, PUBLIC** shall mean all public rights-of-way reserved or dedicated for street or road traffic. Also, see Right-of-Way and Street.

**ROOM** shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

## S



Aerial of a Sand and Gravel Operation



Aerial view of a Sanitary Landfill

**SALVAGE SERVICES** shall mean places of business engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms.

**SAND OR GRAVEL PIT** shall mean land used for the extraction of sand and/or gravel for public and/or commercial use.

**SANITARY LANDFILL** shall mean a type of operation in which garbage and refuse, or garbage, or refuse is deposited by a plan on a specified portion of land, and is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of garbage and/or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished landfill.

**SANITARY TRANSFER STATION** shall mean 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 all state and federal agencies.

**SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves. Also, see Antenna.

**SCHOOL, BUSINESS OR TRADE** shall mean a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

**SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not. Such shall be approved by the Nebraska State Fire Marshall as being in conformance with safety provisions pursuant to the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Human Services as meeting their health and welfare standards.

**SCREENING** shall mean a structure or planting that conceals from public view the area behind such structure or planting.

**SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

**SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

**SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

**SEPTIC SITE** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.



**SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

**SETBACK** shall mean the minimum distance, as prescribed by this ordinance, measured from the edge of the eave or other similar building component located closest to the lot line.

**SETBACK LINE, FRONT YARD** see Yard, Front

**SETBACK LINE, REAR YARD** see Yard, Rear

**SETBACK LINE, SIDE YARD** see Yard, Side

**SHARED WORKSPACE** shall mean a structure providing individualized office workspace space for a limited time period for a fee.

**SHORT-TERM RENTALS** shall mean any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

**SHOUSE**, see Dwelling Unit, Special Types

**SHRUB** shall mean a multi-stemmed woody plant other than a tree.

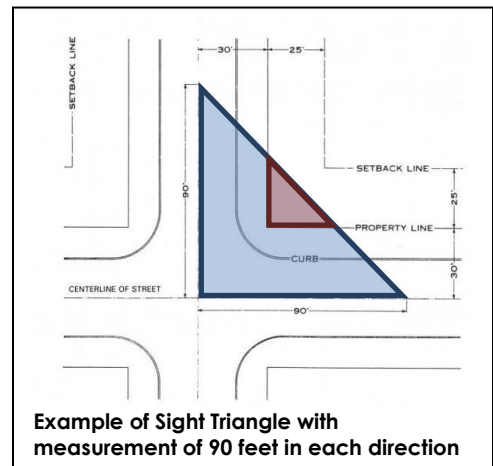
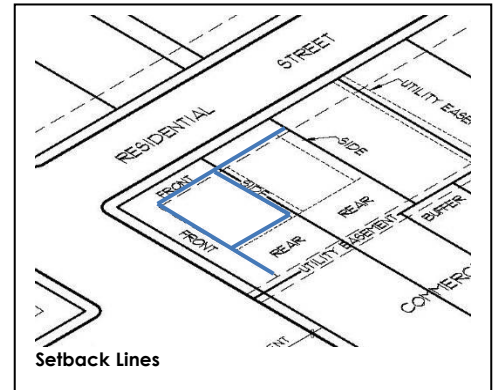
**SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets along the centerline of the streets.

**SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.

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

**SITE** shall mean the parcel of land to be developed or built upon. A site may encompass a single lot; a portion of a lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.

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



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

**SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.

**SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.

**SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.

**SKATEBOARD PARK or SKATEBOARD HALF PIPE** shall mean an outdoor structure that is shaped into a half circle or oval that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

**SKATEBOARD RAMP** shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.

**SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

**SMALL-SCALE MANUFACTURING** shall mean a manufacturing process with a small number of employees, typically utilizing local materials, which strengthens the local supply chain. These businesses typically include production of artisan goods in small batches.

**SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

**SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

**STABLE AND/OR RIDING ACADEMIES** shall mean the buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

**STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

**STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.

**STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.

**STORAGE CONTAINER, PORTABLE** shall mean any container that can be loaded onto the chassis of a semi-trailer for the purpose of hauling materials and commodities. Portable storage containers are intended to be used as a load on-site and haul-off for storage off-site. Another name for these containers is Portable On Demand Storage.

**STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.

**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

**STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.

**STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the City to retain water to control the flow of stormwater.

**STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

**STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

**STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Ordinance.

**STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a city or county with controlled access to abutting property.

**STREET, COLLECTOR** shall mean a street or highway, which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

**STREET, COURT** shall mean an approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

1. Serves twelve or fewer housing units or platted lots.
2. Does not function as a local street because of its alignment, design, or location.
3. Is completely internal to a development.
4. Does not exceed 600 feet in length.

**STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.

**STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.

**STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.

**STREET, MAJOR** shall mean a street or highway used primarily for fast or high-volume traffic, including expressways, freeways, boulevards, and arterial streets.

**STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place".

**STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

**STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.

**STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

**STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties and being separated from the major street by a dividing strip.

**STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples include but are not limited to lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, and fire hydrants.

**STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

**STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

**STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

**SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

**SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

**SURPLUS SALES** shall mean businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

**SWIMMING POOL, PRIVATE** shall mean a pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.

## T

**TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

**TATTOO PARLOR/BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

**TAVERN** see Bar.

**TAXIDERMY SERVICES** shall mean an operation conducted solely within an enclosed building to include on-site preparation, stuffing, and mounting of heads and skins of animals. Exterior storage or processing of carcasses or parts of animals shall be prohibited.

**TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.



**TERRACE** shall mean a raised earthen embankment with the top leveled. A terrace may be supported by a retaining wall.

**THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and limited audience participation or meal service.

**TINY HOUSE**, see Dwelling Unit, Special Types

**TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. Also, see Antenna.

**TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance in a group of three or more units where the unit and land are in the ownership of the same owner, which part of a structure whose dwelling units are attached horizontally in a linear arrangement and having a totally exposed front and rear wall to be used for access, light, and ventilation.

**TRACT** shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

**TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

**TRANSITIONAL HOUSING OR HALFWAY HOUSE** shall mean a community-based residential facility that provides short-term (120 days or less) room and board in a supervised living environment utilizing counseling and rehabilitation services for persons with a history of juvenile delinquency, behavioral disorders, alcoholism, or drug abuse.

**TREE COVER** shall mean an area directly beneath the crown and within the dripline of the tree.

**TREE HOUSE DWELLING**, see Dwelling Unit, Special Types

**TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.

**TRUCK WASH** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

## U

**UPPER STORY HOUSING** shall be defined as one or more dwelling units located above the first floor where allowed within a commercial district.

**UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single-family residential district to a multiple family residential district.

**USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

**USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.

**USE, CONDITIONAL** shall mean a use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving agency.

**USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

**USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".

**UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

**UTILITY EASEMENT** see Easement

**UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

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

**UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

**UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

## V

**VALUE** shall mean the estimated cost to replace a structure in kind, based on current replacement costs.

**VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

**VEGETATION** shall mean trees, shrubs, and vines.

**VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

**VEHICLE STORAGE** shall mean storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

**VEHICLE STORAGE, LONG TERM** shall mean storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage.

**VENDING MACHINE** shall mean any unattended self-service device that, upon insertion of a coin, coins, tokens, debit and/or credit cards or by similar means, dispenses food, beverage, goods, rental materials, wares, merchandise, or services.

**VENDING MACHINE, REVERSE** shall mean an automated mechanical device that accepts at least one or more types of empty beverage containers, including but not limited to aluminum cans and glass or plastic bottles and that issues a cash refund or a redeemable credit, provided that the entire process is enclosed within the entire machine. A reverse vending machine may be designed to accept more than one container at a time, paying by weight instead of the container.

**VETERINARY SERVICES** shall mean services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

**VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

## W

**WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.

**WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

**WAREHOUSING (ENCLOSED)** shall mean uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

**WAREHOUSING (OPEN)** shall mean uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage.

**WASTEWATER LAGOON** see Lagoon.

**WATERCOURSE** shall mean natural or once naturally flowing water, either perennially or intermittently, including rivers, streams, creeks, and other natural waterways. Includes waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

**WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

**WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

**WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

**WHOLESALE TRADE** shall mean the selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or buyers acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

**WIRELESS COMMUNICATION TOWER** shall mean a structure for the transmission or broadcast of cellular, radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered wireless communication towers.

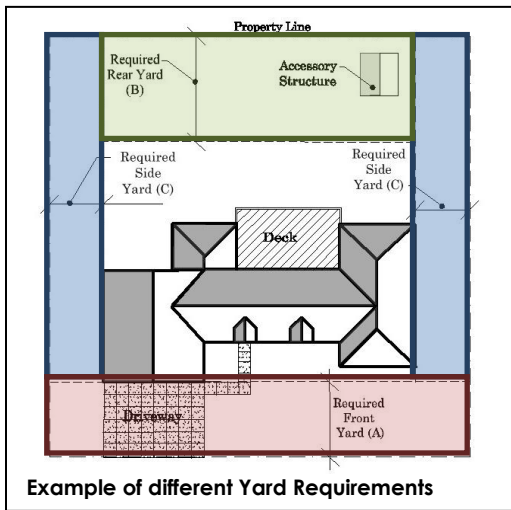
**X**



Example of Xeriscaping  
Source: Google Images

**XERISCAPING** shall mean landscaping characterized by the use of vegetation that is drought-tolerant or a low water use in character.

**Y**



Example of different Yard Requirements

**YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Ordinance.

**YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.

**YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

**YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Ordinance, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

**YURT** shall mean a permanently built on a wooden platform using modern materials such as steam-bent wooden framing or metal framing, canvas or tarpaulin, plexiglass dome, wire rope, or radiant insulation.

**Z**

**ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the City to administer and enforce the requirements of this chapter.

**ZONING DISTRICT** see District

**ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the City.



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**Article 3: Districts and Official Map****Section 3.01 Districts**

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

**Section 3.02 Provision for Official Zoning Map**

1. The City is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. 2023-3.4 of the City of Bennet, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted by Ordinance No. 2022-4.1 of the City of Bennet Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

## Article 4: General Provisions

### **Section 4.01 Planning Commission Recommendations**

Pursuant to Neb. Rev. Stat. §19-901, it shall be the purpose of the Planning Commission to hold public hearings upon, and make recommendations to the legislative body, regarding proposed amendments to the comprehensive plan and zoning ordinance within the jurisdiction of the City.

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

### **Section 4.02 District Regulations, Restrictions, Boundary Creation**

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

### **Section 4.03 Jurisdiction**

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

### **Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.

### **Section 4.05 Zoning Affects Every Building and Use**

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

### **Section 4.06 Lot**

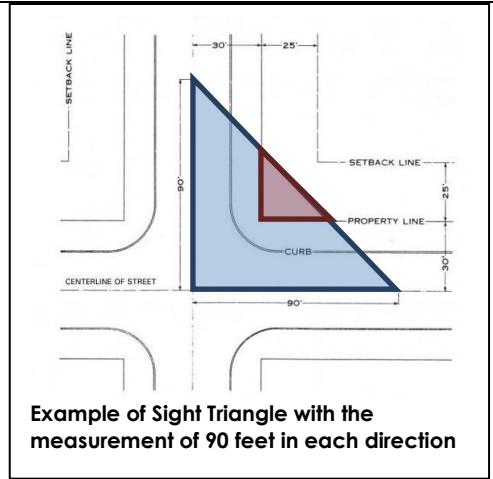
1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
2. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.
  - A. Institutional buildings
  - B. Public or semi-public buildings
  - C. Multiple-family dwellings
  - D. Commercial or industrial buildings
  - E. Housing for the Elderly
  - F. Agricultural buildings
  - G. Planned Unit Developments

### **Section 4.07 Reductions in Lot Area Prohibited**

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

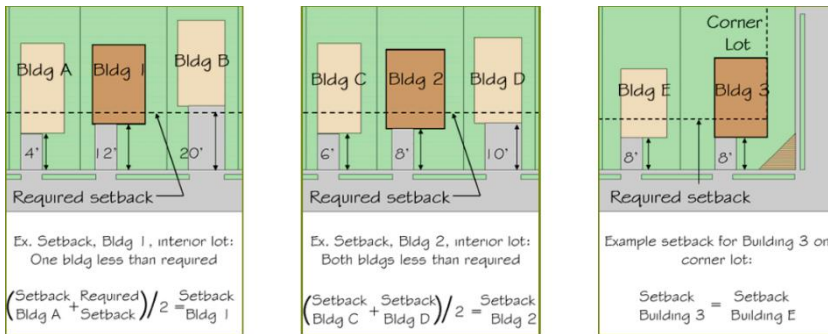
**Section 4.08 Obstructions to Vision at Street Intersections Prohibited**

On a corner lot, within the area formed by the center line of streets at a distance of 75 feet from their intersections, there shall be no obstruction to vision between a height of two and one-half feet and a height of 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the 75-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. See "Sight Triangle," as defined in Article 2 of this Ordinance.



**Section 4.09 Yard Requirements**

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
2. No part of a yard, or other open space, or off-street parking or loading space, required in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space required for another building and or lot.
3. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet the minimum requirements herein.
4. All accessory buildings when connected to the principal building (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
5. The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) More than 40 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) A minority of such structures have observed or conformed to an average setback line, see illustration for different provisions:



6. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and the owner shall install and maintain landscaping and planting suitable to provide effective screening.
7. Any yard for a commercial or industrial use located within any Commercial or Industrial Zoning District, which is adjacent to any residential use, or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening; except in the Central Business District.

**Section 4.10 Drainage**

No building, structure, or use shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands.

Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

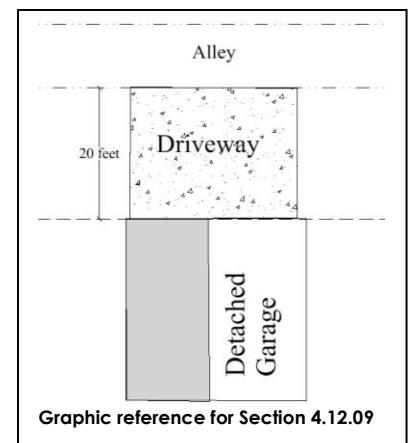
**Section 4.11 Permitted Obstructions in Required Yards**

The following shall not be considered to be obstructions when located in the required yards:

1. *All Yards:*
  - Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley.
  - Chimneys projecting 24 inches or less into the yard.
  - Playground and other recreational equipment.
  - Clothes lines.
  - Approved freestanding signs.
  - Arbors and trellises.
  - Flag poles.
  - Window air conditioners projecting not more than 18 inches into the required yard; and
  - Fences or walls subject to applicable height restrictions are permitted in all yards.
2. *Rear and Side Yards:*
  - Open off-street parking spaces
  - Outside elements of central air conditioning systems.
  - Emergency egress systems for basements on an existing structure.
3. *Double Frontage Lots:* The required front yard shall be provided on each street.
4. *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 4.12 Accessory Building and Uses**

1. No accessory building or structure shall be constructed on a lot without a principal building or structure.
2. In no event shall a portable storage container be used as permanent storage/accessory building within any residential district, unless they meet the criteria found in Section 9.14.
3. No detached accessory building or structure shall exceed the maximum permitted height allowed in the individual district, unless otherwise provided.
4. No accessory building shall be constructed in the required front yard.
5. No accessory building shall be erected in or encroach upon the required front yard on a corner lot or the front yard of a double frontage lot.
6. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
7. When a detached garage or other outbuilding is built within the required setback for a principal structure, the principal structure and detached building shall remain as separate structures and maintain the required separation distances found in Section 4.12 (6) above.
8. When a detached garage has access to an alley, the rear yard setback shall be increased to 20 feet for garages directly accessing the alley from the garage and door is parallel to the alley. Otherwise, it shall be a minimum of five feet.
9. Temporary and portable carports may be allowed in designated zoning districts provided the following criteria shall be met:
  - A. The carport shall be anchored to the ground with a permanent foundation.
  - B. Carport shall not be allowed to have more than two sides covered with a siding material.
  - C. Siding material shall match the style of the primary structure on the lot.
  - D. Shall meet all minimum setbacks.
10. Detached private garages and outbuildings in the Residential Districts within the corporate limits of Bennet for automobiles and/or storage use and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction and meet the following:
  - A. Be constructed of materials that are in good repair,
  - B. The sidewalls of said building shall not exceed 15 feet in height,
  - C. Garages shall have an overhang of at least six inches,



- D. Garages shall have a maximum width of 40 feet,
- E. Garages shall be constructed and finished in materials customary to residential construction.

11. Regulation of accessory uses shall be as follows:

- A. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- B. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.

**Section 4.13 Permitted Modifications of Height Regulations**

1. The height limitations of this Ordinance shall not apply to:

- |                                          |                                                 |
|------------------------------------------|-------------------------------------------------|
| Air-Pollution Prevention Devices         | Flag Poles                                      |
| Belfries                                 | Ornamental Towers and Spires                    |
| Chimneys                                 | Public Monuments                                |
| Church Spires                            | Radio/Television Towers less than 125 feet tall |
| Conveyors                                | Silos and grain elevators                       |
| Cooling Towers                           | Smokestacks                                     |
| Elevator Bulkheads                       | Stage Towers or Scenery Lots                    |
| Commercial Elevator Penthouses           | Tanks                                           |
| Fire Towers                              | Water Towers and Standpipes                     |
| Web cameras and meteorological equipment |                                                 |

Provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district.

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

**Section 4.14 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress requirements of the City of Bennet have been installed as required per state and life-safety codes.

**Section 4.15 Nonconforming, General Intent**

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

**Section 4.16 Nonconforming Lots of Record**

In any district, notwithstanding limitations imposed by other provision of this ordinance, a primary structure and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

**Section 4.17 Nonconforming Structures**

1. *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

2. *Enlargement, Repair, Alterations:* Any such structure described in Section 4.17 (1) may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
3. *Damage or Destruction:* In the event that any structure described in Section 4.17 (1) is damaged or destroyed, by any means other than intentional destruction, to the extent of more than 50 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.16, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

Complete reconstruction of a nonconforming structure may be allowed through a Conditional Use Permit if the structure is damaged or destroyed by natural means and not through intentional destruction or actions of the property owner or tenant. Reconstructed structures shall not be allowed to increase the level of nonconformity with regard to setbacks or lot coverage.

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

**Section 4.18 Nonconforming Uses**

1. *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
  - B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
  - C. If any such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
2. *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
  - A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
  - C. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance.
  - D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.



- E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- F. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### **Section 4.19 Repairs and Maintenance**

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

#### **Section 4.20 Uses under Special Use Permit are not Nonconforming Uses**

Any use for which a special use permit has been issued according to previous ordinances shall not be deemed a nonconforming use. Said use shall without further action shall be deemed a conforming use in such district.

#### **Section 4.21 Rear Yard Setbacks Reduction**

The rear yard setback may be the lesser of the required setback in a district or 20% of the depth of the lot.

#### **Section 4.22 Temporary Uses and Permits**

1. The administrator shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon. The permits shall not exceed 180 days in duration unless the following conditions apply:
  - A. Model homes or apartments, if contained within the development to which they pertain.
  - B. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
  - C. Public assemblies, displays, and exhibits.
  - D. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
  - E. Construction site offices, if located on the construction site itself.
  - F. Seasonal outdoor sales such as flowers and plants shall be permitted within a commercial or industrial zoning district.
  - G. Outdoor special sales, provided such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
  - H. Construction Batch Plants, provided that:
    - 1) No plant may be located within 600 feet of a developed residential use, park, or school.
    - 2) Hours of operation do not exceed 12 hours per day.
    - 3) The duration of the plant's operation does not exceed 180 days but may be extended by the Zoning Administrator if unforeseen circumstances have delayed the project.
2. Required Conditions of All Temporary Uses
  - A. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
  - B. The Planning Commission, or its designee, may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.
3. Permit Application and Issuance
  - A. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
  - B. The Zoning Administrator, or its designee, may authorize a temporary use only if he/she determines that:
    - 1) The use will not impair the normal operation of a present or future permanent use on the site.
    - 2) The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
  - C. The duration of the permit shall be explicitly stated on the permit.

**Section 4.23 Private Swimming Pools**

1. In Ground Swimming Pools
  - A. A permit shall be required for the construction or placement of a private swimming pool from the zoning administrator prior to such construction or placement.
  - B. An application for a permit shall be submitted by the owner or his agent of the property upon which the pool is to be located.
  - C. Such application shall be accompanied by a duplicate set of plans, specifications, and plot plans.
  - D. The plot plan shall show the accurate location of the proposed pool on the property and properly establish distances to existing lot lines, buildings and fences, and to additional proposed structures or fences.
  - E. No permit shall be issued until such plans, specifications and plot plans have been approved by the City as being in conformance with all local regulations pertaining to private swimming pools.
  - F. All building, plumbing, electrical, and other codes as adopted by the City Council shall be adhered to in the construction or assembly of the private swimming pool.
  - G. Every private swimming pool shall be completely surrounded by a fence or wall not less than four feet in height which shall be of a type which precludes passage through or under and is not readily climbable by small children. This shall not mean an additional fence within a completely fenced yard, provided, the fence meets the stated minimum requirement. All gates shall be equipped with a latch which is not readily operated by small children.
  - H. The main building, or any accessory structure, on the site may form part of the enclosure.
  - I. The lack of a minimum enclosure as herein described, on any existing pool, is hereby deemed to be a serious public safety hazard. The owner of the property, upon which such a pool is located, shall comply with the enclosure requirements within 30 days after date of notification to comply.
  - J. All private swimming pools constructed after the effective date of this ordinance may be used for surface irrigation of the owner's property, provided, that no water shall overflow onto adjacent private or public property in a manner as to cause a nuisance.
2. Storable Pools/Above Ground Pools
  - A. Storable pools shall not require a permit as identified by this section.
  - B. The sides of above-ground pools are acceptable as integral barriers, provided, the sides extend not less than four feet above the outside ground at all points, and provided further, that access steps or ladders are capable of being rendered inaccessible by being removed or raised more than four feet above the outside grade.

**Section 4.24: Prohibited Uses**

All uses which are not specifically permitted or are not permissible as a Conditional Use throughout each district of this Ordinance are prohibited until such time as the Ordinance is amended accordingly.

**Section 4.25: Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted and published by the City Council by separate resolution.

## Article 5: Zoning Districts

### **Section 5.01 Districts; Use**

For the purpose of this Chapter, the Municipality is hereby divided into nine districts, designated as follows:

- (TA-1) Transitional Agricultural District
- (R-1) Low Density Residential District
- (R-2) Medium Density Residential District
- (R-3) High Density Residential District
- (R-M) Mobile Home Residential District
- (C-1) Central Business District
- (C-2) General Commercial District
- (C-3) Highway Commercial District
- (F-1) Flex District
- (I-1) General Industrial District

### **Section 5.02 Districts; Boundaries and Official Zoning Map**

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

### **Section 5.03 Rules for Interpretation of District Boundaries on the Official Zoning Map**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shore line shall be construed as moving with the actual shore line;
6. 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.
7. Boundaries indicated as parallel to, or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) to (7) above, the Board of Zoning Adjustment shall interpret the district boundaries.
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
10. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.
11. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

### **Section 5.04 Land Use Categories Matrix Explanation**

The Matrix found in Section 5.06 of this Ordinance is a listing of uses that may be allowed within the variety of Zoning Districts.

1. The different uses are grouped into specific "Land Use Categories".
2. The "Land Use Categories" are listed in each of the Zoning Districts in lieu of specific uses. It is important to note,

if a “Land Use Category” is listed within a specific Zoning District, it DOES NOT indicate every use in the “Land Use Category” is allowed within the specific District.

The different uses within Section 5.06 are Permitted (P), Allowed upon approval of a Conditional Use Permit (C), Temporary (T) or not permitted (-).

In order to determine if a specific use is allowed in a Zoning District, the following steps need to be followed:

1. Find the Use Type that matches your application
2. Look across the table and determine which of the Zoning Districts it may be allowed.
3. Determine any special criteria for the use(s) by referring to the specific District.
4. Determine where the specific Zoning Districts are by reviewing the Official Zoning Map.
5. Determine the necessary procedures to receive required permits after the land or property is the control of the applicant.
6. When doubt, please confer with Planning staff.

The Table in Section 5.06 also lists Accessory Uses which may be allowed or not allowed in any specific Zoning District. The Accessory Use listing can be found at the end of the Table.

**Section 5.05 Annexation and Conformance with the Land Use Plan**

Areas annexed into the corporate limits of Bennet shall be zoned to conform to the Future Land Use Plan.

Section 5.06 Land Use Categories/Matrix

E= Exempt P = Permitted C = Conditional Use T = Temporary A = Accessory building or use "-" = Not permitted *1 = Floodplain regulations shall be met		TA-1 = Transitional Agriculture R-1 = Low Density Residential R-2 = Medium Density Residential R-3 = High Density Residential C-1 = Central Business District C-2 = General Commercial C-3 = Highway Commercial F-1 = Flex District I-1 = Industrial District										
Use Category	Use Type	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1	Additional Requirements
Agriculture & Horticulture Uses	Agricultural buildings for general ag. use	P	-	-	-	-	-	-	-	-	-	C
	Agricultural operations, other than LFOs	E	-	-	-	-	-	-	-	-	-	C
	Class I LFO	C	-	-	-	-	-	-	-	-	-	-
	Class II LFO	C	-	-	-	-	-	-	-	-	-	-
	Community Gardens	E	P	C	C	C	-	-	P	P	-	-
	Crop Production	E	-	-	-	-	-	-	-	-	-	C
	Livestock for 4-H purposes as a Secondary use	P	-	-	-	-	-	-	-	-	-	-
	Livestock sales	C	-	-	-	-	-	-	-	-	-	C
Agricultural Sales & Service	Wineries/Vineyards	C	C	-	-	-	-	-	C	-	-	-
	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for commercial use.	C	-	-	-	-	-	C	-	-	-	C
	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for personal use.	E	-	-	-	-	-	-	-	-	-	-
	Agricultural implement & vehicle sales and service	P	-	-	-	-	-	C	-	C	-	C
	Agricultural research farm	P	-	-	-	-	-	-	-	-	-	C
	Agricultural processing	P	-	-	-	-	-	-	-	-	-	C
	Agriculture feed mixing and blending, seed sales and grain handling operations	P	-	-	-	-	-	C	-	-	-	C
	Equestrian centers and stables	C	-	-	-	-	-	-	-	-	-	-
Residential Living	Horses and other non-commercial livestock on residential lots	E	-	-	-	-	-	-	-	-	-	-
	Dwelling, Cottage Court	-	-	P	P	-	-	-	-	-	-	-
	Dwelling, Courtyard Building	-	-	P	P	-	-	-	-	-	-	-
	Dwelling, Live-Work Unit	P	P	P	P	-	P	-	-	C	-	-
	Dwelling, Special Types	C	C	C	C	C	-	-	-	-	-	-
	Dwelling, Triple Stacked	-	-	P	P	-	-	-	-	C	-	-
	Multi-family dwelling (max. of 4 units per building)	-	-	P	P	-	C	C	C	C	-	-
	Multi-family dwelling (more than 4 units per building)	-	-	P	P	-	C	C	C	C	-	-
	Condominiums (max. of 4 units)	-	-	P	P	-	-	-	-	C	-	-
	Condominiums (4 units or more)	-	-	P	P	-	-	-	-	C	-	-
	Mobile Home Dwelling	P	-	-	-	P	-	-	-	-	-	-
	Mobile Home Dwelling as secondary dwelling	-	-	-	-	-	-	-	-	-	-	-
	Seasonal dwelling or cabins	P	-	-	-	-	-	-	-	-	-	-
	Single-family attached dwelling (max. of 4 units)	-	-	P	P	-	-	-	-	-	-	-
	Single-family attached dwelling (more than of 4 units)	-	-	P	P	-	-	-	-	-	-	-
	Single-family detached dwellings	P	P	P	P	P	-	-	-	-	-	-
	Two-family/Duplex	-	-	P	P	-	-	-	-	-	-	-
	Two Family Stacked	-	-	P	P	-	-	-	-	-	P	-
Upper story housing	-	-	-	-	-	-	P	C	-	P	-	
Accessory dwelling units	C	C	C	C	C	C	C	C	C	C	C	See Section 9.22
Short-term rentals	P	P	P	P	P	P	P	P	P	P	P	See Section 9.21
Residential/ Commercial Institutions	Adult care homes	C	-	P	P	P	P	P	-	-	-	-
	Assisted Living Facilities	C	-	P	P	-	C	C	C	-	-	-
	Bed and Breakfast	P	P	C	C	-	-	-	-	-	-	See Section 9.13
	Convents	C	-	C	C	-	-	-	-	-	-	-
	Emergency Residential Services/Shelters	C	-	P	P	P	P	P	P	-	-	-
	Group Care Home	C	-	P	P	P	P	P	P	-	-	-
	Group Home	C	-	P	P	P	P	P	P	-	-	-
	Hospice	C	-	P	P	P	P	P	P	-	-	-
	Life Care Facility	C	-	P	P	-	C	C	C	-	-	-
	Monasteries	C	-	C	C	-	-	-	-	-	-	-
	Nursing Homes	C	-	C	C	-	C	C	C	-	-	-
	Retirement Homes	C	-	C	C	-	C	C	C	-	-	-
Transitional housing	C	-	C	C	P	P	P	P	-	-	-	
Community Services/ Civic Uses	Animal shelters	C	C	-	-	-	C	C	C	C	C	C
	Cemetery	C	C	C	-	-	-	-	-	-	-	-
	Churches, synagogues, temples & similar	P	P	P	P	P	P	P	P	P	P	-
	Church, Storefront	-	-	-	-	-	C	C	C	C	C	-
	Community centers & buildings	C	-	C	C	-	P	P	P	P	-	-
	Fire and Rescue facilities	P	P	P	P	-	P	P	P	P	-	-
	Fraternal Organization	C	-	C	C	-	P	P	P	P	-	-
	Governmental offices and uses	P	-	P	P	-	P	P	P	P	-	-
	Law enforcement centers	P	-	P	P	-	P	P	P	P	-	-
	Public Libraries and museums	P	-	P	P	-	P	P	P	P	-	-
	Philanthropic Organizations	C	-	C	C	-	P	P	P	P	-	-
	Planetariums	C	-	-	-	-	-	-	P	P	-	-
	Senior citizen centers	C	-	C	C	-	P	P	P	P	-	-

**ARTICLE 5: ZONING DISTRICTS: LAND USE CATEGORIES AND ZONING MATRIX**

E= Exempt P = Permitted C = Conditional Use T = Temporary A = Accessory building or use "L" = Not permitted *1 = Floodplain regulations shall be met		TA-1 = Transitional Agriculture R-1 = Low Density Residential R-2 = Medium Density Residential R-3 = High Density Residential C-1 = Central Business District C-2 = General Commercial C-3 = Highway Commercial F-1 = Flex District I-1 = Industrial District										
Use Category	Use Type	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1	Additional Requirements
Treatment, Rehabilitation, Incarceration Facilities	Community correction centers	U										
	Drug & alcohol rehabilitation centers	U										
	Halfway houses	U										
	Public Detention Center	U										
	Juvenile Detention Center	U										
	Private Prisons	U										
	Public Prisons	U										
Day-Care, Public & Private Schools	Adult care home	P	P	P	P	P	P	P	P	U		
	Child Care Center	P	P	P	P	P	P	P	P	U		
	Child Care Home	P	P	P	P	P	P	P	P	U		
	Colleges and Universities	U										
	Day care centers	U										
	Family Child Care Home I	P	P	P	P	P	P	P	P	U		
	Family Child Care Home II	P	P	P	P	P	P	P	P	U		
	Preschools	U										
	Public & private schools (K-12)	U										
	Trade, career & technical schools	U										
Public Parks & Open Space	Arboretums	P	P	P	P	P	P	P	P			
	Athletic fields	U										
	Campground	U										
	Nature centers	U										
	Parks, trails, picnic areas, & playgrounds	P	P	P	P	P	P	P	P	P	P	
	State parks	P	P	P	P	P	P	P	P			
	Public pools and/or water parks	U										
Public/Private Utilities & Communication Services	Natural gas exploration and pumping	U										
	Natural gas depots	U										
	Private Wells	P										
	Wind Energy Conversion Sys. – Commercial/Utility Grade	C										See Section 9.07
	Public works facilities incl. storage/maintenance areas	P	P	P	P	P	P	P	P	P	P	
	Wireless telecommunication facilities sys. - new tower	C	C	C	C	C	C	C	C	C	C	See Section 9.03
	Wireless telecommunication facilities sys. - collocated	P	P	P	P	P	P	P	P	P	P	See Section 9.03
Radio and tower transmitter (Shortwave and Ham operations) (no offices)	P	C	C	U	C	C	C	C	C	C	C	See Section 9.17
Animal Care	Animal Shelter	C						C	C			P
	Kennel boarding or PET training	U						U	U			P
	Kennel, commercial	U						U	U			P
	Kennel, private	U										
	Pet cemetery	U										
	Pet crematorium	U										
	Pet grooming	P						P	P	P	P	P
Animal hospital	U						P	P	P	P	P	
Business and Household Services	Building maintenance & cleaning services	U						P	P	P	P	P
	Copying, printing, mailing, & packaging services	U						P	P	P	P	P
	Lawn, garden & yard maintenance services	U						P	P	P	P	P
	Locksmiths and key duplication	U						P	P	P	P	P
	Pest control services	U						C	C	C	P	P
	Small appliances & household equipment repair	U						P	P	P	P	P
	Well drilling/septic tank cleaning	U							C	C	P	P
Financial Services	Banks							P	P	P	P	
	Automatic Teller Machine (ATM)							P	P	P	P	
	Brokerages							P	P	P	P	
	Credit Unions							P	P	P	P	
	Insurance offices							P	P	P	P	
	Financial advisory services							P	P	P	P	
	Specialty loan services							P	P	P	P	
Food and Beverage Services	Banquet/reception facility	C						C	C	C	P	C
	Brew-on Premises Store							C	C	C	P	P
	Brewery	U						C	C	C	P	C
	Craft Brewery (Commercial)	U						P	P	P	P	C
	Catering service	U						P	P	P	P	C
	Donut and pastry shops							P	P	P	P	
	Mobile Food Units	T	T	T	T	T	T	T	T	T	T	T
	Restaurants	C						P	P	P	P	
	Roadside produce stands	T	T	T	T			T	T	T	T	T
	Sidewalk Café							P	P	P	P	
	Tavern or bar							P	P	P	P	
	Coffee houses, coffee shops							P	P	P	P	
	Brew pub							P	P	P	P	
	Micro-brewery (Commercial)							P	P	P	P	
Coffee kiosks	C						P	P	P	P		



ARTICLE 5: ZONING DISTRICTS: LAND USE CATEGORIES AND ZONING MATRIX

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Use Category	Use Type	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1	Additional Requirements
General Commercial	Antiques and collectables shop	P	P	P	P	P	P	P	P	P	P	
	Art galleries	P	P	P	P	P	P	P	P	P	P	
	Artisan production shop	P	P	P	P	P	P	P	P	P	P	
	Artist Studio	P	P	P	P	P	P	P	P	P	P	
	Bridal sales & services	P	P	P	P	P	P	P	P	P	P	
	Clothing & accessories	P	P	P	P	P	P	P	P	P	P	
	Computer hardware/software sales	P	P	P	P	P	P	P	P	P	P	
	Dance studios & schools	P	P	P	P	P	P	P	P	P	P	
	Electronic/appliance sales & service	P	P	P	P	P	P	P	P	P	P	
	Equipment sales/storage/rental	P	P	P	P	P	P	P	P	P	P	
	Equipment repair services	P	P	P	P	P	P	P	P	P	P	
	Fabric and sewing supply stores	P	P	P	P	P	P	P	P	P	P	
	Farmer's Market	P	P	P	P	P	P	P	P	P	P	
	Firearms and ammunition sales	C	C	C	C	C	C	C	C	C	C	
	Florists	P	P	P	P	P	P	P	P	P	P	
	Food store (specialty) including bakeries, meat lockers, butchers, delicatessen, not a full-service grocery	P	P	P	P	P	P	P	P	P	P	
	Funeral homes and mortuaries, including crematoriums	P	P	P	P	P	P	P	P	P	P	
	Garden center	C	C	C	C	C	C	C	C	C	C	
	Gift store	P	P	P	P	P	P	P	P	P	P	
	Grocery	P	P	P	P	P	P	P	P	P	P	
Hardware store	P	P	P	P	P	P	P	P	P	P		
Heating and cooling sales and services	P	P	P	P	P	P	P	P	P	P		
Lawn and garden equipment sales and service	P	P	P	P	P	P	P	P	P	P		
Photographic equipment & supplies	P	P	P	P	P	P	P	P	P	P		
Pottery store	P	P	P	P	P	P	P	P	P	P		
Religious book, card and articles stores	P	P	P	P	P	P	P	P	P	P		
Secondhand store, thrift or consignment store	P	P	P	P	P	P	P	P	P	P		
Self-service laundry and Laundromat	P	P	P	P	P	P	P	P	P	P		
Tanning Studio	P	P	P	P	P	P	P	P	P	P		
Taxidermy Services	P	P	P	P	P	P	P	P	P	P		
Special Commercial	Billiard halls	P	P	P	P	P	P	P	P	P	P	
	Commercial greenhouses	C	C	C	C	C	C	C	C	C	C	
	Business Center	P	P	P	P	P	P	P	P	P	P	
	Concrete and cinder block sales	P	P	P	P	P	P	P	P	P	P	
	Convenience store	P	P	P	P	P	P	P	P	P	P	
	Fencing dealers	C	C	C	C	C	C	C	C	C	C	
	Fireworks stands	T	T	T	T	T	T	T	T	T	T	
	Gasoline filling stations, including Self-Service	P	P	P	P	P	P	P	P	P	P	
	Liquor stores/sales	P	P	P	P	P	P	P	P	P	P	
	Monument sales	P	P	P	P	P	P	P	P	P	P	
	Motels and hotels	C	C	C	C	C	C	C	C	C	C	
	Nurseries, retail sales	P	P	P	P	P	P	P	P	P	P	
	Piercing Studio	P	P	P	P	P	P	P	P	P	P	
	Tattoo Parlor	P	P	P	P	P	P	P	P	P	P	
Vending Machines	A	A	A	A	A	A	A	A	A	A		
Vending Machine, Reverse	A	A	A	A	A	A	A	A	A	A		
Medical Uses	Acupuncture offices	P	P	P	P	P	P	P	P	P	P	
	Chiropractor offices	P	P	P	P	P	P	P	P	P	P	
	Dental offices incl. orthodontics	P	P	P	P	P	P	P	P	P	P	
	Massage therapy	P	P	P	P	P	P	P	P	P	P	
	Medical offices	P	P	P	P	P	P	P	P	P	P	
	Optical sales & services	P	P	P	P	P	P	P	P	P	P	
Rehabilitation facilities including out-patient services	P	P	P	P	P	P	P	P	P	P		
Office Uses	Accountant and investment counseling	P	P	P	P	P	P	P	P	P	P	
	Business offices	P	P	P	P	P	P	P	P	P	P	
	Consultant offices	P	P	P	P	P	P	P	P	P	P	
	Lawyer/Attorney offices	P	P	P	P	P	P	P	P	P	P	
	Photographic studios	P	P	P	P	P	P	P	P	P	P	
	Real Estate offices	P	P	P	P	P	P	P	P	P	P	
Utility and telephone company offices	C	C	C	C	C	C	C	C	C	C		
Recreational Commercial	Bowling alley	P	P	P	P	P	P	P	P	P	P	
	Commercial stables	C	C	C	C	C	C	C	C	C	C	
	Golf courses, public & private	C	C	C	C	C	C	C	C	C	C	
	Golf driving ranges	C	C	C	C	C	C	C	C	C	C	
	Gun clubs	C	C	C	C	C	C	C	C	C	C	
	Miniature golf courses	P	P	P	P	P	P	P	P	P	P	
	Paintball Course	C	C	C	C	C	C	C	C	C	C	
	Recreational facility, Indoor	C	C	C	C	C	C	C	C	C	C	
	Recreational facility, outdoor	C	C	C	C	C	C	C	C	C	C	
	Recreational vehicle (RV) Park	C	C	C	C	C	C	C	C	C	C	
	Riding Academies	P	C	C	C	C	C	C	C	C	C	
	Amusement arcade	P	P	P	P	P	P	P	P	P	P	

**ARTICLE 5: ZONING DISTRICTS: LAND USE CATEGORIES AND ZONING MATRIX**

E= Exempt P = Permitted C = Conditional Use T = Temporary A = Accessory building or use "- " = Not permitted *1 = Floodplain regulations shall be met		TA-1 = Transitional Agriculture R-1 = Low Density Residential R-2 = Medium Density Residential R-3 = High Density Residential C-1 = Central Business District C-2 = General Commercial C-3 = Highway Commercial F-1 = Flex District I-1 = Industrial District											
Use Category	Use Type	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1	Additional Requirements	
Auto Services/ Commercial	Auto body repair	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Automotive/machinery repair shop	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Automobile/truck sales, rental & leasing	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Automobile/truck washes, self-services or automatic	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Motor home dealers	-	-	-	-	-	-	U	U	U	P	P	See Section 9.12
	Motorcycle dealers, incl. moped and scooters	-	-	-	-	-	-	U	U	U	P	P	See Section 9.12
	Muffler sales & services	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Recreational vehicle sales & rentals	-	-	-	-	-	-	U	U	U	P	P	See Section 9.12
	Transmission repair shops	-	-	-	-	-	-	U	U	U	P	P	See Section 9.11
	Travel trailer dealers	-	-	-	-	-	-	U	U	U	P	P	See Section 9.12
	Vehicle Storage	-	-	-	-	-	-	-	U	U	P	P	
	Vehicle Storage, Long-term	-	-	-	-	-	-	-	U	U	P	P	
Trailer, RV, & boat storage	-	-	-	-	-	-	-	U	U	-	P		
Adult Uses	Adult Entertainment	P	-	-	-	-	P	P	P	P	P	See Section 9.19	
Warehousing & Storage	Fireworks storage	-	-	-	-	-	-	-	-	-	-	C	
	Mini warehousing & self-service storage	-	-	-	-	-	-	U	-	-	C	C	See Section 9.10
	Motor Freight Terminals	-	-	-	-	-	-	U	-	-	C	C	
	Outdoor Storage	-	-	-	-	-	-	U	-	-	-	P	
	Outdoor Storage Containers	-	-	-	-	-	-	U	-	-	-	P	
	Portable On-demand storage facilities	T	T	T	T	T	T	T	T	T	T	T	
	Warehouse and distribution	-	-	-	-	-	-	U	-	-	C	C	
	Warehousing (enclosed)	-	-	-	-	-	-	-	-	-	P	P	
	Warehousing (Open)	-	-	-	-	-	-	-	-	-	C	C	
Wholesale business and storage	-	-	-	-	-	-	-	P	P	P	P		
Contractors, Contractor Yards, Storage & Supply	Bulk materials or machinery storage (fully enclosed)	U	-	-	-	-	-	-	-	P	P		
	Carpenters	U	-	-	-	-	-	C	C	P	P		
	Carpet & rug cleaning plants	U	-	-	-	-	-	-	-	P	P		
	Construction batch plants	U	-	-	-	-	-	U	U	P	P		
	Construction yards incl. offices & equipment storage yards excl. heavy machinery	C	-	-	-	-	-	C	C	P	P		
	Electricians	U	-	-	-	-	-	P	P	P	P		
	Heating & ventilating contractors	U	-	-	-	-	-	P	P	P	P		
	Masons & bricklayers	U	-	-	-	-	-	P	P	P	P		
	Plumbers	U	-	-	-	-	-	P	P	P	P		
	Trade shops (incl. cabinet makers)	U	-	-	-	-	-	P	P	P	P		
Large Contracting/Materials Manufacturing	Asphalt contractors	-	-	-	-	-	-	-	-	-	-	P	
	Concrete block manufacturing	-	-	-	-	-	-	-	-	-	-	P	
	Concrete contractors	-	-	-	-	-	-	-	-	-	-	P	
	Concrete products	U	-	-	-	-	-	-	-	-	-	P	
	Excavating contractors	U	-	-	-	-	-	-	-	-	-	P	
	Heavy construction companies	U	-	-	-	-	-	-	-	-	-	P	
	Highway/street construction co.	U	-	-	-	-	-	-	-	-	-	P	
	Manufactured housing fabrication	U	-	-	-	-	-	-	-	-	-	P	
	Prefabricated buildings & components manufacturing	C	-	-	-	-	-	-	-	-	-	P	
	Wrecking & demolition contractors	U	-	-	-	-	-	-	-	-	-	P	
Food Processing	Bakery Products Manufacturing	-	-	-	-	-	-	-	-	-	-	P	
	Beverage Blending and Bottling (Except Breweries)	-	-	-	-	-	-	-	-	-	-	P	
	Coffee, Tea and Spice Processing and Packaging	-	-	-	-	-	-	-	-	-	-	P	
	Creamery and Dairy Operations	U	-	-	-	-	-	-	-	-	-	P	
	Dairy Products Manufacturing	U	-	-	-	-	-	-	-	-	-	P	
	Egg Processing Plants	C	-	-	-	-	-	-	-	-	-	P	
Mining & Excavation	Brick, firebrick and clay products manufacturing	C	-	-	-	-	-	-	-	-	-	-	See Section 9.15
	Monument & architectural stone manufacturing	C	-	-	-	-	-	-	-	-	-	-	
	Quarry	U	-	-	-	-	-	-	-	-	-	-	See Section 9.15
Metal Processing, Stamping	Culvert manufacturing	-	-	-	-	-	-	-	-	-	-	C	
	Welding	-	-	-	-	-	-	-	-	P	P		
	Wire Rope and Cable Manufacturing	-	-	-	-	-	-	-	-	-	-	C	
Waste Handling	Landfill, Construction Material	-	-	-	-	-	-	-	-	-	-	-	
	Landfill, Solid Waste	-	-	-	-	-	-	-	-	-	-	-	
	Recycling Center	U	-	-	-	-	-	U	U	-	-	C	
	Recycling Processing	U	-	-	-	-	-	-	-	-	-	C	
	Sanitary Transfer Station	C	-	-	-	-	-	-	-	-	-	C	

ARTICLE 5: ZONING DISTRICTS: LAND USE CATEGORIES AND ZONING MATRIX

E= Exempt P = Permitted C = Conditional Use T = Temporary A = Accessory building or use "- " = Not permitted *1 = Floodplain regulations shall be met		TA-1 = Transitional Agriculture R-1 = Low Density Residential R-2 = Medium Density Residential R-3 = High Density Residential C-1 = Central Business District C-2 = General Commercial C-3 = Highway Commercial F-1 = Flex District I-1 = Industrial District										
Use Category	Use Type	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1	Additional Requirements
Wood Products Manufacturing	Basket & hamper (wood, reed, rattan, etc.) manufacturing	P	P	P	P	P	P	P	P	P	P	
	Millwork manufacturing	P	P	P	P	P	P	P	P	P	P	
	Electronics manufacturing	P	P	P	P	P	P	P	P	P	P	
	Machinery manufacturing	P	P	P	P	P	P	P	P	P	P	
	Musical instruments manufacturing	P	P	P	P	P	P	P	P	P	P	
	Tool, die, gauge and machine shops	P	P	P	P	P	P	P	P	P	P	
	Wind turbine manufacturing	P	P	P	P	P	P	P	P	P	P	
General Manufacturing (High Hazard)	Grain Elevator and Storage Facilities	C	P	P	P	P	P	P	P	P	P	
	Salvage Operations	P	P	P	P	P	P	P	P	P	P	
	Scrap or Salvage Yards	P	P	P	P	P	P	P	P	P	P	See Section 9.08
	Waste Recovery Facilities – Commercial, Industrial & Residential	P	P	P	P	P	P	P	P	P	P	See Section 9.08
	Wood Preserving Treatment	P	P	P	P	P	P	P	P	P	P	
Accessory Uses	Barns	P	P	P	P	P	P	P	P	P	P	
	Bins, silos, grain storage	P	P	P	P	P	P	P	P	P	P	
	Grain Bins used as gazebos or other accessory uses	P	P	P	P	P	C	C	C	P	P	
	Decks, gazebos, patios (elevated or on-grade)	P	P	P	P	P	-	-	-	P	-	See Section 4.12
	Fences	P	P	P	P	P	P	P	P	P	P	See Section 9.04
	Freestanding canopy	P	P	P	P	P	-	-	-	P	-	See Section 4.12
	Fuel storage	P	-	-	-	-	P	P	P	C	P	
	Fuel tanks and dispensing equipment	P	-	-	-	-	P	P	C	P	P	
	Garages, Private	P	P	P	P	P	-	-	-	P	P	See Section 4.12
	Garage, Storage	P	P	P	P	P	-	-	-	P	P	See Section 4.12
	Carports	P	P	P	P	P	-	-	-	-	-	See Section 4.12
	Greenhouses, Non-commercial	P	P	P	P	P	-	-	-	-	-	See Section 4.12
	Home Occupations	P	P	P	P	P	-	-	-	-	-	See Section 9.01 and 9.02
	Home based Businesses	P	P	P	P	P	-	-	-	-	-	See Section 9.01 and 9.02
	Portable on-demand storage containers	T	T	T	T	T	T	T	T	T	T	See Section 9.14
	Porch, unenclosed	P	P	P	P	P	-	-	-	-	-	See Section 4.12
	Storage sheds	P	P	P	P	P	-	-	-	-	-	See Section 4.12
	Storage building using multiple storage containers	-	-	-	-	-	-	-	-	-	-	
	Swimming pools	P	P	P	P	P	-	-	-	-	-	
	Tennis courts	P	P	P	P	P	-	-	-	-	-	
Solar energy systems for use on individual properties or buildings	C	C	C	C	C	C	C	C	C	C	C	See Section 9.09
Wind Energy Conversion System	C	C	C	C	C	C	C	C	C	-	C	See Section 9.06

**Section 5.07 TA-1: Transitional Agricultural District**

**5.07.01 Intent:**

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

**5.07.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.07.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the TA-1 District as recommended by the Planning Commission and approved by the City Council.

**5.07.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.07.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Article 4 for more detail.

**5.07.06 Height and Lot Requirements:**

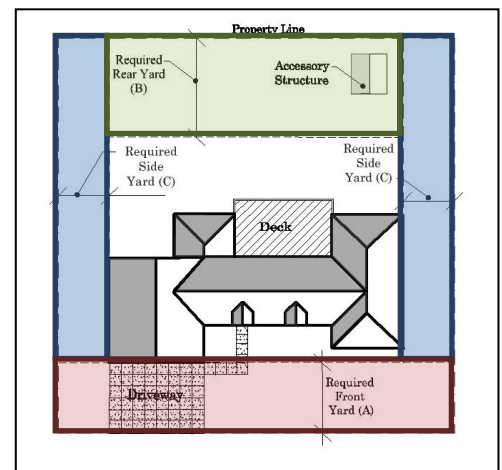
The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)	Max. Height (feet)	Max. Building Coverage (%)****
Single-family dwelling	3	250	50	50	20	35	20
Other Permitted Uses	3	250	50	50	20	35	20
Conditional Uses	3	250	50	50	20	35	20
Accessory Structures	-	-	50	10	10	35	-

- \* Front yard setback shall be 83 feet from the centerline of a County Road or shall be 50 feet when abutting any other platted street, road or highway.
- \*\* Rear yard setback shall be 83 feet from the centerline of a County Road or shall be 50 feet abutting any other platted street, road or highway or interior property line.
- \*\*\* Side yard setback shall be 53 feet from the centerline of a County Road or shall be 20 feet when abutting any other platted street, road, or highway or interior property line.
- \*\*\*\* Percentage applies to the buildable area of the lot.

**5.07.07 Other Applicable Provisions:**

1. The following uses shall be a minimum of 2,640 feet from any residential, commercial, industrial, or public use, as measured from the nearest point on the lot line.
  - a. Commercial auction yards or barns.
  - b. Commercial production and husbandry of poultry, fish, and small animals.
  - c. Commercial feedlots.
  - d. Mining and extraction of natural resources.
  - e. Feed mills.
  - f. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards.
  - g. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.
2. No new residential, commercial, industrial, or public use shall be located nearer than 3,960 feet to any existing use listed in Section 5.07.07 (1).



**Section 5.08 R-1 Low Density Residential**

**5.08.01 Intent:**

This district is intended to provide for low-density residential neighborhoods, characterized by single-family dwellings on large lots with supporting community facilities. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.

**5.08.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.08.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-1 District as recommended by the Planning Commission and approved by the City Council.

**5.08.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.08.05 Accessory Uses and Structures:**

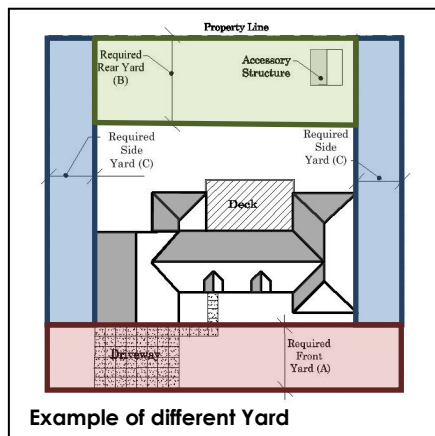
Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.08.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)**	B Rear Yard (feet)***	C Side Yard (feet)****	Max. Height (feet)	Max. Building Coverage (%)
Single-family dwelling detached	10,000*	80	30	30	10	35	75
Other Permitted Uses	10,000*	80	30	30	10	35	75
Conditional Uses	10,000*	80	30	30	10	35	75
Accessory Structures	-	-	30	10	10	35	-

- \* If lot is not connected to municipal water, then the minimum lot size shall be 3 acres.
- \*\* Front yard setback shall be 83 feet from the centerline of a County Road or shall be 50 feet when abutting any other platted street, road of highway.
- \*\*\* Rear yard setback shall be 83 feet from the centerline of a County Road or shall be 50 feet abutting any other platted street, road of highway or interior property line.
- \*\*\*\* Side yard setback shall be 53 feet from the centerline of a County Road or shall 20 feet when abutting any other platted street, road, or highway or interior property line.
- \*\*\*\*\* When a lot is a corner lot the street side yard shall be a minimum of 50 feet.



Example of different Yard

**Section 5.09 R-2 Medium Density Residential District**

**5.09.01 Intent:**

This district is intended to provide for medium density residential neighborhoods, characterized by single-family, two-family dwellings, and apartment units on small to moderately sized lots with supporting community facilities.

**5.09.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.09.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-2 District as recommended by the Planning Commission and approved by the City Council.

**5.09.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.09.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.09.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)**	B Rear Yard (feet)	C Side Yard (feet)*****	Max. Height (feet)	Max. Building Coverage (%)*****
Single-family dwelling	7,000	60***	20	20*****	5	35	40
Single-family attached (2 units only)	4,000/unit	60/unit*	20	20*****	5*	35	40/unit
Two-family dwelling/duplex	4,000	120	20	20*****	5	35	40
Condominium and Townhouses (more than 2 units)	2,500/unit	18/unit****	20	20*****	5*	35	40
<b>Multi-family</b>	<b>Per Unit</b>						
1-story	4,000	100	20	10	5	35	40
2-story	2,500	100	20	10	10	35	40
3-story	1,500	100	20	10	20	35	40
Other Permitted Uses	7,000	100	20	10	5	35	40
Conditional Uses	7,000	60***	20	10	5	35	40
Accessory Structures	-	-	40	5	5	15	-

\* The minimum lot width for Townhouses and Condominiums with more than two units shall be 20 feet for interior units and 40 feet for the exterior units. See Section 5.09.07 see addition requirements.

\*\* See Section 4.09.05

\*\*\* Minimum Lot Width shall be 60 feet for an interior lot; 75 feet for a corner lot; or 45 feet when facing a cul-de-sac or curve.

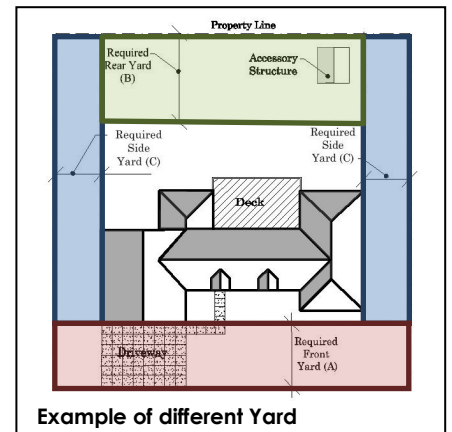
\*\*\*\* The units on each end shall have a minimum lot width of 50 feet.

\*\*\*\*\* See Section 4.12.09

\*\*\*\*\* Percentage applies to the buildable area of the lot

**5.09.07 Supplemental Residential Regulations**

1. Single-family Attached/Townhouses and Condominiums
  - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
  - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
  - C. Each unit shall be serviced by separate facilities.
  - D. No more than three units shall be connected in this district.





**Section 5.10 R-3 High Density Residential District**

**5.10.01 Intent:**

This district is intended to provide for higher density residential neighborhoods, characterized by single-family, two-family dwellings, and apartment units on small to moderately sized lots with supporting community facilities.

**5.10.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.10.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the R-3 District as recommended by the Planning Commission and approved by the City Council.

**5.10.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.10.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.10.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)**	B Rear Yard (feet)	C Side Yard (feet)*****	Max. Height (feet)	Max. Building Coverage (%)*****
Single-family dwelling	4,500	50	20	20*****	5	35	50
Single-family attached (2 units only)	2,500/unit	50/unit*	20	20*****	5*	35	50/unit
Two-family dwelling/duplex	2,500/unit	100	20	20*****	5	35	50
Condominium and Townhouses (more than 2 units)	2,500/unit	18/unit****	20	20*****	5*	35	50
<b>Multi-family</b>	<b>Per Unit</b>						
1-story	3,000	100	20	25	5*	35	50
2-story	2,500	100	30	25	10	35	45
3-story	1,500	100	35	30	15	35	40
Other Permitted Uses	4,500	50	20	10	5	35	50
Conditional Uses	4,500	50	20	10	5	35	50
Accessory Structures	-	-	20	5	5	-	20

\* The minimum lot width for Townhouses and Condominiums with more than two units shall be 20 feet for interior units and 40 feet for the exterior units. See Section 5.09.07 see addition requirements.

\*\* See Section 4.09.05

\*\*\* Minimum Lot Width shall be 60 feet for an interior lot; 75 feet for a corner lot; or 45 feet when facing a cul-de-sac or curve.

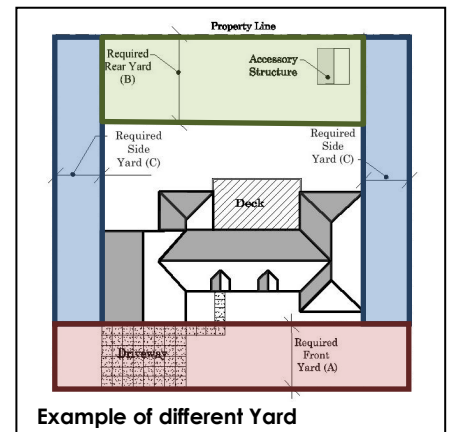
\*\*\*\* The units on each end shall have a minimum lot width of 50 feet.

\*\*\*\*\* See Section 4.12.09

\*\*\*\*\* Percentage applies to the buildable area of the lot

**5.10.07 Supplemental Residential Regulations**

1. Single-family Attached/Townhouses and Condominiums
  - A. Common wall shall have a zero-lot line setback and be located on the property line separating both dwellings.
  - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
  - C. Each unit shall be serviced by separate facilities.
  - D. No more than three units shall be connected in this district.



Example of different Yard

**Section 5.11 RM Mobile Home Residential District**

**5.11.01 Intent:**

This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivisions, along with the supporting services necessary to create quality residential neighborhoods.

**5.11.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.11.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the RM District as recommended by the Planning Commission and approved by the City Council.

**5.11.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.11.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.11.06 Special Design Criteria for this District**

1. A mobile home development shall have a lot area of not less than two acres. No mobile homes or other structures shall be located less than 65 feet from the road centerline when contiguous to or having frontage to a County Road or 25 feet when contiguous from a State Highway. The setback on all other court property lines shall be 10 feet. These areas shall be landscaped. The minimum lot depth in a mobile home court shall be 200 feet.
2. Each lot provided for occupancy of a single mobile home dwelling shall have an area of not less than 4,000 square feet, excluding road right-of-way, and a width of not less than 40 feet. Each individual lot shall have:
  - a. Side yard setback (C) shall not be less than five feet, except that on corner lots, the setback for all buildings shall be a minimum of 25 feet on the side abutting a street/road.
  - b. Front yard setback (A) shall not be less than 25 feet.
  - c. Rear yard setback (B) of not less than 25 feet.
3. There shall be a minimum livable floor area of 500 square feet in each mobile home.
4. Height of buildings shall be:
  - a. Maximum height for principal uses shall be 35 feet.
  - b. Maximum height for accessory uses shall be 10 feet.
5. Each lot shall have access to a hard surfaced drive not less than 24 feet in width, excluding parking.
6. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with design standards for the City. The water supply shall be sufficient for domestic use and for fire protection.
7. Service buildings including adequate laundry and drying facilities. Common toilet facilities for mobile homes which do not have these facilities within each unit may be provided.
8. Storm shelters shall be required and shall meet the following criteria:
  - a. Shelter space equivalent to two persons per mobile home lot,
  - b. Designed in conformance with "National Performance Criteria for Tornado Shelters" by the Federal Emergency Management Agency (FEMA) and any other referenced material by FEMA,
  - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.
9. All trailer pad locations shall be hard surfaced with properly reinforced poured in place concrete.
10. Not less than 10 percent of the total court area shall be designated and used for park, playground and recreational purposes.

11. Each mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than 150 square feet.

**5.11.07 Special Requirements**

1. All lots must be platted in accordance with the Subdivision Ordinance of the City of Bennet and shall also contain the following information:
  - a. A complete plan of the mobile home development shall be submitted showing:
  - b. A development plan and grading plan of the court.
  - c. The area and dimensions of the tract of land.
  - d. The number, location, and size of all mobile home spaces.
  - e. The area and dimensions of the park, playground and recreation areas.
  - f. The location and width of roadways and walkways.
  - g. The location of service buildings and any other proposed structures.
  - h. The location of water and sewer lines and sewage disposal facilities.
  - i. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

**5.11.08 Supplemental Residential Regulations**

1. Townhouses and Condominiums
  - A. Common wall shall have a zero-lot line setback and shall be located on the property line separating both dwellings.
  - B. Each unit is separated by a two-hour fire rated wall from the lowest level and continuing through the roof structure.
  - C. Each unit shall be serviced by separate facilities.
  - D. No more than three units shall be connected in this district.

**Section 5.12 C-1 Central Business District**

**5.12.01 Intent:**

This district is intended to provide appropriate development regulations for Central Business District of Bennet. Mixed uses are encouraged within the C-1 District, without allowing activities which would have a negative effect on the town center. The grouping of uses is designed to strengthen the town center's role as a center for trade, service, and civic life.

**5.12.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.12.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-1 District as recommended by the Planning Commission and approved by the City Council.

**5.12.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.12.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.12.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	0	0	0	45	100
Conditional Uses	-	-	0	0	0	45	100
Accessory Structures	-	-	0	0	0	-	10

\* None, except that when adjacent to any residential district, the Side Yard setback shall be 10 feet, except when separated by an alley.

\*\* None, except that when adjacent to any residential district, the Rear Yard setback shall be 25 feet, except when separated by an alley.

**5.12.07 Use Limitations:**

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet or six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.04.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and/or District and so that no glare is visible to any traffic on any public street.
4. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
5. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
6. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.

**Section 5.13 C-2 General Commercial District**

**5.13.01 Intent:**

This district is applied to parcels considered to be in a general location within the community that are neither downtown nor highway oriented. The district permits a mixture of uses.

**5.13.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.13.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-2 District as recommended by the Planning Commission and approved by the City Council.

**5.13.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.13.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.13.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	4,000	50	25	25	10	45	50
Conditional Uses	4,000	50	25	25	10	45	50
Accessory Structures	-	-	25	10	10	-	10

\* The front yard setback of 25 feet only required when no parking is present in the front yard. If parking is located in the front yard then the front yard setback shall be increased to 50 feet.

\*\* See Section 4.21

**5.13.07 Use Limitations:**

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet of six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.04.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
4. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
5. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
6. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
7. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
8. 35% of the required front yard shall be maintained in landscaping.
9. Lots along the highways shall be required to gain access through a paved service road.

**Section 5.14 C-3 Highway Commercial District**

**5.14.01 Intent:**

This district is applied to parcels along Nebraska Highway 43. The district permits a mixture of uses. Uses will tend to serve the traveling public or larger commercial properties needing space for parking and turning.

**5.14.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.14.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the C-3 District as recommended by the Planning Commission and approved by the City Council.

**5.14.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.14.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.14.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	10,000	75	25	25	10	35	50
Conditional Uses	10,000	75	25	25	10	35	50
Accessory Structures	-	-	25	10	10	15	-

\* The front yard setback of 25 feet only required when no parking is present in the front yard. If parking is located in the front yard then the front yard setback shall be increased to 50 feet.

**5.14.07 Use Limitations:**

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet or six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.04.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
4. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
5. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
6. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
7. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
8. 35% of the required front yard shall be maintained in landscaping.
9. Lots along the highways shall be required to gain access through a paved service road.



**Section 5.15 F-1 Flex District**

**5.15.01 Intent:**

It is the intent of the Flex District Regulations to provide standards for area suitable for some limited industrial, commercial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to avoid incompatible land uses, to serve these areas with adequate transportation facilities, and to prevent or mitigate hazards to adjacent properties.

**5.15.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.15.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the F-1 District as recommended by the Planning Commission and approved by the City Council.

**5.15.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.15.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.15.06 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	-	-	0	0	0	45	100
Conditional Uses	-	-	0	0	0	45	100
Accessory Structures	-	-	0	0	0	-	10

\* None, except that when adjacent to any residential district, the Side Yard setback shall be 10 feet, except when separated by an alley.

\*\* None, except that when adjacent to any residential district, the Rear Yard setback shall be 25 feet, except when separated by an alley.

**5.15.07 Use Limitations:**

- When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
- When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet or six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.04.
- Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
- Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
- All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
- Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
- Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
- Lots along the highways shall be required to gain access through a paved service road.

**Section 5.16 I-1 Industrial District**

**5.16.01 Intent:**

This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.

**5.16.02 Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

**5.16.03 Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the I-1 District as recommended by the Planning Commission and approved by the City Council.

**5.16.04 Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.22.

**5.16.05 Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures, as well as Table 5.06 and Sections within Article 4 for more detail.

**5.16.05 Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows unless otherwise noted:

Use	Lot Area (Sq. Ft.)	Lot Width (feet)	A Front Yard (feet)*	B Rear Yard (feet)**	C Side Yard (feet)*	Max. Height (feet)	Max. Building Coverage (%)
Permitted Uses	20,000**	80	50	20	10	-	50
Conditional Uses	20,000**	80	50	20	10	-	50
Accessory Structures	-	-	-	-	-	-	20

\* The front yard setback of 25 feet only required when no parking is present in the front yard. If parking is located in the front yard then the front yard setback shall be increased to 50 feet.

**5.16.07 Use Limitations:**

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within 15 feet of such residential district.
2. When adjacent to any residential district, new construction shall provide permanent screen with a height of six feet or six feet four inches if a fence, in order to minimize impacts on residentially zoned property, pursuant to Section 9.04.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
4. When adjacent to an alley, the width of the alley shall be included in computing the minimum rear yard setback.
5. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
6. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring fence permanently maintained at least six feet in height.
7. Openings to structures on sides adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise or other adverse effects on residential properties.
8. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.

**5.16.08 Performance Standards:**

See Section 9.05 of the Supplemental Regulations.

**Section 5.17 PUD: Planned Unit Development District****5.17.01 Purpose:**

The purpose of the Planned Unit Development (PUD) District is to offer an alternative zone to permit multiple uses within a single use district, which are at variance with the area zoning requirements. This section is intended to permit flexibility of site design, architecture for the conservation of land and open space through clustering of buildings and activities and as an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by waiving provisions of this Ordinance including uses, setbacks, heights, and similar regulations. Planned Unit Developments (PUD) are characterized by central management, integrated planning, and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

**5.17.02 Intent:**

Planned Unit Developments shall include all development having two or more principal uses or structures on a single parcel of land; and may include town homes, apartments involving more than one building, residential subdivision submitted under cluster zoning provisions, multi-use structures such as an apartment building with retail at ground floor level, commercial development, industrial development, mixed residential and commercial development, and similar projects.

**5.17.03 PUD Definitions:**

**Building coverage area** is the area covered by building(s) or structure(s) on each individual lot or parcel (not including such impervious improvements such as but not limited to walkways, driveways, patios etc.).

**Net developable area** shall be the area of each parcel and the net of any required yard required under the Development Plan. The Development Plan shall reflect the calculations used to demonstrate compliance with this requirement.

**Common Area** shall be defined as playgrounds, street medians, landscaped green space, or other similar areas designed to be used by the residents of the development in common with each other.

**Common Areas** for the leisure and recreation of development residents shall be owned and maintained in common by them, through a homeowner's association.

**Useable Open Space** shall mean the net area used for open space calculation which has at least one means of ingress and egress to a public street. The net area contains no slope greater than 10 percent in any direction of the portion used for calculation. The area is to be dedicated to the public for use and enjoyment. Connecting existing pedestrian access to the area must be provided by the developer.

**5.17.04 General Requirements:**

1. The Planning Commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD plan approval, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.
  - A. Said PUD shall be in general conformity with the provisions of the City of Bennet Comprehensive Plan.
  - B. Said PUD shall not have an adverse effect on the development of the neighboring area.
  - C. The minimum overall area required for a PUD District by type of use shall be as follows: Residential (only), three acres; Residential - Commercial (combination), five acres.
  - D. Height, bulk, and yard requirements shall be reflected on the Development Plan and shall promote an efficient and creative use of land.
2. Use Limitations: In a PUD no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in this District. All uses must be approved as shown on the Development Plan as specified in this division.
3. Standards and conditions for development: A development proposed for land classified as the PUD district shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the Development Plan shall, where applicable, reflect compliance.
  - A. The applicant shall satisfy the Planning Commission and City Council that there is the ability to carry out the proposed plan, including financial assurances and the phasing of the project, and shall prepare and submit a schedule of construction, if necessary. The proposed construction shall begin

within a period of 12 consecutive months following the approval of the final application by the City Council. A minimum of 50 percent of the total planned construction shown on the final plan shall be completed within a period of five years following such approval or the approval shall expire. If the approval expires under this section, the applicant shall show good cause to the City Council to extend the plan approval.

- B. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the Development Plan and to protect the public interest in the event of abandonment of said plan before completion.
- C. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
- D. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
- E. The entire tract or parcel of land to be occupied by the PUD shall be held in single ownership or control, or if there are two or more owners, the application for such PUD shall be filed jointly by all owners. This provision may be waived provided that the land contains existing improvements.
- F. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a PUD not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved as shown on the Development Plan.
- G. Off-street parking and loading shall be provided in accordance with the parking and loading regulations of the City of Bennet.
- H. When a commercial use within a PUD District abuts a residential district, the Development Plan shall reflect screening consisting of landscaping and/or fencing provided adjacent to any adjoining residential district, except in the event the adjacent residential use and the commercial use are separated by a street right-of-way.
- I. All residential and commercial buildings shall set back not less than 25 feet from the perimeter of the land zoned PUD. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission for protection of health, safety, and general welfare.
- J. Building coverage area shall not exceed the following percentages of the net developable area of each individual parcel of the total development:
  - 1) Residential: 60 percent maximum.
  - 2) Commercial: 50 percent maximum.
- K. A minimum of 20 percent of the net area of a PUD reserved for residential use, shall be provided for Common Areas, of which a minimum net area of 10 percent shall be useable open space.
- L. The PUD District shall include such provisions for the ownership and maintenance of the Common Areas as are reasonably necessary to ensure its continuity, care, conservation, and maintenance, and to ensure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community. The applicant shall submit any protective covenants and organizational documents of the homeowner's association with the Development Plan.
- M. No residential use shall have direct access onto an arterial street unless approved by the City Council in the Development Plan.
- N. Any commercial use must reflect its traffic flow on the Development Plan. All commercial areas must have indirect access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
- O. Pedestrian Access. Sidewalks shall be built to City specifications along all public and private streets within the City Right-of-Way (ROW). An alternative surface may be used for pedestrian access within the PUD when it is not placed in the ROW and is not maintain by the City of Bennet. Connections to useable open space shall be provided by the developer and noted on the development plan.

**5.17.05 Application for approval of Planned Unit Development:**

1. An application for a PUD shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes
2. The applicant shall prepare and submit three copies; plus, one electronic copy of the "Development Plan" of the proposed development in the PUD District for review and approval by the Planning Commission.
3. The Development Plan shall include:
  - A. A drawing of the property legally surveyed and stamped by a Registered Land Surveyor in the State of Nebraska.
  - B. A site plan showing:
    - 1) Contours at intervals of two feet or spot elevations on a 100 foot grid shall be required on flat land (where contours at the two foot interval will not be present on a drawing);
    - 2) Location, size, height, and use of all proposed structures and proposed yards on each lot;
    - 3) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
    - 4) All streets adjoining subject property and the width of the existing right-of-way;
    - 5) Areas set aside for Common Areas with the type of use or recreational facilities planned for each;
    - 6) Designation of individual parcels if the proposed development is to be set up in separate construction phases;
    - 7) Designation of individual lots if such lots are proposed to be sold to individual owners;
    - 8) Location of required screening;
    - 9) Location of natural features such as ponds, tree clusters, and rock outcropping;
    - 10) Existing development on adjacent properties within 300 feet.
  - C. The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
    - 1) Net area in square feet of the development.
    - 2) Density of dwelling units per acre or the total dwelling units for the entire plan.
    - 3) Building coverage of the net area or the development by individual parcel or total development.
    - 4) The percentage of the Development Plan provided for common area as defined by this regulation.
    - 5) If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
    - 6) Required number of parking spaces and location.
    - 7) Gross floor area proposed for commercial buildings.
    - 8) All proposed land uses shall be listed by parcel.
  - D. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - E. The full legal description of the boundaries of the property or properties to be included in the PUD and shown on an official land survey as required.
  - F. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed PUD.
  - G. An elevation drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
  - H. When a PUD includes provisions for common space and/or recreational facilities, a statement describing how such open space and/or facility will be owned and maintained when not under the ownership of a governmental entity. A homeowner association or other controlling entity shall provide the City of Bennet with copies of the proposed articles of incorporation and bylaws of such entity.
3. The Planning Commission shall meet within 45 days of a complete application being filed. Plans shall be filed with the City at least 28 days prior to a scheduled Planning Commission meeting. After the application for a PUD is filed, the Planning Commission shall hold a public hearing on said development after giving required notice for hearings in amendments. After the conclusion of said public hearing, the planning commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the Development Plan complies with those regulations, together with its recommendations in respect to the action to be taken on the Development Plan and PUD requirements. The planning commission may recommend disapproval, approval, or approval with

amendments, conditions, or restrictions.

4. The City Council shall or shall not approve the Development Plan and authorize the submitting of the final Development Plan.
5. Substantial modifications in the preliminary plat and PUD design shall only be made after rehearing and re-approval unless the modifications were required by the Planning Commission and/or the City Council.

**5.17.06 Application for approval of Planned Unit Development:**

1. After approval of a Development Plan and prior to the issuance of any building permit or zoning permit, the applicant shall submit an application for final approval with the PUD Compliance Review Committee (CRC). The PUD CRC shall consist of two members each of the Bennet Planning Commission and Bennet City Council or their designated representative, the Bennet City Engineer or their designated representative; and/or any other individual deemed necessary to the review process. This committee will be assembled only on an as needed basis. Said final application may include the entire PUD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include three copies; plus, one electronic copy of such drawings, specifications, covenants, easements, conditions, and any other conditions including but not limited to performance bonds. As set forth in the approval of the Development Plan preliminary plan and in accordance with the conditions established in this Ordinance for a PUD District. The final plan shall include the same information, as the preliminary plan except the following shall also be provided:
  - A. A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
  - B. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
  - C. All easements and appropriate building setback lines;
  - D. All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
  - E. Lot and/or parcel numbers;
  - F. Location, size, height, and use of all proposed or present buildings;
  - G. Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
  - H. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
2. A plan submitted for final approval shall be deemed to be in substantial performance with the plan previously given tentative approval, provided any modification of the Development Plan does not:
  - A. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the relocation of such area; nor
  - B. Increase by more than 10 percent the floor area proposed for nonresidential use; nor
  - C. Increase by more than five percent the total ground area covered by buildings or the height of buildings.
  - D. Substantial performance of the design and plan shall be adhered to, so as not to alter:
    - 1) Pedestrian or vehicular traffic flow.
    - 2) The juxtaposition of different land uses.
    - 3) The relation of open space to residential development.
    - 4) The proposed phasing of construction.
    - 5) Proposed use of one or more buildings to a more intensive use category as delineated in this Ordinance.
3. A public hearing shall be held for the approval of a final plan. The Planning Commission shall review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
4. In the event that the final plan submitted contains changes in excess of those permitted under Subparagraph (2) above, applicant shall resubmit the original plan. The Development Plan shall be modified in the same manner prescribed in this division as for original approval.

**5.17.07 Enforcement and Modification of Plan:**

To further the mutual interest of the residents and owners of the PUD and of the public in the preservation of the integrity of the PUD plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor

result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:

1. The use of land and the use, bulk, and location of buildings and structures; and
2. The quality and location of common space; and
3. The intensity of use or the density of residential units shall run in favor of the City and
4. Shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law. The development of any land pursuant to an approved Development Plan shall be constructed in accordance with the requirements of Section 5.18 and the approved Development Plan.

**5.17.08 Amendments:**

The PUD District agreement or an approved Development Plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowner's association or 51 percent of the owners of the property within the PUD District.

**5.17.09 Platting:**

For unplatted tracts or tracts being replatted, the approval of the Development Plan shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations.

**5.17.10 Fees:**

1. Development Plan, filing fee shall be set by the City Council by separate ordinance;
2. Final plan, filing fee shall be set by the City Council by separate ordinance.  
These fees are separate and do not include any Preliminary Plat, Final Plat, Future Land Use Map Amendment and/or Change of Zone Fees required by the City of Bennet.



## **Article 6: Conditional Use Permits**

### **Section 6.01 General Provisions**

The City Council may authorize and permit a conditional use as designated in the use regulations of each district, after the following:

1. Planning Commission Public Hearing,
2. Referral by the Planning Commission; and
3. City Council Public Hearing

Approval or denial shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The City Council may grant or deny a Conditional Use Permit in accordance with the intent and purpose of this ordinance.

In granting a conditional use permit, the City Council may:

1. Authorize the use and
2. Shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the implementation of the identified conditional use permit.

### **Section 6.02 Application for Conditional Use Permit**

A request for a conditional use permit or modification of a Conditional Use Permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose.

The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

The application shall be accompanied with a non-refundable fee as established by the City Council.

### **Section 6.03 Public Hearing**

Before issuance of any conditional use permit, both the Planning Commission and City Council shall hold a Public Hearing after proper and legal notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the City of Bennet, one time at least 10 days prior to such hearing.

The City Council will consider the application for the Conditional Use Permit together with the recommendations of the Planning Commission.

### **Section 6.04 Decisions**

A majority vote of the City Council shall be necessary to grant a Conditional Use Permit.

The applicant shall have 12 months from the approval of the Conditional Use Permit to commence the use, unless the City Council specifically grants a longer period of time upon the recommendation of the City Planning Commission. If the use stated within the Conditional Use Permit has not been commenced within 12 months, or approved time period, said Permit shall become invalid and any activity shall be required to apply for a new Conditional Use Permit.

All decisions by the City Council and the recommendations of the Planning Commission shall be required to provide findings of fact for their decision for either approval or denial.

**Section 6.05 Transferability**

Any approved Conditional Use Permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

1. the conditions of the granted permit,
2. The use shall not change or be expanded unless a new Conditional Use Permit is approved,
3. Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

**Section 6.06 Revocation**

Any approved Conditional Use Permit may be revoked for failure to comply with the conditions approved by the City Council. Revocation shall require that the City notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a Public Hearing to be scheduled by the City Council, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the City Council shall revoke the permit and order the use to cease and desist.

Failure to follow a Cease and Desist order shall cause action to be filed by the City Attorney in District Court.

Revocation may also occur, if the City documents that the use has ceased operations for 12 consecutive months. The City shall notify the applicant of the revocation in writing. The permit shall become invalid within 30 days.

**Section 6.07 Standards**

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

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

## **Article 7: Parking Requirements**

### **Section 7.01 Purpose**

The Off-Street Parking Regulations require developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

### **Section 7.02 Off-Street Automobile Storage**

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the uses or similar uses found in Section 7.03.
2. Off-street automobile storage or standing space shall be provided with vehicular access to a street or an alley.
3. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
4. All parking spaces for single-family, two-family, and multi-family dwellings, rooming and boarding houses, convalescent homes, and mobile homes shall be either gravel or paved with asphalt or concrete.
5. In Districts R-1 and R-2 required off-street parking for residential uses shall be provided on the lot on which the use is located. In all other districts, if the vehicle storage space or standing space required in section 7.03 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and City Council, the City Council may permit such space to be provided on another off-street property, provided such space lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
6. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
7. Some uses may require two different use types to be calculated together in order to determine the total parking requirement, i.e. primary schools may require one calculation for classrooms and another for assembly areas.
8. The parking requirements herein do not apply to the C-1 Central Business District.
9. All off-street parking conditions shall meet the ADA requirements in Section 7.05 of this Ordinance.

**Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements**

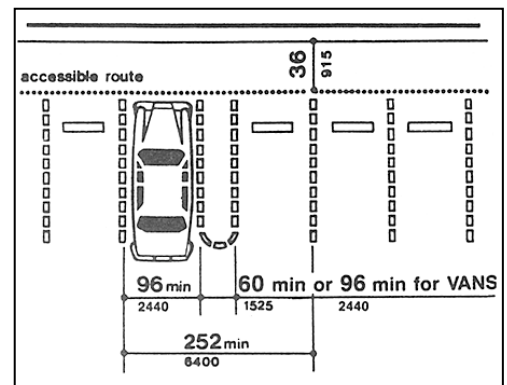
Uses	Parking Requirements	Loading Requirements
<b>Commercial and Office including but not limited to:</b>		
Agricultural Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Auditoriums/Stadiums/Arenas	1 space/4 seats in main assembly area	None required
Automotive Rental/Sales	1 space/500 s.f. of gross floor area	1 space/establishment
Automotive Servicing	4 spaces/repair stall	None required
Boarding Houses/Bed and Breakfasts	1 space/rental units	None required
Body Repair	5 spaces/repair stall	None required
Bowling Alleys	4 spaces/alley plus 1 space per 2 employees	1 space/establishment
Campground	1 space/camping unit	None required
Child Care Centers	1 space/employee + 1 space or loading stall/each 5 persons of licensed capacity	None required
Churches, Synagogues, and Temples	1 space/4 seats in main worship area	None required
Clubs, including Fraternal Organizations	1 space/500 s.f. of gross floor area	None required
Commercial Recreation	1 space/2 persons of licensed capacity	1 space/establishment
Communication Services	1 space/500 s.f. of gross floor area	1 space/establishment
Construction Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Dance Hall, Skating Rink	1 space/100 square feet of floor area + 1 space/2 employees	None required
Educational Uses, Primary Facilities	2 spaces/classroom	2 spaces/structure
Educational Uses, Secondary Facilities	8 spaces/classroom + 1 space/employee on largest shift	2 spaces/structure
Equipment Rental/Sales	1 space/500 s.f. of gross floor area	1 Space/establishment
Food Sales (limited)	1 space/300 s.f. of gross floor area	1 space/establishment
Food Sales (general)	1 space/200 s.f. of gross floor area	2 spaces/establishment
Funeral Homes, Mortuaries and Chapels	8 spaces/reposing room	2 spaces/establishment
General Retail Sales Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Guidance Services	1 space/300 s.f. of gross floor area	None required
Hospitals	1 space/2 licensed beds	3 spaces/structure
Hotels and Motels	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
Laundry Services	1 space/200 s.f. of gross floor area	None required
Libraries	1 space/400 s.f. of gross floor area + 1 space/ 2 employees	1 space/structure
Medical Clinics	5 spaces/staff doctor, dentist, chiropractor	None required
Offices and Office Buildings	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Restaurants w/ drive-thru	Greater of the two: 1 space/40 s.f. of dining area, or 1 space/150 s.f. of gross floor area	1 space/establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	2 spaces/establishment
Roadside Stands	4 spaces/establishment	None required
Service Oriented Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Theaters, Auditoriums, & Places of Assembly	1 space/4 persons of licensed capacity	1 space/establishment
Veterinary Establishments	1 spaces/500 square feet/staff doctor	None required
<b>Residential/Housing including but not limited to:</b>		
Assisted-living Facilities	.5 space/dwelling unit	1 space/structure
Convalescent & Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	2 space/structure
Duplex	2 spaces per dwelling unit	None required
Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure
Group Home	1 space/4 persons of licensed capacity	2 space/structure
Multi-family / Apartments	1 space/sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Mobile Home Park	2/dwelling unit	None required
Residential (Single-family, attached and detached)	2 spaces/dwelling unit (1 may be enclosed or semi-enclosed)	None required
<b>Industrial Uses including but not limited to:</b>		
Adult Entertainment Establishments	1 space/2 persons of licensed capacity	None required
General Manufacturing	.75 times the maximum number of employees during the largest shift	2 spaces/establishment
Wholesaling / Distribution Operations	1 space/2 employees on the largest shift	2 spaces/establishment

**Section 7.04 Off-Street Parking: Shared Parking Requirements**

- Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and City Council.

**Section 7.05 Off-Street Parking: Parking for Individuals with Disabilities**

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



Source: ADA.gov

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

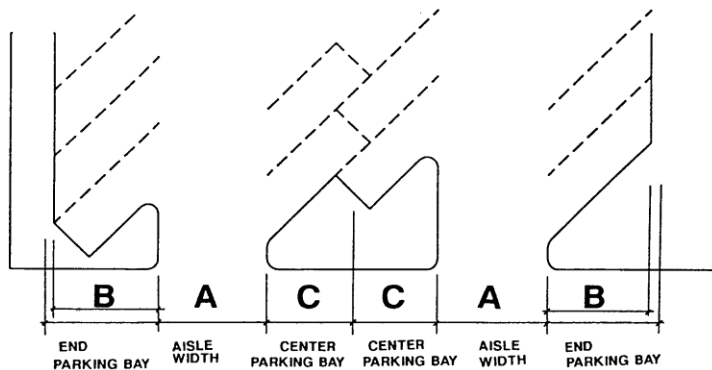
2. Access aisles adjacent to accessible spaces shall be 60 inches wide at a minimum.
  - A. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 7.05.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.05 (E) of this Ordinance. All such spaces may be grouped on one level of a parking structure.
  - B. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
  - C. Parked vehicle overhangs shall not reduce the clear width of an accessible route.
  - D. Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
  - E. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.05 (F) of this Ordinance.
  - F. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.05 of this Ordinance shall be provided in accordance with 7.05 (A) of this Ordinance; except as follows:
    - 1) Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility;
    - 2) Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
  - G. Valet parking: valet parking facilities shall provide a passenger loading zone complying with 7.05 (F) of this Ordinance located on an accessible route to the entrance of the facility. Sections 7.05 (A), 7.05 (B)(1), and 7.05 (B) (3) of this Ordinance do not apply to valet parking.
3. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
  - A. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  - B. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
  4. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 7.05 (2)(A) shall have an additional sign stating the stall is "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
  5. Minimum vertical clearance of 114 inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.05 (2)(A), provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
  6. Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 240 inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

**Section 7.06 Off-Street Parking Design Criteria**

- Standard parking stall dimensions shall not be less than 10 feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

**Parking Configuration**

	90-degree	60-degree	45-degree
<b>Aisle Width (A)</b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet </td <td>17 feet</td>	17 feet
<b>Center Parking Bay Width (C)</b>	18 feet	18 feet	16 feet



- Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and City Council upon recommendation of the City Engineer.
- Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
- Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.
- All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.
- Lighting:
  - Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.
  - Lighting standards shall not exceed 22 feet in height and shall be equipped with top and side shields when necessary to prevent glare onto adjacent properties.
  - The average-maintained lighting levels for multi-family units shall not exceed 10 foot-candles at buildings/parking lots/other areas within a residential district. The maximum to average ratio shall not exceed 2.5 to 1.

## Article 8: Sign Regulations

### **Section 8.01 Compliance with Sign Regulations**

All signs constructed, erected, modified or moved after the effective date of this Ordinance shall comply with the regulations herein, unless expressly exempted.

### **Section 8.02 Sign Definitions**

The following are the definitions relating to signs within the Bennet zoning jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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



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

**COMMUNITY OR CIVIC SIGN** shall mean a sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the motoring public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.

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

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

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

**FREESTANDING SIGN** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

**GROUND SIGN** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.

**ILLUMINATED SIGN** shall mean a sign illuminated in any manner by an artificial light source.

**INCIDENTAL SIGN** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**MARQUEE SIGN** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**NAMEPLATE SIGN** shall mean a sign not exceeding 2 square feet for each dwelling.

**NON-CONFORMING SIGN** shall mean any sign that does not conform to the requirements of this ordinance.

















**OBSOLETE SIGN** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six months after the termination of the existence of such business or the termination of sale of the product advertised.










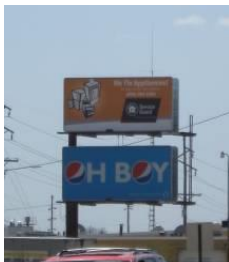





**OFF-PREMISES SIGN** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

**ON-PREMISE SIGN** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

**OPEN SIGN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

**PENNANT SIGN** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

 <p><b>Animated Sign</b></p>	 <p><b>Announcement Sign</b></p>	 <p><b>Awning Sign</b></p>	 <p><b>Banner/Flag Sign</b></p>
 <p><b>Banner Sign (Commercial)</b></p>	 <p><b>Building Marker Sign</b></p>	 <p><b>Canopy Sign</b></p>	 <p><b>Changeable Copy Sign</b></p>
 <p><b>Commemorative Sign</b></p>	 <p><b>Construction Sign</b></p>	 <p><b>Double-faced Sign</b></p>	 <p><b>Electronic Message Sign</b></p>
 <p><b>Freestanding Sign</b></p>	 <p><b>Gas Station Price Sign</b></p>	 <p><b>Ground Monument Sign</b></p>	 <p><b>Off-Premises Sign</b></p>

 <p>Painted Wall Sign</p>	 <p>Parapet Sign</p>	 <p>Pole Sign</p>	 <p>Political Sign</p>
 <p>Projecting Sign</p>	 <p>Public/Traffic Information Sign</p>	<p>Reserved</p>	 <p>Roof Sign</p>
 <p>Roof (integrated) Sign</p>	 <p>Sandwich Board Sign</p>	 <p>Sign Stacking</p>	 <p>Subdivision Identification Sign</p>
 <p>Suspended Sign</p>	 <p>Wall Sign</p>	 <p>Warning Sign</p>	 <p>Window Sign</p>

**POLE SIGN** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

**PORTABLE SIGN** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

**PROJECTING SIGN** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

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

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

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

**SUBDIVISION SIGN** identification shall mean a sign erected on a subdivision identification lot that identifies the platted subdivision where the sign is located.

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

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

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

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

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

**Section 8.03 Sign Area Computation**

**8.03.01 *Computation of Area of Individual Signs***

The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly identical to the display itself.

**8.03.02 *Computation of Height***

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

**Section 8.04 Sign Schedules**

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

	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1
Animated	-	-	-	-	-	-	C	C	C	C
Announcement	+	+	+	+	+	+	+	+	+	+
Architectural Canopy	+	-	-	-	-	-	+	+	+	+
Banner	+	-	-	-	-	-	+	+	+	+
Changeable Copy	+	-	-	-	-	-	+	+	+	+
Destination	+	+	+	+	+	+	+	+	+	+
Electronic Message Board	+	-	-	-	-	-	+	+	+	+
Flashing	-	-	-	-	-	-	-	-	-	-
Freestanding	T	T	T	T	T	T	T	T	T	T
Ground	C	C	C	C	C	C	+	+	+	+
Illuminated	C	-	-	-	-	-	+	+	+	+
Incidental	+	+	+	+	+	+	+	+	+	+
Marquee	-	-	-	-	-	-	+	+	+	+
Nameplate	C	+	+	+	+	+	+	+	+	+
Off-Premises (Billboard)	-	-	-	-	-	-	-	-	-	-
On-Premises (Billboard)	+	-	-	-	-	-	+	+	+	+
Pennant	+	-	-	-	-	-	+	+	+	+
Pole	-	-	-	-	-	-	C	C	C	C
Projecting	+	-	-	-	-	+	+	+	+	+
Portable	T	T	T	T	T	T	T	T	T	T
Roof	+	-	-	-	-	-	+	+	+	+
Roof-Integrated	+	-	-	-	-	-	+	+	+	+
Subdivision	C	C	C	C	C	C	C	C	C	C
Suspended	+	-	-	-	-	-	+	+	+	+
Temporary	T	T	T	T	T	T	T	T	T	T
Wall	+	-	-	-	-	-	+	+	+	+
Window	+	-	-	-	-	-	+	+	+	+

+: permitted -: not permitted C: Conditional Use T: Temporary

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

	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1
<b>Animated</b>										
Max. Square Ft.	-	-	-	-	-	-	200	200	200	200
Max. Height Ft.	-	-	-	-	-	-	45	45	45	45
Max. Number	-	-	-	-	-	-	1	1	1	1
<b>Announcement</b>										
Max. Square Ft.	32	6	6	6	6	6	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Architectural Canopy</b>										
Max. Square Ft.	250	-	-	-	-	-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-	45	45	45	45
Max. Number	17	-	-	-	-	-	17	17	17	17
<b>Banner</b>										
Max. Square Ft.	32	-	-	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	NA	NA	NA	NA
<b>Changeable Copy</b>										
Max. Square Ft.	32	-	-	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	NA	NA	NA	NA
<b>Destination</b>										
Max. Square Ft.	16	16	16	16	16	16	16	16	16	16
Max. Height Ft.	8	8	8	8	8	8	8	8	8	8
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Electronic Message Board</b>										
Max. Square Ft.	100	-	-	-	-	-	100	100	100	100
Max. Height Ft.	20	-	-	-	-	-	20	20	20	20
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Flashing</b>										
Max. Square Ft.	-	-	-	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-	-	-



**ARTICLE 8: SIGN REGULATIONS**

	TA-1	R-1	R-2	R-3	RM	C-1	C-2	C-3	F-1	I-1
<b>Freestanding</b>										
Max. Square Ft.	32	32	32	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Ground</b>										
Max. Square Ft.	50	-	-	-	-	-	32 <sup>2</sup>	32 <sup>2</sup>	50 <sup>3</sup>	50 <sup>3</sup>
Max. Height Ft.	10	-	-	-	-	-	10	10	10	10
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Illuminated</b>										
Max. Square Ft.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Max. Height Ft.										
Max. Number										
<b>Incidental</b>										
Max. Square Ft.	25 each	-	-	-	-	-	25 each	25 each	25 each	25 each
Max. Height Ft.	45	-	-	-	-	-	45	45	45	45
Max. Number	1/40*	-	-	-	-	-	1/40 <sup>6</sup>	1/40 <sup>6</sup>	1/40 <sup>6</sup>	1/40 <sup>6</sup>
<b>Marquee</b>										
Max. Square Ft.	-	-	-	-	-	-	250	250	250	250
Max. Height Ft.	-	-	-	-	-	-	45	45	45	45
Max. Number	-	-	-	-	-	-	1	1	1	1
<b>Nameplate</b>										
Max. Square Ft.	2	2	2	2	2	2	2	2	2	2
Max. Height Ft.	-	-	-	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Off-Premises</b>										
Max. Square Ft.	-	-	-	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-	-	-	-
<b>On-Premises</b>										
Max. Square Ft.	640	-	-	-	-	-	320	320	320	320
Max. Height Ft.	30	-	-	-	-	-	30	30	30	30
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Pennant</b>										
Max. Square Ft.	32	-	-	-	-	-	32	32	32	32
Max. Height Ft.	NA	-	-	-	-	-	NA	NA	NA	NA
Max. Number	NA	-	-	-	-	-	NA	NA	NA	NA
<b>Pole</b>										
Max. Square Ft.	-	-	-	-	-	-	100 <sup>4</sup>	100 <sup>4</sup>	200 <sup>4</sup>	200 <sup>4</sup>
Max. Height Ft.	-	-	-	-	-	-	40	40	40	40
Max. Number	-	-	-	-	-	-	1	1	1	1
<b>Projecting</b>										
Max. Square Ft.	16	-	-	-	-	-	16	16	16	16
Max. Height Ft.	45	-	-	-	-	-	45	45	45	45
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Portable</b>										
Max. Square Ft.	32	32	32	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1	1	1	1
<b>Roof</b>										
Max. Square Ft. <sup>45</sup>	250	-	-	-	-	-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-	45	45	45	45
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Roof-Integrated</b>										
Max. Square Ft.	250	-	-	-	-	-	250	250	250	250
Max. Height Ft.	45	-	-	-	-	-	45	45	45	45
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Subdivision</b>										
Max. Square Ft.	500	500	500	500	500	500	500	500	500	500
Max. Height Ft.	35	35	35	35	35	35	35	35	35	35
Max. Number	1	1	1	1	1	1	1	1	1	1
Max. Lot area s.f.	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
<b>Suspended</b>										
Max. Square Ft.	20	-	-	-	-	-	20	20	20	20
Max. Height Ft.	10	-	-	-	-	-	10	10	10	10
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Temporary</b>										
Max. Square Ft.	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Max. Height Ft.										
Max. Number										
<b>Wall</b>										
Max. Square Ft.	200 <sup>1</sup>	-	-	-	-	-	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>
Max. Height Ft.	15	-	-	-	-	-	45	45	45	45
Max. Number	1	-	-	-	-	-	1	1	1	1
<b>Window</b>										
Max. Square Ft.	200 <sup>1</sup>	-	-	-	-	-	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>	200 <sup>1</sup>
Max. Height Ft.	15	-	-	-	-	-	15	15	15	15
Max. Number	1	-	-	-	-	-	1	1	1	1

<sup>1</sup> Wall/Window signs shall not exceed 10 percent of the total wall area, or the number indicated whichever is greater.

<sup>2</sup> Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.

- <sup>3</sup> Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
- <sup>4</sup> Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
- <sup>5</sup> Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
- <sup>6</sup> One Incidental sign per 40 lineal feet of storefront
- <sup>7</sup> One Canopy per window – canopy shall meet all minimum height requirements for accessibility.
- NA = Not Applicable – Refer to specific structural sign types

8.04.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than 20 percent of the total allowed on one facade.

### **Section 8.05 Signs, Special Conditions**

1. *Billboard Signs.* Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district and shall also be subject to the following conditions and restrictions.
  - A. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  - B. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
  - C. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
2. *Stand-alone ATM's may have the following:*
  - A. One wall sign on each exterior wall provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
  - B. Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
  - C. Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
  - D. All signs are subject to the required permitting process of these Regulations.
  - E. Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.
3. *Coffee Kiosks and other Kiosks may have the following:*
  - A. One wall sign on each exterior wall not used for drive-up service, provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
  - B. Where a canopy is integrated into the Coffee Kiosks/Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk/Kiosks, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
  - C. Directional signage shall be contained on the Coffee Kiosk/Kiosk, painted within a drive lane or in any curbing defining a drive lane
  - D. Window signs limited to menu boards and daily specials shall not require a sign permit.
  - E. All signs are subject to the required permitting process of these Regulations, unless otherwise noted.
4. Signs hung from canopies and awnings shall maintain 80 inches of clear space, as measured from the bottom edge of the sign to the grade below.
5. *Temporary Signs*  
Temporary signs for which a permit has been issued shall be issued only for signs meeting the following criteria:
  - A. No temporary sign shall be of such size, message, or character so to harm the public, health, safety or general welfare.
  - B. Temporary signs may be for a continual period; however, in no event shall a Temporary sign be up for more than five days prior to an event and shall be removed within five days after the event.
  - C. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date to the permit and these signs may advertise an off-premises business and/or organization.



6. *Emergency Signs (Permitted)*

Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

7. *Other Signs Forfeited*

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

8. *Signs Exempt from Regulation Under this Ordinance*

The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, as per Section 4.08 of this Ordinance and/or a collision hazard to the public:

- Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
- Any religious symbol;
- Construction signs when equal to six square feet or less;
- Any sign identifying a public facility or public/civic event;
- Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
- Holiday lights and decorations with no commercial message;
- Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
- A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

9. *Signs Prohibited Under These Regulations*

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the City. Such signs include, but are not limited to:

- A. Beacons;
- B. Audible Signs

## Article 9: Supplemental Regulations

### Section 9.01 Home Occupations and Home Based Businesses in Residential Districts

#### 9.01.01 Intent:

A home occupation or home-based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.

#### 9.01.02 Permitted Home Occupations:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to an attached garage area).
7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

#### 9.01.03 Prohibited Home Occupations:

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / Small Engine Repair.
4. Adult Entertainment Uses
5. Kennels, stables, veterinarian clinics/hospitals

#### 9.01.04 Performance Standards for Home Occupations:

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
9. No on-premise retail sales are permitted from the site other than incidental sales related to services provided.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

13. No permit for a Home Occupation or Home-based Business shall supersede any State or Federal requirements for permits and licenses.

**9.01.05 Permitted Home Based Businesses:**

1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Personal services, including Barber and Beauty Shops (limited to two chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
4. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to an attached garage areas).
5. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
6. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
7. Child Nurseries or Child Care

**9.01.06 Prohibited Home Based Businesses:**

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle
4. Adult Entertainment Uses
5. Kennels, stables, veterinarian clinics/hospitals.

**9.01.07 Performance Standards for Home Based Businesses:**

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Bennet.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.
7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
  - A. Two additional spaces for the unrelated employees.
  - B. Two additional spaces to be used for client/visitor parking.
  - C. The additional parking required in items (A) and (B) shall not be provided in any required Front, Side or Rear Yard setback.
  - D. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
  - E. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.

- F. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
9. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
  10. No retail sales are permitted from the site other than incidental sales related to services provided.
  11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
  12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
  13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

#### **9.01.08 Revocation:**

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
  - A. That any condition of the home occupation or home-based business permit has been violated.
  - B. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
  - C. That the permit was obtained by misrepresentation or fraud.
  - D. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
- E. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Bennet Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation shall report his or her findings of fact and decision to the Bennet Board of Adjustment. The Bennet Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

### **Section 9.02 Home Occupations and Home Based Businesses within the TA-1 Districts**

#### **9.02.01 Intent:**

A home occupation or home-based business shall be permitted when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.

#### **9.02.02 Permitted Home Occupations:**

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight

hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.

8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

**9.02.03 Prohibited Home Occupations:**

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

**9.02.04 Performance Standards for Home Occupations:**

1. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation when contained within the principal structure.
5. Home occupations may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home occupation is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
7. Home occupations focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home occupations are taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
9. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
10. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
11. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.
15. No permit for a Home Occupation or Home-based Business shall supersede any State or Federal requirements for permits and licenses.

**9.02.05 Permitted Home Based Businesses:**

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers,

dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.

3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

**9.02.06 Prohibited home based businesses:**

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

**9.02.07 Performance Standards for Home Based Businesses:**

- A. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home-based business shall remain a resident in the dwelling unit.
- B. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as an additional two unrelated individuals for purposes of conducting business.
- C. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Bennet.
- D. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business when contained within the principal structure.
- E. Home based businesses may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent state codes for life safety including electrical wiring depending upon the nature of the business.
- F. When a home-based business is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
- G. Home based businesses focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home based business is taking place.
- H. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and federal regulations and shall be kept in a place that is secured, dry and locked from general access.
- I. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
- J. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
  - A. Two additional spaces for the unrelated employees.
  - B. Two additional spaces to be used for client/visitor parking.

- C. The additional parking required in items (A) and (B) shall not be provided in any required Front, Side or Rear Yard setback.
- D. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height.
- E. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
- F. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
- K. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
- L. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- M. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
- N. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

**9.02.08 Revocation:**

- 1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
  - A. That any condition of the home occupation or home-based business permit has been violated.
  - B. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance.
  - C. That the permit was obtained by misrepresentation or fraud.
  - D. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
  - E. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
- 2. Appeal. Within five working days of a revocation, an appeal may be made to the Bennet Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Bennet Board of Adjustment. The Bennet Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.
- 3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

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**Section 9.03 Radio, Television and Wireless Communication Towers**

**9.03.01 Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the City's jurisdiction in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the City's jurisdiction, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.



**9.03.02 Definitions:**

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

**Base Station** shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

**Broadcasting Tower** shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

**Collocation** shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Conforming Commercial Earth Station** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this ordinance.

**Eligible Facilities Request** is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

**In Writing** refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

**Owner** shall mean any person with a fee simple title or a leasehold exceeding ten years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.

**Replacement** shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

**Specific and Absolute Timeframe** this refers to the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

**Stealth:** Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

**Telecommunications Facilities** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include: a. Any Conforming Commercial Earth Station antenna two meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

**Tower** shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

**Tower owner** shall mean any person with an ownership interest of any nature in a proposed or existing tower.

**Transmission Equipment:** any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

**9.03.03 Tower Construction Standards:**

Listed below are tower construction standards.

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this ordinance.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the City prior to approval of its application for a Conditional Use Permit by the City Council and issuance of the permit by the City.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the City after the effective date of this ordinance shall conform to the Building Codes and all other construction standards set forth by the City, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

**9.03.04 Application to Develop a Tower:**

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
  - A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
  - B. The legal description and address of the tract of land on which the tower is to be located.
  - C. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
  - D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants' telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants' telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
  - E. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the City Council and federal and state and ANSI standards.
  - F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
  - G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
  - H. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60-day application processing period may be extended only:
    - 1) By mutual agreement between the City of Bennet and the applicant, or
    - 2) By Bennet's determination that the application is incomplete.
      - a. If the City of Bennet deems the application to be incomplete, the City shall notify the applicant of the incompleteness within 30 days of the initial filing.
      - b. The City shall clearly and specifically delineate in writing the missing information
      - c. The clock shall resume when the information is provided, but may tolled again if the City of Bennet notifies the applicant within 10 days that the application remains incomplete.
      - d. The City shall not request new information beyond what is already required.
    - 3) If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

**9.03.05 Setbacks and Separation or Buffer Requirements**

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning Commission and City Council may reduce the setback with a conditional use permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
5. Towers must meet the following minimum separation requirements from other towers:
  - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
6. Towers shall be held to all height requirements as prescribed in the Airport Hazard Area District.
7. As part of its conditional use approval process, the Planning Commission and City Council may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

**9.03.06 Structural Standards for Towers Adopted:**

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

**9.03.07 Illumination and Security Fences:**

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

**9.03.08 Exterior Finish:**

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

**9.03.09 Landscaping:**

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

**9.03.10 Prohibitions**

According to the FCC, “[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

**9.03.11 Substantial Change**

The City of Bennet may only require an amended conditional use permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:
  - A. Towers outside the public right-of-way, a “substantial change”
    - increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
    - Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
  - B. Towers in the right-of-way, and all base stations, a “substantial change”
    - increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
    - protrudes from the edge of the structure more than 6 feet.
  - C. All Towers and base stations, a substantial change:
    - involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
    - entails any excavation or deployment outside the current site of the tower or base station;
    - defeats the existing concealment elements of the tower or base station; or
    - does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the “substantial change” thresholds identified above.
2. **Changes in Height**
  - A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.
  - B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.
  - C. Note, the changes are measured cumulatively; otherwise, a series of small changes could add up to a cumulative change that exceeds the “substantial change” threshold.

**9.03.12 Inspections**

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

**9.03.13 Maintenance**

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

**9.03.14 Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been

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

### 9.03.15 Approval Denial Procedures for Tower Development Permit

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by the City of Bennet shall not unreasonably discriminate among providers of functionally equivalent services;
3. The regulation of the placement, construction, and modification of personal wireless service facilities by the City of Bennet shall not prohibit or have the effect of prohibiting the provision of personal wireless services;
4. The City of Bennet shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations;

## Section 9.04 Fences

1. No fence shall be constructed within the zoning jurisdiction of the City of Bennet unless a permit is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements:
  - A. Unless otherwise provided, no fence shall be built on any lot or tract outside the surveyed lot lines, or adjacent to any municipal property, excluding public streets.
  - B. Unless otherwise provided, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence. Fences constructed of PVC resin are exempt from this requirement.
  - C. No solid fence permitted or required by this regulation shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner create a traffic hazard or obstruction to visibility.
  - D. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
  - E. Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.
    - 1) The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches not exceeding 50 percent closed construction, or 48 inches not exceeding 25 percent closed construction.
    - 2) The maximum height for any fence outside of a required front yard shall be six feet four inches.
    - 3) On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.
    - 4) Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials only. Wood fences shall utilize standard pre-treated building lumber only or be finished.
  - F. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved by through a Conditional Use Permit.
  - G. Fences constructed along and parallel to a lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
  - H. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.
2. No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.
3. The use of barbed wire in the construction of any fence is prohibited except:
  - A. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the City before commencement of construction.

- B. Farm fencing constructed for agricultural purposes on parcels of land 10 acres or more in size, located in the TA-1 District.
  - 4. All fences shall be maintained in good repair.
  - 5. *Electric Fences.* No electric fence, except for underground invisible fence for animal control, shall be constructed or maintained within the City of Bennet or within its extraterritorial zoning jurisdiction except in TA-1 District as hereinafter provided. An owner or lessee of such property may, upon application to the City and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Zoning Administrator shall approve any electrified fencing, it shall be determined that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.
- 

**Section 9.05 Performance Standards for Industrial Uses**

**9.05.01 Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

**9.05.02 Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other ordinance of the City of Bennet.

**9.05.03 Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

**9.05.04 Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

**9.05.05 Air Contaminants:**

- 1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
- 2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
- 3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Ordinance.
5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.
6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths of an inch (0.003") measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
7. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

**9.05.06 Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts**

displays the maximum permitted sound levels that may be generated by uses in the I-1 zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specifications for a Type II or better general purpose sound level meter. The A-weighted response shall be used.

**Maximum Permitted Sound Levels at Residential Boundaries**

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq* (dBA)</u>
I-1	7:00 a.m. - 10:00 p.m.	60
	10:00 p.m. - 7:00 a.m.	55

\* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.



**Section 9.06 Small Wind Energy Systems**

**9.06.01 Purpose**

It is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

**9.06.02 Definitions**

The following are defined for the specific use of this section.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

**9.06.03 Requirements**

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height
  - A. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
  - B. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Setbacks
  - A. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. Noise
  - A. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
  - B. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines
  - A. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
  - A. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
  - B. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
  - C. The manufacturer frequently supplies this analysis.
  - D. Wet stamps shall not be required.
6. Compliance with FAA Regulations
  - A. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
  - A. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  - B. The manufacturer frequently supplies this analysis.
8. Utility Notification
  - A. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
  - B. Off-grid systems shall be exempt from this requirement.
9. Setbacks

All towers shall adhere to the setbacks established in the following table:

Wind Turbine – Non Commercial WECS	
Property Lines	One times the total height
Neighboring Dwelling Units	One times the total height
Road Rights-of-Way*	One times the tower height.
Other Rights-of-Way	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA
Wetlands, USFW Types III, IV, and V	NA
Other structures adjacent to the applicant's sites	NA
Other existing WECS not owned by the applicant.	NA
River Bluffs	

\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

**Section 9.07 Commercial/Utility Grade Wind Energy Systems**

**9.07.01 Purpose**

It is the purpose of this ordinance to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within the zoning jurisdiction of the City of Bennet.

**9.07.02 Definitions**

The following are defined for the specific use of this section.

**Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

**Commercial WECS (WECS)** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

**Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

**Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

**Meteorological Tower** shall mean, for purposes of this ordinance, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation, or other applications to monitor weather conditions.

**Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

**Public Conservation Lands** shall mean land owned in fee title by state or federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this ordinance, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

**Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.

**Shadow Flicker** shall mean the effect of the sun (low on the horizon) shining through the rotating blades of a wind turbine, casting a moving shadow. It will be perceived as a "flicker" due to the rotating blades repeatedly casting the shadow.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35 KV for interconnection with high voltage transmission lines.

**Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

**Tower** shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

**Tower Height** shall mean the total height of the Commercial Wind Energy Conversion System exclusive of the rotor blades.

**Transmission Line** shall mean the electrical power lines that carry voltages of at least 69 KV and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

**Wind Energy Conservation System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

**Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

9.07.03 A Commercial Wind Energy Conversion System (WECS) may be allowed in the TA-1 District by conditional use permit under the conditions listed below:

1. In cases where WECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one conditional use permit application. When a conditional use permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.
2. Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.
3. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.
4. Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.
5. Construction and operation shall not adversely impact identified state or federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.

6. No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped in the Lincoln/Lancaster County Comprehensive Plan and Bennet Comprehensive Plan . The views from prominent environmental areas shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review and approval by the City of Bennet.
7. Setbacks to the turbine base:
  - A. For the purposes of this section, "turbine height" shall be equal to hub height plus the rotor radius.
  - B. For a non-participating property, the setback shall be two times the turbine height measured to the property line, or three and one-half (3.5) times the turbine height, measured to the closest exterior wall of the dwelling, whichever is greater, but at a minimum 1,000 feet to the property line.
  - C. For participating dwelling, the setback shall be two times the turbine height measured to the closest exterior wall of the dwelling.
  - D. The setback to any public right-of-way or private roadway shall be no less than the turbine height.
  - E. Setbacks to the external boundary of the conditional use permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.
8. Noise: No WECS or combination of WECS turbine(s) shall be located as to cause an exceedance of the following noise level standards. The noise level shall be measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

For nonparticipating properties, the noise level shall have a 42 dBA maximum 10 minute Leq for all hours of the day and night, or a three dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study.

For participating properties, the noise level shall have a 50 dBA maximum 10 minutes Leq for all hours of the day and night.

Each application shall include a professional third-party pre-construction noise study which includes all property within at least one mile of a tower support base and must be able to demonstrate compliance with the noise standards in paragraph 8. The protocol and methodology for such studies shall be submitted to the City for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst-case scenarios for noise propagation. The complete results and full study report shall be submitted to the City for review and approval.

9. Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the City.
10. Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the City Engineer and County Engineer regarding use of County roads during construction.
11. Post-construction noise level measurements shall be performed in accordance with procedures acceptable to the City within one year of completion of construction to determine if the permittee is in compliance with this title and the terms of its Conditional Use Permit. Noise level measurements shall be taken by third party professional acousticians or engineering firms specializing in noise measurements and in accordance with procedures as approved by the City and shall be performed at the expense of the holder of the Conditional Use Permit. Any report, information or documentation produced in accordance with such study or measurements shall be provided to the City and shall be a public document subject to Nebraska's public records laws.
12. All noise complaints regarding the operation of any WECS shall be referred to the City Council. The City Council shall determine if noise monitoring in addition to that required under the paragraph above shall be required to determine whether a violation has occurred. If the City Council determines such noise monitoring shall be required, it shall be done at the expense of the holder of

the Conditional Use Permit in accordance with procedures and by third party professional acousticians or engineering firms specializing in noise measurement approved by the City. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the City for review and reporting.

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### **Section 9.08 Junk Yards or Salvage Yards**

Junk Yards and salvage of materials may be allowed in identified districts; provided the following minimum conditions are met (additional conditions may be required depending upon the operation and the proposed location:)

1. Construction and operation shall comply with the Bennet Code of Ordinances and any other applicable codes or requirements.
2. Receiving areas for junk or salvage material shall be designed to avoid the depositing of junk or salvage material outside a building or outside screened (solid fence) storage areas.
3. Junk yards and salvage of materials shall contain a minimum of two acres and shall not be located within a designated 100-year floodplain area as identified by the Corps of Engineers.
4. Junk or salvage material kept outside a building or buildings shall not be located closer than 500 feet from any designated state or federal highway. Or locally designated expressway, major arterial, and other arterial as per the State of Nebraska Department of Transportation or subsequent successor agency.
5. Junk material kept outside a building or buildings shall not be located in the required front yard.
6. Junk or salvage material kept outside a building or buildings shall be at least 100 feet from the boundaries of the I-1 zoning district and shall be at least 500 feet from the any residential district or use.
7. All motor vehicles shall have all fluids drained prior to placement within the facility.

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### **Section 9.09 Solar Energy Uses**

No solar panel, neighborhood solar or solar farm shall be installed or constructed within the zoning jurisdiction of Bennet unless a Conditional Use Permit has been issued. All solar units shall be constructed in conformance with all state and national building and fire codes. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

#### **1. General Solar Definitions**

**Accessory Solar Energy Systems:** Includes any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**Concentrated Solar Power:** A solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: Parabolic Trough, Solar Power Tower, enclosed trough, Fresnel Reflectors and Dish Stirling.

**Development:** Any plat, subdivision, or planned unit development created under the Bennet Zoning Ordinance.

**Electric Utility:** The public electric utility providing retail service to a given area.

**Net Excess Generation:** On an Individual Solar Conversion System, net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period.

**Net Metering:** Net metering means a system of metering electricity in which a local distribution utility:

- A. Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum

monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and

- B. Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period.

**Solar Access:** the ability to receive sunlight across real property for any solar energy device.

**Solar Access Easement:** A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

**Solar Conversion System (SCS):** An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

**Solar Conversion System, Commercial:** A commercial solar conversion system (CSCS) is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

**Solar Conversion System, Ground-Mounted:** Any SCS which is directly supported and attached to the ground.

**Solar Conversion System, Individual:** An individual solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use.

**Solar Conversion System, Neighborhood:** A neighborhood solar conversion system (NSCS) is a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

**Solar Conversion System, Large:** multiple CSCSs and any related supporting infrastructure that primarily provide off-site power, have a rated capacity of 100 kilowatts (kW) (ac) or more, and is the primary use on a premises.

**Solar Conversion System, Structure-Mounted:** Any SCS which is directly connected to and supported by a building.

**Solar Skyspace:** The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.



Example of a Solar Conversion System, Ground-mounted



Example of a Solar Conversion System, Structure-mounted

- A. Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
- B. Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock **(8:00) A.M. and four o'clock (4:00) P.M. local** apparent time from March 23 through September 21 of each year.

**Solar Oriented Subdivision:** A subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

**South or South-Facing:** True South, Or 20 Degrees East of Magnetic South.

**2. General Provisions Applying to ISCS, NSCS, and/or CSCS**

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section

**A. For commercial and neighborhood SCS:**

Applicant shall provide evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application.

**B. For commercial and neighborhood SCS:**

Applicant shall comply with specific requirements of the local fire department.

**C. Maintenance:**

All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner based upon the ground cover decided.

**D. Decommissioning:**

All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by the City of Bennet, the electric utility, and the owner/developer.

**E. Repowering:**

If any SCS is no longer operating for purposes of repowering, replacement, or maintenance, decommissioning provisions will not apply for up to six months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and decommissioning provisions will apply.

- 1) Repowering does not require a new Conditional Use Permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.

**F. Any applicant for a SCS project shall meet with and shall indicate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.**

**G. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.**

**H. SCS may be installed in the floodway fringe subject to Section 4.17, as may be amended from time to time, given that all components are installed a minimum of two foot (2') above base flood elevation and subject to written authorization of the Floodplain Administrator.**

**I. No SCS shall be constructed in the identified floodway.**

**J. Concentrated Solar Power (CSP) systems are prohibited within the City of Bennet's jurisdiction.**

**K. Financial assurances shall be in place as part of the Decommissioning Plan.**



**3. Individual Solar Conversion Systems****A. General Requirements for ISCS:**

ISCS's shall conform to the required front, side and rear lot setback requirements except as provided herein:

- 1) An SCS which is attached to an integral part of the principal building shall meet all local, state, and federal codes for building, electrical, plumbing, and accessibility.
- 2) A ground-mounted SCS may be located only in the required rear yard provided it does not exceed 12-feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage.
- 3) No ground mounted SCS shall be located in the required side yard or front yard.
- 4) All ISCS's shall have an agreed to solar access easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted SCS is in place and operational.
- 5) The applicant for any ISCS shall provide evidence that they have a working Net Metering agreement with the electric utility.

**B. Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

**C. Plot Plan:**

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

**D. Preexisting Solar Panels:**

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of this ordinance, pursuant to a valid building permit issued by the City of Bennet, may continue to be utilized so long as it is maintained in operational condition.

**E. Decommissioning**

- 1) Whenever an SCS ceases operation on a property, it shall be required to report this to the City and the electric utility.
- 2) Whenever, a ground mounted SCS is no longer operating, the property owner shall have six months to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

**4. Neighborhood Solar Conversion Systems****A. General Requirements for NSCS:**

NSCS's shall meet the following requirements as provided herein:

- 1) A NSCS shall be set on its own lot within the neighborhood/development.
- 2) The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development.
- 3) No excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a Net Metering agreement.
- 4) The developer shall provide the City with all solar easements established; however, Bennet shall not be responsible for enforcing said easements.
- 5) All solar easements shall be enforced by an establish Homeowners Association for the development/neighborhood.
- 6) A ground mounted NSCS shall be protected with fencing and/or bollards.
- 7) All connections to the uses within the neighborhood shall be made underground.
- 8) An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency.
- 9) A Net Metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity; and
- 10) All ground mounted NSCS's shall have an agreed to solar access easement from any

neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground-mounted NSCS is in place and operational.

**B. Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

**C. Solar Oriented Subdivision/Plot Plan:**

- 1) Whenever a NSCS is part of a proposed new subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed.

Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.

- 2) The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- 3) The developer shall install all underground wiring as prescribed by the electric utility.
- 4) All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
- 5) The developer shall provide the City with As-builts of the wiring locations within the subdivision.

**D. Decommissioning**

- 1) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

**5. Commercial Solar Conversion Systems:**

**D. Applicability**

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms or CSCS consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater between each module and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, The City finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, non-urbanized, or low-density areas with other uses.

**E. Site Development Standards:**

- 1) Lot coverage: No more than one percent of the gross site area shall be occupied by enclosed buildings and structures.
- 2) Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district, or the two districts are separated by a public right-of-way.
- 3) Height: The average height of the solar panel arrays shall not exceed 12 feet.
- 4) Landscaping Buffer: The primary use of the property shall determine the buffer

requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered industrial or agricultural for the purposes of buffer requirements, there are no requirements for screening from public streets.

- 5) Stormwater Management: Fixed panel solar arrays shall be considered pervious and the property shall be designed to absorb or detain specific runoff. The impervious cover calculation shall include the support posts of the panels, any roads or impervious driveway surfaces, parking areas and buildings on the site.
- 6) A property developed pursuant to this subsection shall be required to plat however water and sewer connections shall not be required. Suitable fire department access shall be required.
- 7) Signage shall conform to the City Sign Regulations.
- 8) Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
- 9) Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight feet in height is permitted provided the fencing material is predominantly open.
- 10) All state and federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

#### **F. Submittal Requirements:**

All Plans shall contain the following:

- 1) These requirements shall apply to the Conditional Use Permit.
- 2) A plot plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines.
- 3) The plot plan shall include any roads, electric lines and/ or overhead utility lines.
- 4) A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant power district.
- 5) A copy of the interconnection agreement with the local electric utility
- 6) Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant.
- 7) Structural engineering analysis for a solar panel, array and its foundation, as applicable.
- 8) Manufacturer's recommended installations, if any; and
- 9) Documentation of land ownership and/or legal authority to construct on the property.
- 10) A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of Bennet reserves the right to require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

#### **D. Compliance with Other Regulations:**

- 1) Zoning permit applications for CSCS's shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State's adopted electrical code and that has been pre-approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
- 2) This subsection does not waive any requirements of any state or federal codes, electrical codes or other technical codes as applicable.

#### **E. Discontinuation.**

A CSCS shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within 90 days of abandonment.

**6. Large Solar Conversion Systems:**

- A. A Large Solar Facility may be allowed in the TA-1 Districts under the following conditions:
- 1) The Large Solar Facility shall use photovoltaic cells to convert solar energy into electricity.
  - 2) No electrical substation owned or operated by a private electric supplier, or any other facility owned or operated by a private electric supplier to support the generation, transmission or distribution of electricity for a Large Solar Facility, shall be located as to cause an exceedance of the following noise level standards.
    - a. From the hours of 10 pm to 7 am: 50 dBA maximum 10-minute LAeq
    - b. From the hours of 7 am to 10 pm: 60 dBA maximum 10-minute LAeq

For the purposes of determining compliance with these standards, noise levels shall be measured at the closest exterior wall of any dwelling unit located on the property that submitted the noise complaint. If an electrical substation(s) owned or operated by a private electric supplier violates a noise standard at a dwelling unit constructed after the electrical substation(s) is approved, then the electrical substation becomes a non-conforming use. Electrical substations owned by public electric suppliers shall not be subject to the noise level standards herein.

- 3) Obtain an approved erosion control plan from the Natural Resources District before receiving building permits.
- 4) The Large Solar Facility shall provide visual screening for adjacent non-participating residential uses, public park uses, and school uses, through setbacks as otherwise required in the Bennet Zoning Ordinance and/or other techniques to address the site-related impacts of the Large Solar Facility on adjacent non-participating properties.
  - a. The applicant shall use fences, walls, berming, vegetation, or some combination thereof to provide visual screening. Fencing, walls or berming may be used to supplement other screening methods but shall not account for over 50% of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance with the visual screening requirements provided herein.
    - i. If the visual screening is for adjacent non-participating residential uses, it shall be provided as follows:
      - a) The screen shall only be required if the closest exterior wall of the dwelling is within 300 feet of the property line adjacent to the Large Solar Facility.
      - b) If the screen is required, the screen shall cover 100% of the surface area of a vertical plane extending along the property line adjacent to the Large Solar Facility at an amount equal to or greater than the surface area of the dwelling to be visually screened, plus 75 feet in both directions or until it reaches a public road right-of-way, whichever comes first, and from the ground to a height of at least eight feet above the adjacent ground.
    - ii. If the visual screening is for adjacent non-participating public park or school uses, it shall be provided as follows:
      - a) The screen shall cover at least 70% of a vertical plane extending along the entire property line adjacent to the Large Solar Facility, from the ground to a height of at least eight feet above the adjacent ground.
  - b. If the visual screening is achieved through a fence or wall, it shall be provided along the property line as follows:
    - i. Acceptable fence and wall materials for visual screening include masonry, stone, and wood, but exclude chain link fences (with or without slats). Alternative fence materials being used for screening must be approved by the City.
  - c. If the visual screening is achieved through berming, it shall be provided along the property line as follows:
    - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
    - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
  - d. If the visual screening is achieved through vegetation, it shall be provided along the property line as follows:
    - i. At a rate of at least four trees every 100 linear feet. Of the four trees every 100 linear feet, at least one shall be a deciduous shade tree and three shall be evergreen or

- ornamental trees. The trees shall be evenly distributed within each 100 linear feet section.
  - ii. At least 2/3, but no more than 3/4 of the total ornamental/evergreen trees along the property line shall be made up of evergreen trees.
  - iii. Each tree shall have a minimum mature height of 15 feet.
  - e. Visual screening is not required along the property line adjacent to a Participating Property.
- 5) Each application shall have a decommissioning plan (removal of equipment/improvements and restoration of lands) that is reviewed and approved by the City prior to beginning operations. The decommissioning plan shall provide the following:
- a. A plan outlining the means, procedure, and costs of removing the Large Solar Facility, including, but not limited to, the solar panels and collectors, electrical wiring/cabling, fencing, and any related supporting infrastructure to a minimum depth of three feet.
  - b. At the expense of the permittee, a cost estimate for the decommissioning of the Large Solar Facility and any estimated resale and salvage value shall be prepared by a professional engineer. The permittee shall provide to the City a revised and updated decommissioning cost estimate every five years from the date of approval to cover the cost of meeting this obligation. The decommissioning cost estimate shall explicitly detail the cost, any estimated resale and salvage values, shall account for inflation, cost and value changes, and advances in decommissioning technologies and approaches.
  - c. The estimated decommissioning cost, less any resale and salvage value, shall be guaranteed in one of the following forms: (i) surety bond, (ii) cash to be held in escrow by the City at a bank, or (iii) a letter of credit from a financial institution reasonably acceptable to the City which shall be irrevocable unless replaced with cash or other form of security reasonably acceptable to City. The owner of the Large Solar Facility shall provide the decommissioning cost guaranty no later than the end of the 15th year of operation, and shall maintain the financial security thereafter for as long as the Large Solar Facility is in existence or upon discontinuance, decommissioning, or abandonment of the Large Solar Facility Such financial security shall be updated every five years to cover the costs associated with the updated decommissioning cost estimates.
  - d. For purposes of this Section, discontinuance, decommissioning, or abandonment shall mean the Large Solar Facility has produced no energy for 12 consecutive months. The owner or operator shall have 12 months to complete decommissioning of the Large Solar Facility. If the owner or operator of the Large Solar Facility fails to remove the installation in accordance with the requirements of this permit or within 12 months following discontinuance, decommissioning, or abandonment, the City may collect the bond or other financial security and the City or a hired third party may enter the property to physically remove the installation.
- 6) The Large Solar Facility shall meet the following setback requirements:

<b>Property Line Setbacks</b>	
Non-Participating Property with a Dwelling	100 feet
Non-Participating Property without a Dwelling	50 feet
Participating Property with a Dwelling	0 feet
Participating Property without a Dwelling	0 feet
Public or Private Roadway	50 feet

**Section 9.10 Self-Storage Units (Mini-Warehouses)**

1. Minimum lot size of the Self-Storage facility shall be 5,000 square feet.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
5. No storage may open into the front yards.

6. The total area covered by buildings shall not exceed 50 percent of the site.
  7. The storage of hazardous, toxic, or explosive substances, including, but not limited to, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil.
  8. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all yards shall be landscaped.
  9. Site development shall include provisions for stormwater management in accordance with the ordinances of the City of Bennet
  10. Height limitations shall require a maximum height of 20 feet for any structure in the facility.
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**Section 9.11 Auto Repair, Equipment Repair, and Body Repair**

1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-ways.
  2. Any spray painting must take place within structures designed for that purpose and approved by the Zoning Administrator.
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**Section 9.12 Automobile and Equipment Rental and Sales**

1. All outdoor display areas for rental and sales facilities shall be hard surfaced.
  2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.
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**Section 9.13 Bed and Breakfasts**

Bed and Breakfasts shall meet the following requirements:

1. Maintain a residential exterior appearance
  2. Rooms may not be rented for more than seven consecutive days and no more than 14 days per person in any 30-day period.
  3. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.
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**Section 9.14 Shipping Containers**

**9.14.01 Shipping Containers**

1. A reusable enclosed or semi-enclosed vessel, cargo container, or truck trailer: Originally, specifically, or formerly designed or used for the packing, shipping, movement, or transportation of freight, articles, goods, belongings, or commodities, or
2. Designed for or capable of being mounted or moved on a railcar, truck, or vessel; or
3. Designed for or capable of being mounted on a chassis or bogie for movement by truck tractor or similar device.

**9.14.02 Pods**

1. A portable storage container designed and intended for the temporary placement upon property for the onsite storage of household or other goods, with a size typically not exceeding 16 ft. x 8 ft. x 8 ft.
  - A. Permit Required. No person shall place, locate, maintain, or otherwise keep a shipping container on any lot or parcel of ground within the City of Bennet or within its extraterritorial zoning jurisdiction without first having obtained a building permit for the placement thereof. Shipping containers must comply with all applicable building codes and receive all applicable permits, except that:
    - 1). A foundation shall not be required, but the shipping container must be securely anchored to the ground;
    - 2). Ventilation shall not be required;
    - 3). Electricity is an option but shall not be required;
  - B. Restrictions. Shipping containers may be placed or installed only in the TA-1, F-1 and 1-1 districts and shall be subject to the following restrictions:

- 1). Shipping containers shall not be installed on any residentially zoned lot containing less than 1 acre in area.
- 2). Only one shipping container shall be installed per lot or parcel of land.
- 3). No shipping container shall be stacked on top of another or on top of any other object.
- 4). Shipping containers must be placed or located behind the main or primary structure on the lot or parcel of ground and shall be set back from all property lines a minimum of 50 feet.
- 5). No shipping container shall be used for human habitation purposes.
- 6). No shipping container shall be used to store hazardous material.
- 7). No shipping container shall be used to store or keep refuse or debris in, against, on or under the shipping container.
- 8). The shipping container shall be fully screened by an opaque fence or fast-growing landscaping and the shipping container shall be painted a neutral color, e.g., white, grey or a shade of brown.
- 9). Every shipping container shall be secure, structurally sound, stable, and in good repair.

#### 9.14.03 Exceptions:

1. Subparagraphs A and B shall not apply to, and no permit shall be required for, any shipping container that is placed, kept, or stored upon the premises of a business directly engaged in transporting goods and used solely in conjunction with such business and not used for storage or other purposes on the business premises.
2. Subsections A and B shall not apply to, and no permit shall be required for, the placement of PODS in any zoning district for temporary use for no more than 30 calendar days in any one year. Persons placing pods upon their premises shall register such placement with the City Clerk, noting the date upon which the PODS were first placed upon the premises. Exemptions. The temporary use of construction trailers or containers at a building site is exempt from this requirement.

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#### **Section 9.15 Sand and Gravel, Mineral, Stone, Rock, and Soil Extraction and Quarries**

It shall be unlawful for any owner or owners or property to extract, mine, quarry, or remove soil for commercial purposes without the proper permits except soil donated for use by a municipality, county, or state for public roadway purposes.

1. When soil is sold, removed, and transported to be used for public roadway purposes, it shall be the responsibility of the property owner to meet the following conditions:
  - A. The application shall include a grading map showing contours, proposed extraction contours, and proposed final grade contours.
  - B. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
  - C. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.
  - D. The application shall identify proposed vehicle and equipment storage areas.
  - E. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing facility.
  - F. Topsoil shall be collected and stored for redistribution on the site at termination of the operation.
  - G. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than 3:1 as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
  - H. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.
  - I. The owner of the property shall obtain adequate insurance to cover any of the damages, which may occur as a result of this operation and shall assume all liability for any damages. A copy of such insurance or other proof of such insurance shall be submitted to the Zoning Administrator's office prior to issuing a Conditional Use Permit.



- J. To assure that all these conditions are met by the owner, a bond contingent on the size of the operation, removal, or extraction may be required to be posted with the City and County.
- 2. Exceptions
  - A. Sections 9.15 (1) (A-J) do not apply to removals, extractions, and operations that remove less than 100 cubic yards from a given location.
  - B. Sections 9.15 (1) (A-J) do not apply to owners who donate soil to a municipality, county, or state. Further, this section does not apply to sand and gravel quarries, or the commercial removal of soil not used for road purposes.

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**Section 9.16 Mobile Food Units**

Mobile Food Units are allowed in specific zoning districts; however, these uses shall be required to abide by the following requirements:

- 1. Shall comply with all of the provisions in Chapter 113 of the City Code.
- 2. All units shall only operate during hours identified on the permit.
- 3. All refuse shall be transported off-site unless an agreement with the property owner is submitted to the City identifying an alternate.
- 4. Mobile Food Units may be allowed in Residential areas on a temporary basis, provided the following are met:
  - A. They shall be allowed for only a four-hour period.
  - B. They shall not be located in a manner that blocks traffic or identified sight triangles
- 5. All units shall not be allowed to use intense lights in order to attract customers.
- 6. During non-operation hours, these units shall be stored on a vacant lot or in an enclosed structure.

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**Section 9.17 Amateur Radio Towers and FCC Pronouncements**

- 1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
- 2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the City Council may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).
- 3. Such radio towers shall not be located within any front yard of the primary use.

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**Section 9.18 Roadside Stands**

- 1. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
  - 2. A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
  - 3. A roadside stand may operate for a maximum of 180 days in any one year.
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**Section 9.19 Adult Entertainment Establishments****9.19.01 Purpose; Findings and Rationale**

1. *Purpose.* It is the purpose of this ordinance to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the City. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
  
2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. City of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *City of Winslow v. Sheets*, 261 Neb. 203 (2001).

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," Crime & Delinquency (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and City of Ellicottville, Cattaraugus County, New York (January 1998),

the City Council finds:

- A. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- B. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- C. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. Additionally, the City's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the City. The City finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The City Council hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

#### **9.19.02 DEFINITIONS**

**Adult Arcade** shall mean any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**Adult Bookstore Or Adult Video Store** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

**Adult Cabaret** shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

**Adult Establishment** shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

**Adult Motion Picture Theater** shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

**Adult Paraphernalia Store** shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**Employee of an Adult Establishment** shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**Enclosed Regional Shopping Mall** means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

**Nudity** means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**Operator of Adult Establishment** means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

**Semi-Nude or Semi-Nudity** means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**Specified Anatomical Areas** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities** shall mean intercourse, oral copulation, masturbation or sodomy.

#### **9.19.03 Performance Standards**

1. No person shall establish, operate, or cause to be operated an adult establishment in the City of Bennet within:
  - A. 500 feet of another adult establishment.
  - B. 500 feet of a business licensed to sell alcohol at the premises; or
  - C. 600 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - D. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult

establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.

9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
  - A. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
  - B. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
  - D. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
  - E. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
    - 1). That the occupancy of viewing rooms less than 150 square feet is limited to one person.
    - 2). That specified sexual activity on the premises is prohibited.
    - 3). That the making of openings between viewing rooms is prohibited.
    - 4). That violators will be required to leave the premises.
    - 5). That violations of these regulations are unlawful.
  - F. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 9.19.03 (9)(E)(1), though 9.19.03 (9)(E)(5) above.
  - G. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

- H. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
  - I. It shall be unlawful for a person having a duty under subsections 9.19.03 (9)(A) through 9.19.03 (9)(I) above to knowingly or recklessly fail to fulfill that duty.
  - J. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
  - K. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
  - L. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five-foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 9.19.03.
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**Section 9.20 Dwelling Unit, Special Types**

This section is intended to establish special conditions by which Special types of dwelling units may be established within the jurisdiction of Bennet.

**9.20.01 Tiny Houses**

Tiny houses fall under two separate categories, Site Built and RV/Park Model/Camper.

**Site Built Tiny Houses**

1. Tiny homes shall have at least one habitable room with not less than 120 sf of gross floor area.
2. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens.
3. Habitable rooms shall not be less than seven feet in any horizontal dimension.
4. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor.
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room.
5. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms.
6. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower.
7. Tiny homes shall have a kitchen area and sink.
8. The unit shall provide heating and cooling systems as required by local, state and/or federal codes.
9. All electrical shall be in compliance with all local, state and/or federal electrical codes.
10. The unit shall meet all egress requirements found in local, state, and/or federal codes.
11. All foundations shall meet local, state, and/or federal building codes.
12. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
13. No Site Built Tiny House shall be constructed in any floodplain.

**RV/Park Model/Camper**

1. The unit shall be constructed upon a single chassis.
2. The unit shall have 400 sf or less when measured at the largest horizontal projections.
3. The unit shall be self-propelled or permanently towable by a light duty truck.
4. The unit shall not be considered to be designed for use as a permanent dwelling but as a temporary living quarter.
5. All electrical, including temporary hook-ups, shall be in compliance with all local, state and/or federal electrical codes.
6. All plumbing and other mechanical systems shall not be permanently connected to a supply or discharge source.
7. The wheels and axles shall remain on the unit at all times.
8. Accessory structures shall not be supported by these units.
9. No RV/Park Model/Camper shall be located in any floodplain.

**Tiny House Villages/Communities**

Tiny house villages/communities may be allowed in identified areas and shall be designed using the PDO-Planned Development Overlay process within this Ordinance.

**9.20.02 Grain Bin Homes**

Any residential structure meeting the definition of a grain bin home shall meet the following criteria:

1. Grain bin homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes.
2. Grain bin homes shall have at least one habitable room with not less than 120 sf of gross floor area.
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens.
4. Habitable rooms shall not be less than seven feet in any horizontal dimension.
5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;



- B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Grain bin homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the grain bin home shall be structurally designed regarding all attachments and cantilevers';
13. All modifications needed to convert the grain bin(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineer;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

#### **9.20.03 Cargo Container Homes**

Any residential structure meeting the definition of a cargo container home shall meet the following criteria:

1. Cargo container homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Multiple containers shall be structurally and permanently attached to each other;
3. Cargo container homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not be less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Cargo container homes shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the cargo container home shall be structurally designed regarding all attachments and cantilevers';
14. All modifications needed to convert the cargo container(s) into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineer;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
17. No Cargo Container Homes shall be constructed in any floodplain.

#### **9.20.04 Tree House Homes**

Any residential structure meeting the definition of a tree house home shall meet the following criteria:

1. Tree house homes shall only be permitted as an accessory use to a primary structure;
2. Tree house homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not be less than seven feet in any horizontal dimension;

5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, and hallways;
7. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
8. All electrical shall be in compliance with all local, state and/or federal electrical codes;
9. The unit shall meet all egress requirements found in local, state, and/or federal codes;
10. All tree house homes designed as recreational structures and/or sleeping quarters shall be structurally designed prior to construction and sealed by a structural engineer.

**9.20.05 Quonset Homes**

Any residential structure meeting the definition of a Quonset home shall meet the following criteria:

1. Quonset homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Quonset homes shall have at least one habitable room with not less than 120 sf of gross floor area;
3. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
4. Habitable rooms shall not be less than seven feet in any horizontal dimension;
5. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
6. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
7. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
8. Quonset homes shall have a kitchen area and sink;
9. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
10. All electrical shall be in compliance with all local, state and/or federal electrical codes;
11. The unit shall meet all egress requirements found in local, state, and/or federal codes;
12. Any and all extensions off the Quonset home shall be structurally designed regarding all attachments and cantilevers';
13. All modifications needed to convert the Quonset into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineer;
14. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
15. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

**9.20.06 Shouses**

Any residential structure meeting the definition of a Shouse shall meet the following criteria:

1. Shouses shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Once a Shouse has been established, the overall structure, including the shop area will no longer be considered an agricultural structure/building;
3. Shouses homes shall have at least one habitable room with not less than 120 sf of gross floor area;
4. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
5. Habitable rooms shall not be less than seven feet in any horizontal dimension;
6. Ceiling height effect on room area:
  - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
  - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
7. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;

8. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
9. Shouses shall have a kitchen area and sink;
10. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
11. All electrical shall be in compliance with all local, state and/or federal electrical codes;
12. The unit shall meet all egress requirements found in local, state, and/or federal codes;
13. Any and all extensions off the Shouse shall be structurally designed regarding all attachments and cantilevers';
14. All modifications needed to convert the machine shed into a dwelling unit shall be required to have all modifications designed and engineered by a licensed architect and/or engineer;
15. All items requiring the structure to be structurally designed/modified shall be sealed by a structural engineer;
16. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

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**Section 9.21 Short-term Rentals**

This section is intended to apply strictly to the use of property for short-term rentals within the jurisdiction of Bennet.

**9.21.01 Performance Standards**

Any short-term rental shall meet the following standards:

1. Located in a primary residential structure.
2. Not a part of any dwelling considered part of a multi-family dwelling including duplexes, single-family attached units or larger.
3. In an accessory dwelling unit.
4. Not to allow the property to be used for party rentals.
5. Not to be used for any type of illegal activities as defined by state and federal laws.
6. File the required lodging taxes with the county and state.
7. Be properly maintained including structural maintenance and the grounds.
8. Meet all state and federal life safety codes and display said permits in a prominent location.
9. Does not increase the normal level of traffic in the immediate area.
10. Said short-term rental shall not be used for any of the following:
  - A. Housing sex offenders;
  - B. Operating a structured sober living home or similar enterprise;
  - C. Selling illegal drugs;
  - D. Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or
  - E. Operating a sexually oriented business.

**9.21.02 Remedies**

Failure to comply with the regulations in Section 9.21.01, may result in any permit for a short-term rental to be revoked.

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**Section 9.22 Accessory Dwelling Units (ADU)**

One accessory dwelling unit per lot may be allowed by Conditional Use Permit in the indicated zoning districts in Section 5.07 under the following conditions:

1. The accessory dwelling unit shall fit within the allowable development area of the lot.
2. The total square footage of the ADU shall not exceed the lesser of 1,000 square feet or 40% of the square footage of the principal dwelling, excluding the garages, carports, and space used for mechanical equipment, such as heating, utilities and water heater or pumps. Any other unfinished space in a basement is included in the square footage to allow it to be furnished in the future. The calculation for the principal dwelling shall be based on the floor area as of the date the Conditional Use Permit is filed.
3. No more than two bedrooms are allowed in the ADU. Bedroom shall mean any room or space used or intended to be used for sleeping purposes.
4. The owner of the lot is required to live on the property in either the principal dwelling or the ADU. The owner of the lot shall file with the Register of Deeds, a deed restriction agreement on the property stating the accessory dwelling cannot be sold separately from the principal dwelling. The

deed restriction agreement must be to the satisfaction of the City Attorney. The deed restriction agreement shall be filed prior to any zoning permit for the ADU.

5. The ADU must share the same access point to the public or private street as the principal dwelling.
6. The ADU must meet the same setback requirements as the principal dwelling of the district. The height of the ADU must meet the height limit of the district for a dwelling but be no higher than the principal dwelling.
7. A detached ADU shall be located a distance no greater than 200 feet from the principal dwelling and must not be closer to the street right-of-way than the principal dwelling.
8. The ADU must share utilities with the principal dwelling unless the owner can demonstrate a practical problem with sharing due to the topography or other unique site considerations.

## Article 10: Board of Adjustment

### **Section 10.01 Members, Terms and Meetings**

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

### **Section 10.02 Appeals to Board, Record of Appeal, Hearings and Stays**

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

### **Section 10.03 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers:

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

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

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

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

#### **Section 10.04 Appeals to District Court**

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

## Article 11: Amendments and Application Process

### **Section 11.01 Purpose**

The Amendment Article describes the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/ or the official boundaries of zoning districts (rezoning).

### **Section 11.02 Initiation of Amendments**

#### **1. Text Amendments**

Text amendments may be initiated by an applicant, the Planning Commission, or the City Council.

#### **2. Map amendments**

Map amendments may be initiated by a property owner or authorized agent, the Planning Commission, or the City Council

### **Section 11.03 Amendment Application Requirements**

An application for a Rezoning may be filed by the owner(s) of a property or the owners' authorized agent with the Planning Commission. The application must be filed, and all plans must be submitted, at least 14 days prior to the scheduled meeting of the Planning Commission at which the application is to be heard. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Planning Commission to be necessary to describe the proposed use to approving agencies. The site plan, should be drawn to scale sufficient to permit adequate review and dimensioned as necessary, showing at least the following information:
  - A. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - B. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
  - C. The location, size, and use of proposed and existing structures on the site.
  - D. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
  - E. Location of any major site feature, including drainage and contours at no greater than five-foot intervals.

### **Section 11.04 Amendment Procedures**

Regulations, restrictions, and boundaries authorized to be created pursuant to Neb. Rev. Stat. §§ 19-901 to 19-915 may from time to time be amended, supplemented, changed, modified, or repealed.

#### **1. Public Hearing.**

The Planning Commission and City Council shall each hold a public hearing on any proposed amendment. The Public Hearings shall be held at a reasonable hour and place for such public hearing, and they shall hold said hearings at the next regular meeting after proper notification of adjacent property owners.

#### **2. Planning Commission Review**

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

#### **3. Notice of Hearings.**

Public notice of hearing on a proposed amendment shall be published once in the official City newspaper and at least ten days shall elapse between the date of publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions or the zoning classification or zoning district boundaries of the property.

The provisions of Neb. Rev. Stat. §19-904 relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2) in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor.

If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing.

At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least 10 days prior to such hearing.

#### 4. Protests.

In case of a protest against such change, signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet there from, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality.

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

### **Section 11.05 Zoning Administrator**

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

### **Section 11.06 Zoning Permits**

The following shall apply to all new construction and all applicable renovations and remodels within Bennet's Zoning Jurisdiction:

1. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.
2. Issuance of a zoning permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void 12



months from the date of issuance unless substantial progress has been made by that date on the project described therein.

**Section 11.07 Certificate of Zoning Compliance**

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

**Section 11.08 Penalties**

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

**Section 11.09 Remedies**

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

**Article 12: Legal Status Provisions**

**Section 12.01 Severability**

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

**Section 12.02 Purpose of Catch Heads**

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

**Section 12.03 Repeal of Conflicting Ordinances**

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

**Section 12.04 Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

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

This 13<sup>th</sup> day of March, 2023.

ATTEST: [Signature]  
City Clerk

[Signature]  
Mayor

