

Agenda  
Yutan City Council  
Tuesday, January 20th, 2026  
7:00 P.M. – Yutan City Hall  
112 Vine St, Yutan NE 68073

The mayor and city council reserve the right to enter into a closed session per Section 84-1410 of Nebraska State law. The sequencing of agenda items is provided as a courtesy; the mayor and city council reserve the right to address each item in any sequence they see fit.

- 7:00 Meeting to Order  
Statement from the Mayor Regarding the Posted Location of Open Meetings Act  
Statement from the Mayor Regarding the Meeting Code of Conduct  
Roll Call  
Pledge of Allegiance
- 1) Consent Agenda**
- a. Approve Minutes of the December 16th, 2024 Regular Meeting
  - b. Approve Minutes of the January 9th, 2026 Special Meeting/ Awards Dinner
  - c. Treasurer's Report
  - d. Claims
- 2) Open Discussion from the Public**
- a. Those wishing to speak on agenda items or other items relating to city business, not on the agenda may speak at this time only. Speakers must sign in with the Clerk or Administrator prior to the commencement of the meeting. Each speaker will be limited to three minutes. No action will be taken on these discussion items at this time.
- 3) Presentation From Guests**
- a. Annual Report for the Yutan Public Library
- 4) Public Hearings**
- a. Ordinance 816-Zoning Code Revision (Third Reading)
    - i. Staff Reporting
    - ii. Public Hearing
    - iii. Ordinance 816
  - b. Ordinance 818-Floodplain Management Code (First Reading)
    - i. Staff Reporting
    - ii. Public Hearing
    - iii. Ordinance 818
  - c. Ordinance 819-Utility Rates (First Reading)
    - i. Staff Reporting
    - ii. Public Hearing
    - iii. Ordinance 819

**5) Other Action Items**

- a. Appointment of City Council President
- b. Correction to the appointment of Cody Cardin as the Street and Sewer Superintendent at the December 16th, 2025 meeting
  - i. Appointment of Cody Cardin to the Street Maintenance Department and Sewer Department
- c. Appointment of Jon Chittenden as alternate to the Planning Commission

**6) Discussion Items**

**7) Supervisor Reports**

- a. Library Director
- b. Water & Parks
- c. Sewer & Street
- d. Police Chief
- e. Community Planner
- f. City Clerk
- g. City Administrator

**8) Items for Next Meeting Agenda**

**Meeting Adjourned**

**NEXT MEETING DATES**

**Planning Commission - February 10 2026, 7:00 P.M.**

**City Council Meeting - February 17th, 2026, 7:00 P.M.**

Anyone desiring to speak before the mayor and city council should contact the city clerk by the Monday preceding the city council meeting by 4:00 p.m. Anyone desiring to speak on any item on the agenda is invited to do so but should limit himself/herself to 3 minutes. After being recognized by the mayor, give your name and address for the record. Anyone desiring to speak for a longer period of time should make arrangements with the city clerk prior to the meeting. All speakers shall address the mayor and city council only. Anyone attending the meeting who may require auxiliary aid or service should contact the city clerk in advance.

Yutan City Council  
Tuesday, December 16th, 2025  
7:00 p.m. Yutan City Hall

EXTRACT FROM MINUTES OF A REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF YUTAN, IN THE COUNTY OF SAUNDERS, STATE OF NEBRASKA HELD AT THE CITY OFFICE IN SAID CITY ON THE 16TH DAY OF DECEMBER 2025, AT 7:00 p.m.

Notice of the meeting was given in advance thereof by posting notice, a designated method for giving notice, as shown by the Affidavit of Publication and Certificate of Posting Notice attached to these minutes. Notice of this meeting was given to Mayor Thompson and all members of the Yutan City Council, and a copy of their acknowledgment of receipt of the notice and the agenda is attached to these minutes. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

The meeting was called to order at 7:00 p.m. by Mayor Thompson. Councilmembers Lawton, Schimenti, Mach, and Smith were present. Mayor Thompson informed all the individuals present of the location of the Open Meetings Act and Code of Conduct. The meeting was opened with the Pledge of Allegiance.

**1) Reorganization**

- a. Appointments of the following positions
  - i. City Administrator/TIF Administrator-Bob Oliva
  - ii. City Clerk/Treasurer-Brandy Bolter
  - iii. Police Chief-Mayor Thompson read a letter from Chief Hannan resigning as police chief.
  - iv. Water & Parks Supervisor-Luke Woster
  - v. Sewer & Street Supervisor-Cody Cardin
  - vi. Community Planner, Building Inspector, and Zoning Administrator-Robert Costa
  - vii. City Attorney-Marieen Freeman-Caddy
  - viii. City Engineer- JEO Consulting Group
  - ix. A motion to approve the appointments as listed excluding the Police Chief was made by Schimenti and seconded by Smith. Upon roll call vote was as follows: YEAH: Lawton, Schimenti, Mach, Smith. NO: None, Motion Carried.
  - x. A motion to appoint Terry Luthy II as the interim police chief was made by Schimenti and seconded by Mach. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. NO: None, Motion Carried.
- b. Appoint Council Members to Standing Committees
  - i. Parks & Recreation/Police-Brett Lawton
  - ii. Ordinance/Legal-Kyle Schimenti
  - iii. Personnel & Finance/Building and Zoning-Wendy Mach
  - iv. Utilities/Streets-Will Smith
  - v. A motion to appoint council members to standing committees was made by Smith and seconded by Lawton. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. NO: None, Motion Carried.
- c. Appoint a Nuisance Hearing Officer for the City of Yutan
  - i. A motion to table a Nuisance Hearing Officer was made by Schimenti and seconded

by Lawton. Upon roll call vote was as follows: YEAH: Mach, Smith, Lawton, Schimentni. NO: None, Motion Carried.

- d. Designate Physical Posting locations at the Yutan City Office, Post Office, and First State Bank Yutan as the Method of the Published Notice of the Time and Place of Each Meeting.
  - i. A motion to approve the physical posting locations as the City Office, First State Bank, and Post Office was made by Lawton and seconded by Mach. Upon roll call vote was as follows: YEAH: Smith, Lawton, Schimenti, Mach. NO: None, Motion Carried.
- e. Designate First State Bank-Yutan as the Qualifying Financial Institution for the Deposit of All Funds of the City

A motion to designate First State Bank-Yutan as the qualifying financial institution for the deposit of all funds of the city was made by Schimenti and seconded by Smith. Upon roll call vote was as follows: YEAH: Lawton, Schimenti, Mach, Smith. NO: None, Motion Carried.
- f. Submittal of Conflict-of-Interest Forms

## 2) Consent Agenda

- a. Approve Minutes of the November 18th, 2025, Regular Meeting
- b. Treasurers report
- c. Claims: **AKRS Equipment \$455.34, ARCS \$405.00, Big Rig Repair \$444.50, BlackStrap Inc. \$3,519.45, Blizzard Boys \$680.00, Blue Cross Blue Shield \$2,585.05, Bomgaars \$581.65, Bromm, Lindahl, Freeman-Caddy & Lausterer \$850.00, Cardmember Services \$1,247.77, Column Software PBC \$86.67, Corner Stone Surveying, LLC \$2,780.00, Cubby's \$598.15, Culligan \$74.25, DropIns Portables \$107.00, Eakes \$1,212.78, EFTPS-Federal Payroll Taxes \$10,255.92, Elite Vehicle Outfitters \$431.79, Engel, Vicki \$270.00, Graham \$378.00, Guardian \$42.50, Hometown Leasing \$69.74, JEO Consulting Group \$2,257.50, Konecky Oil Company \$391.83, Limitless Branding \$180.00, Love Sings \$470.90, Lowes \$31.54, Menards \$184.33, MUD \$133.36, Midwest Laboratories \$204.57, NE Dept. of Revenue \$930.48, NE Public Health Environmental Lab \$30.00, Nebraska Rural Water Association \$350.00, NMC \$139.76, One Call Concepts, Inc. \$11.44, OPPD \$5,271.55, Power Manager \$8,490.18, Road Runner Transportation LLC \$415.00, Seiler Instrument & Manufacturing \$135.00, The Lincoln National Life Insurance Company \$392.49, Ty's Outdoor Power \$ Service \$147.00, U.S. Cellular \$106.83, Verizon Business \$40.01. Total w/o Payroll \$47, 389.33, Payroll \$29,203.87, Total w/Payroll \$76,593.20. SRF Loan Payments and Various Purpose Bond Payments \$39,177.27.**
- i. A motion to approve the consent agenda was made by Lawton and seconded by Schimenti. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. NO: None, Motion Carried.

## 3) Open Discussion

- a. Lindsay Nelson-asked about the utility rate increase and when was the last time that was done. He also asked about the alley between 4th and 3rd, and Poplar and Vine streets. Stating that it is full of ruts and needs rocks added.
- b. Jared Nelson- Stated that the alley behind his house at 604 4th street has no rock and trees are growing within the alley way.
- c. Alicia Archer-wanted to say that she has enjoyed her time on the library board and would like



to continue her part as a board member.

- d. Shane Wiczorek- Wanted to bring to the attention of the council that he has some damage done to his property during the snow removal.

#### 4) **Presentation from guest**

- a. Rex Roberts with Kinetic Fiber
  - i. Spoke on the 2026 Fiberoptic plans that have been presented for the City of Yutan and the prospect of what it would look like. Mr. Roberts also asked the city council what their thoughts were and any questions that they may have. Administrator Oliva stated that at this time we would like to host a town hall meeting with Kinetic to do an overview of the project with residents and the council due to the extensive plans that have been proposed.

#### 5) **Public Hearings**

- a. Ordinance 816-Zoning Code Revision (Third Reading)
  - i. Staff Reporting
  - ii. Public Hearing
  - iii. Ordinance 816
    - A motion to table the third reading of Ordinance 816-Zoning Code Revision was made by Schimenti and seconded by Smith. Upon roll call vote was: YEAH:Mach, Smith, Lawton, Schimenti. NO: None, Motion Carried.
- b. Ordinance 818- Floodplain Management Code
  - i. Staff Reporting
  - ii. Public Hearing
  - iii. Ordinance 817
    - A motion to table the first reading of Ordinance 818-Floodplain Management Code was made by Lawton and seconded by Mach. Upon roll call vote was as follows: YEAH: Smith, Lawton, Schimenti, Mach. NO: None, Motion Carried.

#### 6) **Action Items**

- a. Planning Commission Appointments
  - i. Aaron Gay-Reappointment
    - A motion to reappoint Aaron Gay to the Planning Commission was made by Schimenti and seconded by Lawton. Upon roll call vote was as follows: YEAH: Lawton, Schimenti, Mach, Smith. NO: None, Motion Carried.
  - ii. Ryan Chapman
    - A motion to appoint Ryan Chapman to the Planning Commission was made by Lawton and seconded by Mach. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. NO: None, Motion Carried.
- b. Library Board Appointments
  - i. A motion to appoint Kelsey Chittenden, Elizabeth Casey, Dawn Ford, and Michelle Smith-Dahlhauser to the Library Board was made by Schimenti and seconded by Lawton. Upon roll call vote was as follows: YEAH: Mach, Lawton, Schimenti. NO: Smith, Motion Carried.

#### 7) **Discussion Items**

- a. Utility Rates
  - i. Administrator Oliva went over his internal audit of our sewer and water accounts and the current utility rates. Oliva presented the council with a breakdown of the current

proposals for the utility rates and the cost analysis of the SRF loans. Councilmember Schimenti asked what the time frame would be for raising the utility rates and if we were to do a step program. Oliva stated that this is something that will need to be addressed soon and it will need to be done as an ordinance and will give the public a chance to address any issues with the council. Oliva also stated that we could also include a senior citizen discount, but would need proof that any resident is of the age 65 plus. We will also include on the bill a breakdown of what the extra cost is and what it was for. At this time the council is good to proceed with setting an ordinance with a step program for the changes in the utility rates.

b. Saint Peters Church

- i. Mayor Thompson stated that the city was approached by St. Peters Church and if there would be any interest in wanting to purchase the church. Councilmember Schimenti does not see any issue with hearing them out. Councilmember Lawton agreed to see what the cost would be and the possible usage would be. Mayor Thompson mentioned moving the library there and using the current library as a possible police station.

**8) Supervisor's Reports**

- a. Library
- b. Police Department
- c. Water & Parks-Councilmember Smith asked water and parks supervisor Woster about adding meters to the splash pad and the ballfields and if there is a way to track what we are losing now for water. He also asked if the city office or fire station is being metered. Administrator Oliva stated that we are able to keep track of the water usage through the pump houses.
- d. Sewer & Street
- e. City Clerk/Treasurer - Occupation Tax Report
- f. Community Planner
- g. City Administrator

**9) Items for Next Meeting-** A motion to adjourn at 7:56 pm was made by Lawton and seconded by Smith. Upon roll call vote was as follows: YEAH: Smith, Lawton, Schimenti, Mach. NO: None, Motion Carried.

**NEXT MEETING DATES**

**Planning Commission- January 13th, 2026, 7:00 P.M.**

**City Council Meeting-January 20st, 2026, 7:00 P.M.**

Anyone desiring to speak before the mayor and city council should contact the city clerk by the Monday preceding the city council meeting by 4:00 p.m. Anyone desiring to speak on any item on the agenda is invited to do so but should limit himself/herself to 3 minutes. After being recognized by the mayor, give your name and address for the record. Anyone desiring to speak for a longer period of time should make arrangements with the city clerk prior to the meeting. All speakers shall address the mayor and city council only. Anyone attending the meeting who may require auxiliary aid or service should contact the city clerk in advance.

Matt Thompson, Mayor

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Brandy Bolter, City Clerk/Treasurer

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CITY OF YUTAN  
P.O. BOX 215 – 112 VINE STREET  
YUTAN, NE 68073  
(402)625-2112

EXTRACT FROM MINUTES OF A SPECIAL MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF YUTAN, IN THE COUNTY OF SAUNDERS, STATE OF NEBRASKA HELD AT YUTAN VETERAN'S COUNTRY CLUB, YUTAN, NEBRASKA ON THE 9TH DAY OF JANUARY 2026, AT 5:30 p.m.

Notice of the meeting was given in advance thereof by posting notice, a designated method for giving notice, as shown by the Certificate of Posting Notice attached to these minutes. Notice of this meeting was given to the mayor and all members of the city council and a copy of their acknowledgment of receipt of notice and the agenda is attached to these minutes. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

The meeting was called to order at 5:30 p.m. by Mayor Thompson. Councilmembers Lawton, Schimenti, and Mach were present, Councilmember Smith was absent. Mayor Thompson informed all individuals present of the location of the poster regarding the Open Meetings Act and Code of Conduct. Mayor Thompson opened the meeting with a speech.

1. A city council and staff awards dinner was held. No action or public comment was taken.

A motion to adjourn the meeting was made by Lawton and seconded by Schimenit. Upon roll call, vote was as follows YEA: Lawton, Schimenti, and Mach. NO: None. Motion carried. The meeting adjourned at 8:00 p.m.

**NEXT REGULAR MEETING – January 20th, 2026, 7:00 p.m. at City Hall**

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Matt Thomspon, Mayor

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Brandy Bolter, City Clerk/Treasurer

### Banking

Account #	Account Name	Balance
3377	General Checking	\$ 175,360.70
7727	General Money Market	\$ -
7948	Water Bill	\$ 85,167.38
7970	Sewer Account	\$ -
Total Operating Funds(Liquid)		\$ 260,528.08
6578	Bond Fund	\$ 57,213.98
7725	Reserve Account	\$ 5,401.72
7959	Keno Checking	\$ 163,702.87
Total Reserve Funds (Liquid)		\$ 226,318.57
3101	City of Yutan CD	\$ 206,904.25
*3103	City of Yutan CD	\$ 382,244.80
**5415	City of Yutan CD	-
Total of CD Accounts		\$ 589,149.05
Total Liquid Funds		\$ 486,846.65
Total of all Funds		\$ 1,075,995.70

5469	Community Redevelopment	\$358,849.43
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Total Funds In all Accounts	\$ 1,434,845.13
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#### NOTE

\* Used as colateral on 1st & Poplar Loan

\*\* Used as colateral on Cedar Drive Loan

Date	1/15/26
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Bonds & Loans					
Account #	Account Name	Origin Date	Balance	Yearly Obligation	Paid From
8179	Cedar Drive Asph. Overlay	7/15/2020	\$ -	\$ -	3377 Gen
8435	Cruiser Purchase & BLDG	3/20/2023	\$ -	\$ -	3377 Gen
8407	2023 GMC Sierra & Access	10/31/2022	\$ -	\$ -	3377 Gen
8053	Skid Loader & UTV	5/1/2019	\$ -	\$ -	3377 Gen
2012	G.O. Bonds	3/27/2012	\$ 51,007.50	\$ 49,770.00	6578 Bond
2014	2014 Water Bonds	3/18/2014	\$ -	\$ -	6578 Bond
8325	Street Improvements	12/21/2021	\$ 581,164.55	\$ 106,405.48	CRA
7609	Splash Pad TIF	7/20/2016	\$ 143,647.08	\$ 12,022.00	CRA
7345	Thompson	5/26/2015	\$ 46,618.81	\$ 9,237.60	CRA
C318035	CWSRF	12/21/2021	\$ 858,402.48	\$ 53,139.75	7948 Water
D311662	DW311662	7/9/2023	\$ 655,382.21	\$ 22,995.86	7948 Water
	Sudbeck 1 TIF (Frontier 5897)	2015	\$ 567,989.40	\$ 73,464.84	CRA
	Sudbeck 2 TIF (Frontier 5898)	2017	\$ 495,105.70	\$ 64,283.56	CRA
	Sudbeck 3 TIF (Frontier 5899)	2020	\$ 415,316.22	\$ 54,054.36	CRA
	Mason Creek Apts. II	2024	\$ 182,000.00	\$ 18,570.00	CRA
8579	1st & Poplar Street 2019	2024	\$ 485,868.95	\$ 100,021.46	Gen/CRA

50/50 split

	Balance	Yearly Obligation
Bond Obligation	\$ 51,007.50	\$ 49,770.00
Gen Fund Obligation	\$ 242,934.48	\$ 50,010.73
CRA Obligation	\$ 2,637,395.03	\$ 388,048.57
Water/Sewer Funds	\$ 1,513,784.69	\$ 76,135.61
Total Obligation	\$ 4,445,121.69	\$ 563,964.91

Vendor	Amount	Discription	Account
ARCS	\$4,210.61	Police evidence computer and google workspace	10310, 11260
Blue Cross Blue Shield	\$2,585.05	Health insurance for employees	2100H, 2100D
Bomgaars	\$32.97	Diesel Conditioner	20260
Capital Business Systems, Inc.	\$368.04	Office Phones	11080, 10080, 90080, 10680
Cardmember Services	\$2,123.04	Credit card	Multiple
Column Software PBC	\$147.75	Local Publishing	10330
Concentra	\$104.00	Drug Screening for new library employee	13280
Cubby's	\$411.27	Monthly Gas Expense	11240, 20240, 80240, 90240
Culligan	\$197.25	Water and coolers	10260, 80260, 90260, 20260, 13260
CW Electrical Contracting	\$1,182.72	Finishing Light and Electrical for Itan Pavilion	14920
DataShield	\$61.67	Document Shredding	10260
Double K Farms	\$6,112.14	Repayment for pivot repairs	90780
Drop Ins Portables	\$107.00	Toilet Rentals	14260
Eakes	\$571.00	Doc. Mgt.	10310
EFTPS-Federal Payroll Taxes	\$11,674.04	941 Employers Federal Tax	Multiple
Engel, Vicki	\$135.00	Office Cleaning	10260
Grainger	\$190.35	Brackets for Street Signs	20660
Guardian	\$42.50	Life and Disability insurance	10240
Hometown Leasing	\$69.74	Copier Lease	10680
JJM Enterprises	\$1,598.33	Employee Appriciation Dinner	10340
J.P Cooke Company	\$105.95	Pet License Tags	10100
Konceky Oil Company	\$205.00	Police Enterceptor	11260
Lowe's	\$743.03	Street Supplies and Water Supplies	20260, 80260
Luthy II, Terry	\$1,889.33	Reimbursment for vest	11250
Metropolitan Utilities District	\$376.93	Shop gas utilities	20820
Mid-States Organize Crime	\$100.00	MOCIC's Membership Fees	11280
NE. Dept. of Labor	\$17.49	Unemployment Tax and Wage Report	10150
NE. Dept. of Revenue Charitable Gaming	\$3,727.84	Lottery Tax Return Form 51C	10810
NE Dept. of Revenue	\$5,743.01	Income Tax 941N and Form 10	80810, Multiple
Nebraska Public Health Environmental Lab	\$46.00	Water Testing	80640
NMC	\$451.52	Parts for the skid loader	20650
One Call Concepts, Inc.	\$1.64	Locate Fee	80270
OPPD	\$5,966.10	Electrical Bill	Multiple
Pitney Bowes Purchase Power	\$603.75	Postage	10260, 80260, 90260
Road Runner Transportation LLC	\$415.00	Monthly Garbage and an extra pickup for Yutan Days	20810
The Lincoln National Life Insurance Company	\$392.42	Life and Disability insurance	10240
US Cellular	\$106.83	Police Cellphone and Tablet for public works	10080, 10090, 11080
Verizon Business	\$40.01	Police Hotspot	11080
Water Engineering	\$45.55	Sodium Hypochlorite	80260
Zoom Drian	\$950.00	Snaking of sewer line on Anderson Way	90720
Total w/o Payroll	\$52,856.32		
Payroll	\$38,272.46		
Total w/ Payroll	\$91,128.78		

# Memorandum

**To:** Mayor and City Council  
**From:** Brandy Bolter, City Clerk  
**Date:** 1/15/26  
**Re:** Library Report

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Yutan Library Board will be presenting the Annual Library Report. According to State Statute 51-213 this report is to be given before the second Monday in February in each year. The report shall show all money received and credited or expended; the number of materials held, including books, videos and audio materials, software programs, and other materials in other formats; the number of periodical subscriptions on record; the number of materials added and the number withdrawn from the collection during the year; the number of materials circulated during the year; and other statistics, information, and suggestions as the library board may deem of general interest.

**Action Item** - N/A

# YUTAN PUBLIC LIBRARY Annual Statistical Report

October 1, 2024 – September 30, 2025

Director: Laurie Van Ackeren (Sept.'16)

Library Assistant: Lisa Nielsen (December '25)

Substitute Librarians: Barb Juedes (March '23), Betty Bidrowsky (April '17)

Christina Jeffries (June '24), Maleah Johnson (June '25)

Yutan Public Library is a member of the Eastern Library System.

The library is accredited by the Nebraska Library Commission through 12/31/2029.

The Library Board is certified by the Nebraska Library Commission through 9/30/2027.

Laurie Van Ackeren, director, is certified through 4/30/2027.

Accreditation is achieved by meeting requirements established by the Nebraska Library Commission and through continuing education classes and workshops. This is required in order to be eligible to receive Public Library state aid funding.

## Deleted Materials:

Puzzles 41	Audio Books 17	Fiction 162	Easy Juv 53
Tween 25	Juv Fiction 35	Young Adult 47	Board Books 1
DVDs 87	Adult Non-Fiction 66		

## Materials Added:

Puzzles 45	Biographies 5	Fiction 214	Easy Juv 42	DVDs 41
Tween 10	Juv Fiction 103	Young Adult 13	Board Books 5	Games 24
Adult Non-Fiction 93		Cake Pans 5	Biographies 5	Newspaper 1

## Value of Collection: \$184,920.24 (10,722)

Puzzles \$2,085.19 (170)	Audio Books \$2,092.32 (72)
Biographies \$3,749.92 (157)	Fiction \$68,347.25 (3,417)
Easy Juvenile \$12,959.90 (1,127)	Juv Fiction \$25,856.49 (2,007)
Juv Non-Fiction \$13,425.17 (963)	DVDs \$12,821.42 (821)
Experience Kits \$468.18 (12)	Large Print \$2,492.45 (93)
Non-Fiction \$19,531.11 (944)	Tween \$2,988.85 (210)
Young Adult \$7,122.90 (441)	Board Books \$1,192.53 (148)
Games \$907.72 (43)	Cake Pans \$497.41 (45)

Circulation Total was 6,047

FROM: Robert Costa, Community Planner  
TO: City Council & Mayor of Yutan, Nebraska  
DATE: December 11, 2025 (Revised 1/9/2026)  
SUBJECT: Ordinance #816: Zoning Code Revision (*THIRD READING*)

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## INTRODUCTION

After years of discussion, numerous meetings, and serious consideration, the long-awaited revision of the City's zoning – titled "Yutan's Community Zoning Code" – is hereby submitted for final review and consideration at the City Council's third reading of Ordinance #816. If approved, the code would become effective on December 31st.

## ATTACHMENTS

1. Yutan Community's Zoning Code (12/24/2025 draft) - SENT BY SEPARATE E-MAIL
2. Official Zoning Map
3. Written Public Comment (*none received*)

## STAFF DISCUSSION

- Zoning Map: Mapping data was created by JEO showing the revised boundaries.
- Second Reading: Changes agreed-upon during the second reading were made to the additions/alterations standards, conditional use abandonment timeframe, auto body repair requirements, allowance of noise-producing tools and requirements for exhaust fumes in industrial zones, and prohibition of ethanol and poison manufacturing. As requested, staff simplified the projection exemption language (pg. 13) and strengthened the wireless communication facilities provisions, including the performance bond amounts (pgs. 24-27).
- Definitions: Based on provided guidance, the definitions have been refined and improved. Thank you again to the Council members who reviewed and offered suggested edits to that section.
- Corrections/Additions: The 12/24/2025 draft includes changes to the adopted date (pg. 1), bulk requirements in B-CBD (pg. 35), and allowance of auto sales/service in I-LTE as a permitted use (pg. 37). The B-CBD and I-LTE changes were intended revisions, but mistakenly omitted.

## NOTICE PROCEDURE

- Legal notice of the proposed zoning code and the initial hearings was published in the October 3, 2025, edition of the Wahoo Newspaper.
- Notice of the proposed code and public hearings was physically posted at Yutan City Hall, the Post Office, and First State Bank.
- Notice was provided to the Schools Board and Saunders County Board of Supervisors.

*(As of the date of this memo, no written public comment was submitted to the City Office.)*



## **APPLICABLE LAW & PROCEDURE**

- Nebraska Revised Statutes, Section 19-903: Zoning regulations, including the associated map, are required to meet the statutory purpose of zoning, in addition to requirements for reasonable consideration of the land's suitability for particular uses and encouraging the most appropriate use of land.
  - In order to make a final decision on this matter, the City Council must make findings to support their action. The Planning Commission's recommended findings of fact – pursuant to the standards for review described by statute – have been adapted into Ordinance #816. **If the Council chooses to modify these findings or any other aspect of the draft ordinance, its members shall direct staff as to what sections shall specifically be adopted and/or modified.**

**DRAFT ORDINANCE – THIRD READING  
YUTAN COMMUNITY’S ZONING CODE**

**ORDINANCE #816**

AN ORDINANCE OF THE CITY OF YUTAN, IN SAUNDERS COUNTY, NEBRASKA, TO FORMALLY ADOPT NEW ZONING REGULATIONS TO REPLACE EXISTING REGULATIONS; TO PROPERLY AMEND THE RELEVANT SECTIONS OF MUNICIPAL CODE; TO DOCUMENT THE NEW REGULATIONS IN THE RECORDS OF THE CITY; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED WITHIN THE FIRST FIFTEEN DAYS AFTER ITS PASSAGE AND APPROVAL IN PAMPHLET FORM, AND SHALL BE IN FULL FORCE AND TAKE EFFECT AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW AND AS PROVIDED HEREIN; AND IT IS HEREBY DECLARED TO THE PUBLIC BY THE MAYOR AND COUNCIL OF THE CITY OF YUTAN THAT THE YUTAN COMMUNITY’S ZONING CODE IS ADOPTED.

WHEREAS, state law and local ordinance allow for and dictate the procedure to amend the zoning ordinance adopted by a municipality;

WHEREAS, the City of Yutan - including its Mayor, City Staff, the City Planning Commission, the City Council, and community stakeholders - has comprehensively examined the existing development patterns, trends, and conditions within the community and determined that revised zoning regulations are appropriate in consideration of the City’s adopted Comprehensive Plan and observed local conditions;

WHEREAS, City Staff and the Planning Commission have drafted new regulations, titled “Yutan Community’s Zoning Code,” to replace the existing ordinance;

WHEREAS, the Planning Commission held a public hearing on October 14, 2025, to review the proposed regulations, consider public comment, and make findings according to state and local law, ultimately voting to recommend approval of the proposed regulations;

WHEREAS, the City Council of Yutan, Nebraska, held a public hearing on October 21 & November 18, 2025, and January 20, 2026, to consider the Planning Commission’s recommendation and all public comment, and then review the proposed code according to the purpose and requirements for zoning pursuant to Section 19-903 of the Nebraska Revised Statutes and hereby makes the following findings:

**1. The proposed code reasonably considers the character of the district and its suitability for particular uses.**

*The proposed revision has been specifically and carefully designed to recognize the character of our community's existing neighborhoods to create appropriate rules and requirements for each of the zoning districts created by these regulations. The permitted and conditional uses have been thoughtfully considered to ensure that they are suitable, compatible, and harmonious with the uses currently occurring within each district and those that could potentially occur in the future.*

**2. The proposed code conserves the value of buildings and encourages the most appropriate use of land.**

*The proposed revision was created to conserve the value of buildings and crafted to encourage the most-appropriate uses of land within our community's jurisdiction. Each provision was designed to reflect our community's unique development patterns: past, present, and future.*

**3. The proposed code conforms with the purpose of zoning established under Section 19-903: to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; prevent overcrowding of the land; to secure safety from flood; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to protect property against blight and depreciation; to protect the tax base; secure economy in governmental expenditures; and to preserve, protect, and enhance historic buildings, places, and districts;**

*If the proposed revision is adopted by the governing body and properly implemented by the City, then development within the City's jurisdiction will be in harmony with the statutory purpose of zoning and ensure protection of the public's health, safety, and general welfare.*

WHEREAS, upon making these findings, the City Council voted to adopt the proposed zoning regulations;

THEREFORE, be it ordained by the Mayor and City Council of Yutan, Nebraska:

- 1) That the findings herein made above should be and are hereby made a part of this ordinance as fully as if set out at length herein.
- 2) That the City of Yutan shall adopt as zoning regulations the "Yutan Community's Zoning Code" and the "Yutan Community's Official Zoning Map" as follows:

[SEE ATTACHED TEXT AND MAP]

- 3) That Section 10-201 of Municipal Code be amended to state:

For the purpose of setting minimum standards to promote the public's health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, the Yutan Community's Zoning Code and Official Zoning Map was adopted by Ordinance #816 on January 20, 2026. One copy of the adopted zoning code shall be kept on file and available for inspection at the City Offices.

- 4) That Section 10-202 of Municipal Code [“ZONING MAP; ADOPTED BY REFERENCE”] be deleted in its entirety.
- 5) That record of this ordinance's passage shall be kept by the City of Yutan.
- 6) That should any section, paragraph, sentence, or word of this ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the Mayor and City Council of Yutan, Nebraska, that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.
- 7) That all ordinances or parts of ordinances related to zoning regulations passed and approved prior to the passage, approval, and publication of this ordinance and in conflict herewith, are hereby repealed.
- 8) That this ordinance shall be published within the first fifteen days after its passage and approval, in pamphlet form, and shall be in full force and take effect on that date.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.

CITY OF YUTAN, NEBRASKA

(seal)

BY: \_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
CITY CLERK

# YUTAN COMMUNITY'S ZONING CODE

ORDINANCE #816 – adopted 1/20/2026, effective 2/4/2026

## 1. AUTHORITY, SCOPE, & ADMINISTRATIVE PROCEDURE

### a. Authority & Applicability

#### i. Title

These regulations shall be known as the Yutan Community's Zoning Code, hereinafter referred to as "this code."

#### ii. Adoption

Originally adopted January 20, 2026, under Ordinance #816.

#### iii. Official Zoning Map

The Yutan Community's Official Zoning Map is included with this code as the attached "Official Zoning Map" and shall be made available to the public. Subsequent changes to the map shall occur as an amendment to this code pursuant to the requirements and procedures of state law and be noted within Section 1.a.iv of this code by ordinance number and date of adoption.

#### iv. Amendments

The amendment of this code and the Official Zoning Map shall occur pursuant to all requirements and procedures prescribed by state law and shall conform to the City's adopted comprehensive plan. Amendments shall be noted within this section by ordinance number, date of adoption, and section(s) amended.

- AMENDMENTS: None

#### v. Authority

These provisions are adopted under the authority granted by Section 19-901, N.R.S., which authorizes zoning and associated procedures for Cities of the Second Class. This code has been made in accordance with the comprehensive plan adopted by the City of Yutan, including subsequent amendments to the comprehensive plan. ~~Future amendments to the Yutan Community's Zoning Code shall follow the review procedure of Section X and shall comply with state law and conform to the adopted comprehensive plan.~~

#### vi. Jurisdiction

The provisions of this code shall apply within the corporate limits of the City of Yutan and the Extra-Territorial Jurisdiction established by state law and shown on the Official Zoning Map.

#### vii. Purpose

The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection, and general welfare by controlling the design, location, use or occupancy of all buildings and structures

through the regulated and orderly development of land and land uses within this jurisdiction.

viii. **Scope**

The provisions of this code shall apply to the construction, addition, alteration, moving, repair, and use of any building, structure, land/property, wireless communication facility, and sign within this jurisdiction, except municipal buildings and/or uses, public works, and public utility infrastructure located primarily in a public way and/or public land, including stations, towers, poles, and water/sewer facilities, unless specifically mentioned in this code. Specific permitting requirements are discussed in Section 1.c.iii of this codeXXX.

ix. **Invalidity Provision**

If any portion of this code is held invalid for any reason, the remaining herein shall not be affected.

b. **Administration, Enforcement, & Violations**

i. **General**

Upon adoption of this code, no use, building, or structure, whether publicly or privately owned, shall be constructed or authorized on property within the City of Yutan's jurisdiction until the location and extent thereof conform to this code.

ii. **Lawfully-established Buildings**

Lawfully-established buildings and uses in existence at the time of the adoption of this code shall be permitted to have their existing use or occupancy continued or "grandfathered," provided that such continued use is not dangerous to life.

iii. **Non-Conforming Uses**

The existing and lawful use of a building, structure, or land, established prior to the adoption of this code and/or subsequent amendments, may be continued, despite its non-conformity. Such use may occur throughout the same building if no structural alteration of such building is proposed or made, in which case said alteration shall be subject to Section 1.b.iv, below-notwithstanding the provisions of Section X.

If such non-conforming use is in fact discontinued for a period of twelve months, the City may consider the right to the non-conforming use forfeited and any future use of the building and premises shall conform to this code. The burden of proof to show that the structure, lot, or use was lawfully established shall be with the owner, occupant, or user of the non-conforming use.

iv. **Additions, Alterations, and Repairs**

Additions, alterations, or repairs shall be permitted to be made to any building or use without requiring the existing portions of the building or use to comply with the requirements of this code, provided that the addition, alteration, or repair conforms to that required for a new building or use. As such, non-conforming structures shall be allowed to be expanded so long as the addition/enlargement does not increase the degree of existing non-conformity or create additional non-conformity.

~~Less than 60% damage provision?~~

v. **Maintenance**

The maintenance of buildings or uses, both existing and new, and all parts thereof, are the responsibility of the property owner or owner's authorized agent.

vi. **Moved Buildings/Structures**

Buildings or structures moved into or within the jurisdiction shall require permit approval and comply with the provisions of this code for new buildings and structures.

vii. **Temporary Buildings, Structures, & Uses**

Buildings, structures, and uses (such as reviewing stands and other miscellaneous structures, sheds, canopies, or fences) intended for temporary purposes and used for the protection of the public may be allowed in accordance with the temporary uses listed and discussed in each particular zoning district.

This code establishes no permitting requirements for temporary structures or uses, however, after temporary uses have existed beyond the intended event and/or purpose for 5 or more days, the City shall have the authority to order cessation of the use and its removal from the subject premises or otherwise be remedied pursuant to this code.

viii. **Illegal uses**

Uses that were illegally established prior to the adoption of this code shall remain illegal.

ix. **Violations**

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or land or authorize the same to be done in violation of this code. Where any building or lot within the jurisdiction of the City of Yutan, including its extra-territorial jurisdiction, is being used contrary to this code, the City is authorized to take any action necessary to stop the unlawful activity, including issuance of a cease and desist order. Such order shall be given in writing to the owner of the property, the owner's authorized agent, or the person(s) performing the violation. Such person(s) shall discontinue the use or act to resolve the violation within the time prescribed by the order after receipt of such notice or be subject to the penalties described herein.

x. **Penalties**

A violation of this code shall be considered a misdemeanor punishable by fine not exceeding \$100 for any one offense, recoverable with costs, or by imprisonment in the county jail for a term not to exceed 30 days. Each day such violation continues after notice of violation is given may be considered a separate offense.

xi. **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 this code, the City may institute any appropriate action or

proceedings to: prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation; prevent the occupancy of such building, structure, or land; and/or prevent any illegal act, conduct, business, or use in or about such premises.

c. **Code Compliance, Permit Approval, & Review Procedure**

i. **General**

City officials charged with authority to review permit applications and/or issue approvals under this code shall issue no approval for uses or purposes in conflict with this code. Any permit or approval, if issued in conflict with this code, may be rendered null and void.

ii. **Burden of Proof**

The responsibility for demonstrating compliance with this code shall be with the property owner of record and/or the owner's authorized agent. Insufficient information to determine compliance with this code may be grounds for denial of a permit application and/or any necessary enforcement action authorized under this code.

iii. **Permitting Requirements**

Any land use or construction/development/building activity that requires a building permit according to the Adopted Building Codes of Yutan shall be reviewed for compliance with this code. Unless otherwise exempt from the requirements of this code per Section ~~1.a.viii~~ ("Scope"), no building permit shall be issued by the City of Yutan unless the proposed development demonstrates compliance with this code and receives Zoning Approval from the Zoning Administrator. (Also see Section ~~1.f.vi~~, "Review of Building Permit Applications.") New wireless communication facilities and modifications or additions to existing wireless communication facilities shall require review and approval according to Section ~~13~~ of this code.

For uses which require conditional use review and approval prior to the use occurring, please see Section ~~1.d~~, below.

Exemption from permitting requirements shall not be construed as permission to establish uses or structures in conflict with this code; such activity shall be considered a violation. To prevent such violations, the City encourages informal review of permit-exempt development in order to determine the compliance of the proposed development.

iv. **Conditions & Terms**

All development and uses approved under the authority of this code and for which the City of Yutan is responsible shall occur under terms and conditions applied to the approved development/use in conformance with the provisions of this code, including any requirements established as a condition of issuance. Except as specifically provided for in this code and conditions of approval, the securing of one required review or approval shall not exempt the recipient(s) from other required review/approval(s).



v. **Timeframe & Expiration**

Each approval issued under the authority of this code shall expire one year from the date of issuance. The Zoning Administrator may grant a one-year extension if requested.

vi. **Cancellations**

Failure to fully comply with the conditions and terms of any permit and/or approval may be grounds for cancellation or revocation. Action to cancel any license, permit, or approval shall be taken on proper grounds by the Zoning Administrator. Cancellation of a permit and/or approval issued under the authority of this code may be appealed to the Board of Adjustment pursuant to the procedure of Section 1.g.vX of this code.

d. **Conditional Uses**

i. **General**

Conditional use review and approval shall be required for any land use or building activity listed or described as a “conditional use” in this code. Approval shall occur prior to any work on the property to develop the proposed use. Upon issuance of conditional use approval, the approved use shall be deemed to be conforming and in compliance with this code.

ii. **Application Submittal**

An application, signed by at least one owner of record for the subject property or the landowner’s authorized agent, shall be submitted to the Zoning Administrator with the appropriate fees. In addition to the application form, the following information should be included:

1. A site plan illustrating location of existing and proposed buildings, parking and loading areas, traffic access and circulation, open spaces, easements, existing and proposed grades, landscaping, utilities, water/sewer services, signs, stormwater management, and any other information required by the Zoning Administrator.
2. Applicants are encouraged to discuss the proposal with adjacent landowners in advance of submitting the application, potentially including any letters of support or comment with the application submittal.
3. A narrative statement discussing:
  - a. Potential effects on adjoining property, including noise, glare, dust, contaminants, increased traffic, etc.;
  - b. The requested conditional use’s general compatibility with adjacent properties and the general vicinity; and
  - c. Whether adequate public facilities exist to serve the proposed use.
  - d. Additional information to address the review criteria of Section 1.d.iii, belowX.

iii. **Review Criteria**

In order to approve a conditional use, the City Council shall review the particular facts and circumstances of each request and find the request to meet the following standards:

1. The proposal constitutes a qualified conditional use established within this code, as cited by chapter and section.
2. The request shall not adversely affect adjacent properties due to the production of glare, noise, malodorous gas, ash, dust, and/or other nuisances.
3. The request is compatible with the existing or allowable uses of adjacent properties.
4. The request can demonstrate that adequate public facilities (including roads, drainage, potable water, sanitary sewer, and police/fire protection) exist or will exist to serve the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provision for operation and maintenance of the use and associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.
7. The request will not create undue traffic congestion.
8. The request will not adversely affect the public's health, safety, or general welfare.
9. The request conforms with all applicable provisions of the comprehensive plan and this code.

iv. **Public Hearing Procedure & Appeals**

Conditional use review shall occur as follows:

1. Upon determination by the Zoning Administrator that the application is complete and sufficient for public review, the City shall provide legal notice according to Section ~~1.h~~ of this code.
2. The Zoning Administrator shall request comment from the police and fire departments regarding the conditional use request.
3. Ten days after legal notice has been published, the Planning Commission shall initiate review of the request at a public meeting, take public comment, make recommended findings on the request based on the review criteria described in Section ~~1.d.iii (above)~~, and then vote to recommend approval or denial of the request to the City Council.
4. The City Council shall hold separate public hearing to consider the request, review the Planning Commission's recommendation, take public comment, make findings pursuant to Section ~~1.d.iii (above)~~, and then approve, approve with conditions, or deny the conditional use.
5. An appeal of a decision regarding a conditional use can be made to the district court.

v. **Expiration & Revocation**

A conditional use shall be considered to be exercised when the use has been established or when a building permit has been issued and substantial

construction accomplished. When the permit, construction, and/or use is abandoned or discontinued for a period of one year ~~[or six months?]~~, the approval shall be considered expired and shall not be re-established without additional review and recommendation from the Planning Commission and approval from the City Council pursuant to Section ~~1.d.ivX~~ of this code.

In cases where the applicant fails to comply with the required conditions of any approved conditional use, the Zoning Administrator – in consultation with the City Mayor – is authorized to issue a temporary injunction on all activity associated with the conditional use. After conducting public hearing procedures pursuant to Section ~~1.d.ivX~~ (conditional use public hearing procedure), the City Council shall either revoke the conditional use approval or reverse the temporary injunction and re-instate conditional use approval.

vi. **Amendments to Approved Conditional Uses**

An amendment to an approved conditional use shall be submitted to the Zoning Administrator accompanied by supporting pertinent information. Upon public review pursuant to Section ~~1.d.ivX~~ of this code, the City Council, with Planning Commission recommendation, shall be permitted to grant, deny, or amend the request and impose any conditions deemed necessary.

e. **Planning Commission**

i. **Planning Commission Established**

The establishment of a Planning Commission shall be in accordance with the policies and procedures set forth in state law and municipal code.

ii. **Yutan Community's Zoning Code**

With assistance from the Zoning Administrator, as discussed in Section ~~1.f.ivX~~, it shall be the duty of the Planning Commission to provide advice and recommendations to the City Council regarding this code, in accordance with state law and the comprehensive plan's guidelines and goals. Provisions within this code shall be made in regard to the overall character of the community's jurisdiction including its extra-territorial jurisdiction, each specific district, and the most appropriate use of land within the jurisdiction.

iii. **Conditional Use Permits**

The City Council shall decide upon requests for conditional use approval. It shall be the duty of the Planning Commission to provide preliminary review and recommendation to the City Council on all conditional use requests, according to Section ~~1.dX~~.

iv. **Official Zoning Map**

The City Council shall adopt an official zoning map for all areas included within the jurisdiction with the advice and recommendation of the Planning Commission. ~~Section X of this code addresses specific provisions related to the official map.~~

f. **Zoning Administrator**

i. **General**

This section establishes the duties and responsibilities of the Zoning Administrator with respect to the administration of this code.

ii. **Deputies**

The City of Yutan may appoint additional employees and/or contracted professionals to assist the Zoning Administrator. The Zoning Administrator shall be permitted to deputize such employees/professionals as may be necessary to carry out the functions of this code.

iii. **Reviews and Approvals**

The Zoning Administrator shall be authorized to undertake reviews, make recommendations, and grant approvals as set forth in this code.

iv. **Code Development**

The Zoning Administrator shall assist the Planning Commission in the development/amendment and implementation of this code.

v. **Fees**

A fee for services shall be charged. The Fee Schedule shall be set by the City Council and made available at the City Office. The Zoning Administrator is authorized to establish a refund policy.

vi. **Administration & Permit Review**

Administrative actions and permit review/approval shall occur as follows:

- **Review of Building Permit Applications**

Unless otherwise exempt from the requirements of this code per Section ~~1.a.viiiX~~ ("Scope"), the Zoning Administrator shall receive all applications for proposed development and review them for completeness and compliance with this code. Each application shall include a set of building plans and all data necessary to demonstrate compliance with this code. If the proposed development conforms to this code, the Zoning Administrator shall authorize approval of the building permit.

- **Conditional Use Permits & Variances**

The Zoning Administrator shall receive all applications for conditional uses and variances required by this code, review them for completeness prior to scheduling public review, and prepare submittals for review by the appropriate body, as necessary.

- **Amendments**

Requests for amendment or changes to this code and/or the official zoning map shall be submitted to the Zoning Administrator for processing according to the procedure of state law.

vii. **Interpretations**

The application, interpretation, and enforcement of this code's provisions shall be made by the Zoning Administrator. An appeal of an interpretation by the Administrator can be submitted to the Board of Adjustment according to the procedure described by Section ~~1.g.vX~~.

Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific

case, different sections of this code specify different requirements, the more restrictive shall govern.

Uses are permitted within the various zones as described in this code and as otherwise provided herein. The City of Yutan recognizes that all possible uses and variations of uses that might arise cannot be reasonably listed or categorized. Mixed uses and/or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zoning districts. If the proposed use resembles identified uses in terms of intensity and character and is consistent with the purpose of this code and the individual zone's classification, the Zoning Administrator is authorized to consider such use as a permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it shall be considered prohibited or non-permitted and could be considered through review and approval of a request for text amendment request to this code pursuant to Section ~~1.a.ivx~~. An appeal from a decision made under this ~~section-provision~~ can be reviewed by the Board of Adjustment pursuant to Section ~~1.g.vX~~.

viii. **Liability**

The Zoning Administrator and other employees/officials charged with enforcement of this code, while acting in good faith and without malice in the discharge of the duties required in this code or other pertinent law or ordinance, shall not be personally liable, either civilly or criminally, and are hereby relieved from personal liability for any damage accruing to persons or property as a result of an act or omission in the discharge of such duties.

ix. **Legal Defense**

Any suit or complaint instituted against the City of Yutan because of an act or omission performed by the Zoning Administrator or city official in the lawful discharge of duties under the provision of this code or other laws or ordinances implemented through the enforcement of this code shall be defended by the jurisdiction until final termination of such proceedings. The City of Yutan, its Zoning Administrator, and any other city officials shall not be liable for costs in any action, suit, or proceeding that is under the authority of this code.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or land/property for any damages to person or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this code.

x. **Cooperation of other officials and officers**

In the discharge of the duties described in this code, the Zoning Administrator shall be authorized to request and shall receive the assistance and cooperation of the City's other officials and departments.

g. **Board of Adjustment**

i. **General**

This section addresses the duties and responsibilities of the Board of Adjustment, hereafter referred to as “the board.” Establishment of the board shall be in accordance with the policies and procedures set forth in state law and municipal code.

ii. **Decisions**

The board shall be permitted to make decisions based on the facts and circumstances of each individual case according to the framework criteria enumerated by state law and this code. The actions of the board shall have no authority to alter this code or the official zoning map, nor allow any use inconsistent with the requirements of this code, provided, however, that in interpreting and applying the provisions of this code, the requirements shall be deemed to be the spirit and intent of the code and do not constitute the granting of a special privilege.

iii. **Duties and powers**

After following the public ~~hearing notice~~ procedure of Section ~~1.h.iX~~, the board shall have the power to hear and decide the following matters:

- When a variance from the terms of this code should be granted, in accordance with state law, ~~municipal code~~, and the ~~variance review criteria of Section 1.g.iv (below)se provisions~~.
- On appeals when it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator based on or made under the authority of this code. ~~[CRITERIA?]~~
- On requests for interpretation of the official zoning map, subject to the rules of Section ~~14.cX~~ (re: rules for interpretation).

iv. **Variance Review Criteria**

In order to approve any variance, the board shall review the particular facts and circumstances of each requested variance and make findings of fact consistent with the criteria enumerated below:

- The strict application of the zoning code would produce undue hardship.
- The hardship is unique to the subject property and not shared by other properties within the vicinity of the subject property and the overall zoning district.
- Granting the variance would not be to the substantial detriment of adjacent property and will not change the character of the district.
- The variance request is based upon demonstrable and exceptional hardship, as distinguished from purposes of convenience, profit, or caprice.
- The requested variance is not related to use and would therefore prevent an expressly-prohibited or unpermitted use from being established in the zoning district.
- The condition or situation creating the hardship is not of so general or recurring in nature as to make reasonably practicable through the

formulation of a general regulation to be adopted as an amendment to this code.

v. **Appeals**

Any person with standing that is aggrieved or affected by decisions of the Zoning Administrator may appeal the decision to the Board of Adjustment ~~according to Section X~~. An appeal shall only be considered if filed within 30 days after issuance of the decision to be contested or the appeal shall not be considered. The decision of the Zoning Administrator shall be considered final if no appeal is made past the allowed timeframe.

Upon submittal of a complete appeal application, including all necessary supporting evidence and information, the Zoning Administrator shall transmit to the Board of Adjustment all pertinent data related to the appeal.

An appeal request stays all proceedings from further action, unless the Zoning Administrator certifies there is immediate danger to life or property pursuant to Section 19-909, N.R.S.

h. **Notice Requirements**

i. **Notice of Hearings**

Upon receipt of an application that requires public hearing, the Zoning Administrator shall arrange to advertise the time and place of public hearing. Such notice shall be placed in a legal paper of general circulation in the community to be published one time at least 10 (ten) days prior to the first public hearing on the matter. Such notice shall state the nature of the request, the location of the property, and the time and place of hearing (if more than one hearing applies to the application, the time and place of all applicable hearings shall be stated). Reasonable effort shall be made to give notice by regular mail of the time and place of hearing to the property owners of record (or owners' authorized agent) adjacent to the subject property; the extent of the area to be notified shall be set by the Zoning Administrator.

ii. **Notice of Decision**

Notice of each final decision shall be given in writing to the applicant. Each decision shall be entered into the minutes of the body making any decision under consideration. All records shall be kept in accordance with statutory requirements and open to the public for examination.

2. **GENERAL PROVISIONS**

a. **Lot of Record**

Every building hereafter erected, reconstructed, moved, or structurally altered shall be located on a lot of record. Unless permitted within this code, no more than one principal building shall be located on a lot. Multiple "piecemeal" zoning classifications within one lot shall be prohibited, as defined by this code under "ZONING, PIECEMEAL."

b. **Legal & Physical Access Required**

Legal and physical access is required to develop a lot for any purpose other than agriculture.



c. **Non-conforming Modifications Prohibited**

No lot shall be modified in size or shape to create non-conformities in the bulk requirements for its applicable zoning district and all provisions of this code, unless the lot is used for public purposes by a public agency.

d. **Division**

All division of lots in the City's jurisdiction shall comply with the density requirements prescribed in the subject lot's applicable zoning district.

e. **Floodplain Development**

All development of property shown to be located within the FEMA-identified regulatory floodplain shall be required to address compliance with the requirements of the City's floodplain management code.

f. **Corner Lots & Visual Obstructions at Street Intersections**

All uses and/or structures proposed for development/placement on a corner lot within the "sight triangle," an area formed by the center line of streets at a distance of 60 feet from their intersections, shall not obstruct the vision between a height of 2.5 feet and 10 feet above the grade of the curb at the intersecting streets measured from the point of intersection at the centerline. Major or arterial intersections shall increase the triangular area distance to 90 feet for each major/arterial leg at the intersection. Exceptions to this section shall be allowed for any retaining wall necessary to protect private property and/or the public's health, safety, and general welfare.

g. **Availability of Essential Services**

Proposed development that requires the addition of new facilities for essential services, such as sewers, storm drains, fire hydrants, potable water, streets, and other similar utility services, should obtain approval as required by the agency providing such service prior to project approval. The unavailability of essential services may be grounds for denial of a permit application until such services are available. The City of Yutan is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the City agrees otherwise. Service extensions shall be designed and installed in full compliance with the City's standards for such service and shall be subject to review, permit/approval, and inspection as required by other policies or ordinances.

h. **Bulk Requirements**

The bulk requirements of each zoning district shall dictate the limitations on all lot development within that district.

- i. *Setback Requirements & Exceptions:* The areas located in required setbacks shall be unobstructed by all structures, including attached or detached accessory structures, from the ground level to the sky, unless otherwise specified elsewhere within this code and as follows:

- The Zoning Administrator may permit a variation in street-based setbacks to allow an exception when more than 30% of the frontage on one side of a street between intersecting streets is occupied by structures and/or a minority of those structures have observed or conform to an average setback line.



- On lots less than 60 feet in width, the setback from adjacent property may be reduced to six feet.
- In any residential district, the required rear yard setback shall be reduced to 20% of the lot's depth when the setback is greater than 20% of the lot's depth, however, no structure shall be located closer than six feet unless allowed elsewhere in this code.
- On lots with street double-frontage, the required front yard setback shall be provided on each street.
- A group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.
- Any side or rear yard setback in an industrial or commercial district which is adjacent to any existing residential use or district shall be no less than 25 feet and shall contain landscaping, planting, or fencing suitable to provide effective screening. The owner or owners of the commercial or industrial property are responsible for maintaining said screening in good condition.
- Projections:
  - Eaves, cornices, windows, and other similar architectural features shall be permitted to project from the exterior wall into a required setback not more than eighteen (18) inches.
  - Chimneys and stove pipes proposed on structures existing prior to January ~~291~~, 2026 shall be permitted to project no more than two (2) feet, provided that the width of any setback from adjacent property is not reduced to 30 inches or less. Structures built on or after January ~~291~~, 2026, will be required to contain the chimney/pipe in compliance with all applicable setbacks.
- Ground-level ramps, porches, platforms, and landings which are uncovered shall be permitted to extend no more than six horizontal feet from the subject structure. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than six (6) feet toward a street/road right-of-way from a structure's outer wall, regardless of the construction's location within any yard, provided that such construction does not extend above the ground level and is not more than six (6) feet above grade at any point.

- ii. *Height Requirements & Exceptions:* For the purposes of determining the allowable building heights, the definition for "building height" provided in Section ~~22X~~ will apply.

The height ~~limitations-requirements~~ of this code shall not apply to the following, provided that the applicable yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the applicable zoning district:

- Church steeples, public monuments, chimneys, ornamental towers and spires, church spires, silos, cooling towers, smoke stacks, elevator bulkheads, necessary mechanical equipment, fire towers, water towers and standpipes, and air-pollution prevention devices.
- When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding sixty feet, provided, each required yard line shall be 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.

i. **Accessory Structures & Uses**

- i. Detached accessory structures in residential zones shall maintain a 10-foot setback from all structures on adjacent lots, however, the 10-foot setback shall not apply to other structures located on the same/subject lot.
- ii. No accessory structure shall be used as a dwelling without appropriate review and approval from the City and a certificate of occupancy issued for such use.
- iii. Within municipal boundaries:
  - No accessory structure shall be constructed upon a lot for more than six months prior to beginning construction of the principal building.
  - No accessory structure shall be used for more than six months prior to beginning construction of the principal building.
  - No accessory structure shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction.

j. **Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

k. **Recreational Vehicles, Trailers, or Equipment**

All vehicles, trailers, and/or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized by this code or under Section 5-911 of municipal code.

l. **Stormwater Runoff**

For each new structure or impervious surface areas, the landowner is responsible for managing the stormwater runoff resulting from said development without causing damage or harm to the natural environment, water quality, and adjacent property.

m. **Outdoor Lighting**

All new and replacement nighttime outdoor lighting is encouraged to direct its light downward and be side-shielded to prevent glare beyond the boundary of the subject property.

n. **Adult-Oriented Uses & Cannabis/Hemp Businesses**

The requirements of Section ~~12X~~ apply to the development of all new adult-oriented uses and cannabis/hemp-derived businesses within the City's jurisdiction.

New development within the vicinity of an approved, existing adult-oriented use and/or cannabis/hemp-derived business shall have no legal status to claim a public nuisance

against such business. The decision of any landowner proposing to build or develop within vicinity of an approved, existing business shall not place the business in a non-conforming status, nor shall it prevent the business from maintaining the use and all associated commercial activities. Such business shall be allowed to continue operation unhindered. (Also see Section 12.dX.)

o. **Landscaping**

i. *General Requirements:*

• Within Municipal Limits:

- The requirements of this section apply to all lots proposed for development with a new wireless communication facility, a new primary structure of 500 square feet or more, and/or all new uses consisting of 1,000 square feet or more of used space. An exception may be granted for non-residential development proposed to be located within 300 feet from the intersection of Vine & Second Streets.

• Outside Municipal Limits:

- All non-residential lots proposed for development with a new wireless communication facility and/or a new primary structure over 500 square feet in lot coverage shall provide landscaping in compliance with this section.
- Residential development and agricultural uses outside municipal limits are exempt from these requirements.

ii. *Residential Landscaping:*

Prior to issuance of a Certificate of Occupancy by the City of Yutan, all new residential development shall plant a minimum of one tree per primary dwelling unit within the subject property's boundary. The developer is encouraged to consider trees which are appropriate for the region and its climate, including trees which are native and beneficial to Nebraska's environment [ <https://byf.unl.edu/landscapes/> ]. Toxic and/or invasive species identified by the Nebraska Invasive Species Council [ [www.neinvasives.com/invasive-species](http://www.neinvasives.com/invasive-species) ] are prohibited for this purpose.

The development of all residential lots is encouraged, but not required, to include a comprehensive landscaping installation plan that provides for appropriate and complete landscaping of the lot's front, side, and rear yards, except for those areas occupied by driveways, utilities, walkways, walls, and structures.

iii. *Non-residential Landscaping:*

In addition to compliance with the screening/buffering requirements described below and in other sections of this code, all non-residential development is encouraged to include a comprehensive landscaping installation plan that provides for appropriate and complete landscaping of the lot's front, side, and rear yards, except for those areas occupied by driveways, utilities, walkways, walls, and structures.

Non-residential landscaping shall consist of the following:

- All parking areas or vehicular use areas adjacent to a residential district or public right-way shall be screened from grade level to a height not less than three feet.
- All commercial and industrial uses adjacent to residential districts shall provide screening not less than six feet in height along the adjacent property lines.
- Screening, if applicable, shall comply as follows:
  - Solid fences or walls in compliance with the fencing standards of this code (Section ~~5X~~);
  - Hedges, shrubs, or evergreen trees spaced appropriately to provide a solid screen within three years after planting;
  - Berms no less than three feet in height;

iv. *Maintenance*

Proper maintenance and upkeep of all landscaping required and/or encouraged by this code shall be the responsibility of the developer and/or landowner. All vegetation, including grass/sodded areas shall be maintained on a regular basis pursuant to the requirements of Municipal Code.

3. SIGNS

a. **General Requirements**

Within city limits, no sign shall be erected by a private party and located within public rights-of-way or easements, including but not limited to streets, sidewalks, and alleys. This provision does not apply to signs allowed in these locations under municipal code or that have been granted specific authority/permission from the City.

4. HOME OCCUPATIONS

a. **General Requirements**

A home occupation shall be clearly and obviously subordinate to the main dwelling unit and shall be conducted wholly within either the primary residential structure of the subject lot or an approved accessory structure. No home occupation shall be conducted in both the primary residential structure and an accessory structure. Significant changes to any approved home occupation shall be reviewed and approved by the City prior to the home occupation's commencement~~Council according to the procedure of Section X.~~

b. **Conditions of Approval**

If approved, the following conditions will apply to the home occupation's operation and maintenance:

- i. The applicant shall submit proof of business (or LLC) registration with the State of Nebraska and/or all professional licensing required for the proposed use.
- ii. All noise, vibration, smoke, odor, heat, glare, or other nuisance that occurs in association with the home occupation shall be completely mitigated and prevented from occurring beyond the site. Observable occurrences of any nuisance may be grounds for revoking approval of the home occupation.
- iii. One unlit nameplate attached flat against the building's exterior wall shall be allowed to indicate the home occupation's location. The nameplate shall follow these limitations:

- Within city limits:
    - When located on a local or collector street, not more than two square feet in area.
    - When located on an arterial street, not more than four square feet in area.
  - Outside municipal boundaries, not more than four square feet in area.
- iv. Within city limits, additional signage or advertising in any form shall not be permitted on or adjacent to the home occupation site, including in windows, on yards/grass, etc.
  - v. The home occupation shall not exceed 50% of the primary structure's floor area or 100% of a detached accessory structure's floor area.
  - vi. No more than one employee, other than the resident(s), shall work from the subject home occupation site. For the purposes of this provision, the residents' family by blood, marriage, or adoption shall be considered in association with the resident and not an additional employee.
  - vii. Inventory and supplies shall not occupy more than 50% of the area proposed for use as a home occupation.
  - viii. No exterior storage display nor storage of goods shall occur on the premises.
  - ix. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
  - x. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the off-street parking requirements of this code.
  - xi. Family child care home requirements will be required to meet all applicable local and state law.

## 5. FENCES

- a. As much as possible, all fencing should prevent obstruction to the sight triangle discussed in Section ~~2.fXXX~~.
- b. On residential lots within municipal boundaries:
  - i. Barbed-wire and electric fencing is prohibited for use as perimeter fencing;
  - ii. Plastic fencing or "safety fences" are considered a temporary use subject to Section ~~1.b.viiX~~ of this code and shall not be installed permanently; and
  - iii. Fencing and retaining walls shall have no maximum height requirements and are encouraged to follow these guidelines:
    - **Front Yards:** 4 feet
    - **Rear Yards:** 6.5 feet
    - **Side Yards:** 6.5 feet
- c. On commercial/industrial lots, perimeter fencing and retaining walls are encouraged to be no higher than 8 feet.
- d. Fences that are required to protect private swimming pools and/or spas shall comply with this code and the requirements of the applicable building code.

## 6. ACCESSORY DWELLING UNITS

### a. **Conditions for Approval**

The design, development, and maintenance of all ADUs shall comply with the following:

- i. The owner of a property containing an ADU shall reside in either the primary dwelling unit or the ADU.
- ii. An ADU shall have a separate house number from the primary dwelling unit (e.g., 301 ½, 301 B, etc.) but is not required to obtain a new address.
- iii. ADUs shall be secondary in size and function to the primary dwelling unit and shall comply with the following:
  - Minimum of 180 square feet of living area,
  - Maximum of 1,200 square feet in area, and
  - No more than 50% of the area of the primary dwelling unit.
- iv. An ADU shall be provided with a separate entrance than that serving the primary dwelling unit.
- v. An ADU shall have a maximum number of two bedrooms.
- vi. Off-street parking shall be provided according to Section ~~7X~~.
- vii. Location shall comply with all requirements of the applicable zoning district.
  - The setbacks for accessory structures shall apply to all ADUs.
- viii. The ADU shall be provided with adequate provisions for electricity, water supply, and sewage disposal.

## 7. OFF-STREET PARKING

### a. General Requirements

When any primary building more than 500 square feet or accessory dwelling unit is erected, moved/placed, altered, enlarged, converted or increased, off-street parking shall be provided to serve the building in compliance with the schedule found in Section 7.h, ~~belowxxxx~~.

Off-street parking shall be designed to follow these general requirements:

- i. The stall dimensions in typical parking situations shall be a minimum of 9-feet wide by 20-feet long. The following exceptions apply:
  - Parking stalls where obstructions (walls, poles, significant landscaping/berming, etc.) are located on either side of the stall shall have a minimum width of 9 feet, 10 inches.
  - Compact parking shall be no less than 8-feet wide by 18-feet long.
  - Parallel parking shall be no less than 8-feet wide by 22-feet long.
- ii. The design of off-street parking shall provide unobstructed vehicular access to each required parking space.
- iii. Every parking facility shall be provided with one or more physical access points (i.e., “driveways”) from the lot’s legal and physical access. Each required parking stall shall be individually and easily accessed. Automobiles shall not be required to back onto any street or sidewalk to leave any off-street parking stall where such stalls serve more than two dwelling units or other residential areas. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.
- iv. The slope of all commercial accesses/driveways shall not exceed 20%.



- v. Lights illuminating a parking area shall be designed/located to reflect downward and, so much as is possible, reduce glare toward any street, public rights-of-way, and adjacent property.
- b. **Parking Surface**

When proposed for development with a new or replacement primary structure of any occupancy or capacity, lots within city limits shall have hard-surfaced driveways and parking areas.
- c. **Fractional Spaces**

Where calculations in accordance with this code result in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction more than one-half shall require one full space.
- d. **Combined Uses**

Some uses may require more than one use type to be calculated together in order to determine the total parking requirement. (For example: a hotel with attached restaurant/bar facilities may require tabulations for hotel and restaurant/bar.)
- e. **Alternative Parking Locations**

The parking spaces required herein shall be provided on the same lot as the proposed development/use. The City may consider alternative locations on a legally-separate lot through review and approval of a conditional use, provided that such property lies within 100 feet of the associated principal use and within the same classification of zoning district (i.e., commercial parking in a commercial zone, industrial parking in an industrial zone, etc.). Such parking shall be deemed to be required ~~open-space-associated~~ with the approved development and shall not thereafter be reduced or encroached upon in any manner.
- f. **Handicap Accessibility Requirements**

Accessible parking spaces and passenger loading zones shall be provided in accordance with the applicable building code, ICC A117.1, and/or ADA requirements.
- g. **Parking Requirements Along Vine Street and Second (2nd) Street**

Off-street parking requirements shall apply to development within the Community Business Zoning District (B-CBD), however, an exception from the requirement for off-street parking may be waived for non-residential uses proposed for access via Vine Street and/or Second (2nd) Street if the total number of parking spaces required for the proposed use is less than fifteen. (As development and/or use increases within the community, the City shall consider the appropriateness of modifying this threshold through amendment of this code.)
- h. **Parking Space Requirements**

The off-street parking spaces required for each use shall conform to the following schedule:

  - i. **Agricultural Sales/Service:** One space per 500 sq.ft. of gross floor area.
  - ii. **Assisted Living Facility:** One space per dwelling unit plus one space per employee on the largest shift.
  - iii. **Automotive Rental & Sales:** One space per 500 sq.ft. of gross floor area.
  - iv. **Automotive Service:** Three spaces per repair stall.
  - v. **Bar/~~Tavern~~/Nightclub:** Parking equal to 30% of licensed capacity.

- vi. **Boarding House or Bed & Breakfasts Establishment:** One space per rental unit.
- vii. **Bowling Alley:** Four spaces per lane.
- viii. **Campground:** One space per camping unit.
- ix. **Church or Place of Worship:** One space per four seats in main worship area.
- x. **Civic, Social, & Fraternal Organizations:** One space per 500 sq.ft. of gross floor area.
- xi. **College/University:** Eight spaces per classroom plus one space per employee.
- xii. **Commercial Recreation:** One space per four persons of licensed capacity.
- xiii. **Communication Services:** One space per 500 sq.ft. of gross floor area.
- xiv. **Construction Sales & Service:** One space per 500 sq.ft. of gross floor area.
- xv. **Care Facilities (Group/Convalescent-/& Nursing Home):** One space per three beds plus one per employee on the largest shift.
- xvi. **Day Care:** One space per employee plus one space or loading stall per each ten persons of licensed capacity.
- xvii. **Duplex:** Two spaces per dwelling unit.
- xviii. **Equipment Rental & Sales:** Same as Construction Sales & Service
- xix. **Food Sales (occupying 10,000 square feet or more):** One space per 200 sq.ft. of gross floor area.
- xx. **Food Sales (occupying less than 10,00 square feet):** One space per 300 sq.ft. of gross floor area.
- xxi. **Funeral Home/Chapel:** Eight spaces per repose room.
- xxii. **General Retail Sales:** One space per 200 sq.ft. of licensed capacity.
- ~~xxiii. **Group Home and/or Care Facility:** One space per four persons of licensed capacity.~~
- ~~xxiv-xxiii.~~ **Guidance Services:** One space per 300 sq.ft. of gross floor area.
- ~~xxv-xxiv.~~ **Hospitals:** One space per two licensed beds.
- ~~xxvi-xxv.~~ **Hotel/Motel:** One space per rental unit plus one space per employee during largest shift.
- ~~xxvii-xxvi.~~ **Industrial Use:** 75% of the maximum number of employees during largest shift.
- ~~xxviii-xxvii.~~ **Laundry Services:** One space per 200 sq.ft. of gross floor area.
- ~~xxix-xxviii.~~ **Library:** One space per 500 sq.ft. of gross floor area.
- ~~xxx-xxix.~~ **Medical Clinic:** Five spaces per staff doctor, dentist, or chiropractor.
- ~~xxxi-xxx.~~ **Multi-Family Apartments:** One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located.
- ~~xxxii-xxxi.~~ **Offices & Office Building:** One space per 200 square feet of usable floor area
- ~~xxxiii-xxxii.~~ **Residential, single-family/duplex/triplex:** Two spaces per dwelling unit.
- ~~xxxiv-xxxiii.~~ **Residential, accessory dwelling unit (ADU):** One space per bedroom.
- ~~xxxv-xxxiv.~~ **Restaurants:** Parking equal to 30% of licensed capacity.
- ~~xxxvi-xxxv.~~ **Restaurants, drive-thru:** Whichever is greater: 1) One space per 40 sq.ft. of dining area, *or* 2) One space per 150 sq.ft. of gross floor area.
- ~~xxxvii-xxxvi.~~ **Roadside Stand(s) and/or Food Trucks:** Four spaces per establishment
- ~~xxxviii-xxxvii.~~ **School:** For high schools: One space per 3.5 seats in classrooms and one space per estimated faculty/staff member; for elementary, middle, and all other non-



high schools: two spaces per classroom. Additional space may be applicable for associated assembly facilities (stadiums, bleachers, theater stages, etc.). Alternatively, if the school district has uniform parking schedules that differ from these numbers, the off-street parking is allowed to be designed and constructed according to those policies.

~~xxxix-xxxviii.~~ **Service-Oriented Establishment:** One space per 200 sq.ft. of gross floor area.

~~xl-xxxix.~~ **Theater, Auditorium, & Assembly Place(s):** One space per two persons of licensed capacity.

~~xli-xl.~~ **Veterinary Services:** Three spaces per staff doctor.

~~xlii-xli.~~ **Wholesale & Distribution Operations:** One space per two employees during largest shift.

8. COMMERCIAL/INDUSTRIAL USES WITHIN THE WESTERN RESIDENTIAL ZONING DISTRICT (R-WEST)

a. **General**

The following requirements apply to all commercial/industrial uses located within the R-WEST Zoning District. These uses shall be reviewed and approved by conditional use prior to their operation on any lot located within R-WEST.

b. **Creation of Observable Nuisances & Conditional Use Revocation**

The occurrence and/or observation of any prohibited nuisances, as discussed below, may be grounds for revocation of conditional use approval, pursuant to Section ~~1.d.v~~ of this code.

c. **Physical Appearance**

All operations shall be conducted within an enclosed building. Outdoor storage may be allowed, if the location is screened from public view. Normal daily wastes of an inorganic nature may be stored outside the facility on a temporary basis when such containers are not within public view.

d. **Fire Hazards**

No operation shall involve the use of highly flammable gases, 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 gases when handled in accordance with other federal, state, and/or municipal requirements.

e. **Noise**

Noise in excess of normal peak traffic noise of the adjacent street at the time of the daily peak hour of traffic volume shall be prohibited. Noise shall be measured at the property boundary 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.

f. **Sewage & Liquid Waste**

Liquid waste shall be properly disposed. No operation shall be allowed to discharge ~~untreated or hazardous~~ liquid wastes into the ground, a water body, or the municipal sewer/stormwater system.

g. **Air Contaminants**

Uses which produce air contaminants, including smoke, gas, dust, odors, particulate matter, and other emissions, shall be prohibited for consideration within the R-WEST

conditional use allowance. Unless adequate mitigation measures are proposed and followed to prevent the emission of air contaminants within vicinity of the subject lot, such uses are more appropriate to be located within the industrial zoning districts designated by the City on the official zoning map.

h. **Vibration**

All machines within such facility shall be operated in a manner that minimizes vibration. Any activity that produces and displaces vibration outside of the subject lot's boundaries shall be prohibited.

i. **Glare/Heat**

Heat and glare produced by activities conducted in the facilities shall be prevented from being projected onto adjacent/vicinity properties, either by screening, shielding, or other adequate mitigation measures.

9. **WIND ENERGY SYSTEMS**

a. **General Requirements**

If allowed in the subject property's zoning district, conditional use review and approval shall be required prior to the development and installation of a wind-based conversion system for large-scale energy generation by a private corporation.

b. **Bulk Requirements**

The following setbacks from property boundaries and lot area requirements are established based upon rotor diameters. An exception to the minimum lot areas shall be allowed when there are tower groupings under single ownership provided the minimum setback distances are met.

- i. 5-foot rotor diameter: 100-foot setback – One-acre minimum lot area.
- ii. 10-foot rotor diameter: 165-foot setback – 2.5-acre minimum lot area.
- iii. 15-foot rotor diameter: 220-foot setback – 4.5-acre minimum lot area.
- iv. 20-foot rotor diameter: 270-foot setback – 6.75-acre minimum lot area.
- v. 25-foot rotor diameter: 310-foot setback – 9-acre minimum lot area.
- vi. 30-foot rotor diameter: 340-foot setback – 10.75-acre minimum lot area.
- vii. 35-foot or more rotor diameter: 365-foot setback – 12.25-acre minimum lot area.

c. **Conditions of Approval**

All wind energy systems shall follow these requirements:

- i. As much as possible, operation of the system shall not interfere with radio and television reception.
- ii. In order to prevent access to the tower from the general public, a perimeter fence with a locking door/portal shall be installed around the facility site.
- iii. The distance from any tower support base to another tower support base shall be a minimum of five rotor distances, as determined by the size of the largest rotor.
- iv. Data pertaining to the machine's turbine safety and stability shall be filed with the conditional use application for review of the facility. The data shall include turbine safety and acceptance results from tests conducted by a qualified professional and based on the standards of the U.S. Department of Energy's Electric Power Research Institute Wind Turbine Verification Program.
- v. Appropriate legal and physical access shall be provided to the site.

10. **SELF STORAGE UNITS**

a. **Conditions of Approval**

If approved, the following conditions shall apply to self storage facilities:

- i. Minimum lot size of a self storage facility shall be two acres.
- ii. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- iii. All driveways, parking, loading, and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
- iv. All storage shall be within an enclosed space and shall not include the storage of hazardous materials.
- v. Unless screened, no storage shall open into front yards
- vi. No structure within the facility shall exceed 20 feet in height.
- vii. The perimeter of each facility shall be fully enclosed by fencing or screen walls and installed/erected in compliance with Section ~~5X~~ of this code.

11. AUTO WRECKING FACILITIES, JUNK YARDS, SALVAGE YARDS, AND SCRAP PROCESSING YARDS

a. **Conditions of Approval**

Scrap processing yards and auto wrecking facilities shall follow these requirements:

- i. The use shall be located a minimum of 300 feet from residential districts (not including agricultural districts).
- ii. All activities shall be fully screened from view as to retain all scrap, junk, or other materials within the yard and out of public view. At a minimum, the screening shall consist of a solid fence or wall at least eight feet high and uniform in height, texture, and color.
- iii. Temporary or permanent storage of materials outside a screened area shall be prohibited.
- iv. All waste materials shall be properly disposed and not allowed to be stored on site. Incineration/burning of waste materials shall be prohibited.

12. ADULT-ORIENTED USES & CANNABIS/HEMP BUSINESSES

a. **General Requirements**

When proposed to be located within the City of Yutan's jurisdiction, conditional use review and approval shall be required for all adult-oriented uses and businesses involved in the sale of cannabis and/or hemp-derived THC products (regardless of the businesses' status as a medicinal or recreational dispensary), under the following conditions:

- i. The use shall only be established on industrial- or commercially-zoned property with direct legal and physical access from Highway 92.
- ii. With exception to the provisions of Section ~~2.nX~~, a lot proposed for new adult-oriented uses and cannabis/hemp-derived businesses shall not be located within:
  - 500 feet of any other adult-oriented or cannabis/hemp-derived business or a residential zoning district (not including agricultural zoning); and
  - 1,000 feet of any lot used as a park, school, day care center, church or religious facility, medical facility, or library (public trails and sidewalks are not deemed to be "parks" for the purposes of this requirement).

- iii. Material depicting uncovered anatomy, and/or specific sexual activities shall be screened or obscured from the view of adjacent property and the general public.
- iv. Such business shall not be permitted as a home occupation.

b. **Legal Activities Disclosure**

By permitting or authorizing an adult-oriented use and/or cannabis/hemp-derived business, such approval shall not be construed as an interpretation by the City of Yutan, its mayor, City Council, Planning Commission, Zoning Administrator, and/or any other municipal official that such business is considered legal according to federal or state law.

c. **Business Owner Liability**

Adult-oriented uses and cannabis/hemp-derived businesses shall follow all aspects of the Yutan Community's Zoning Code and the applicable provisions of federal, state, and local law. Compliance with federal/state law regulating such business is the sole and exclusive domain of the business owner. The City of Yutan shall not be held liable if the business entity is found to be conducting activities contrary to federal and/or state law.

d. **Rights to Continue Operation**

New uses/development proposed within the vicinity of an approved, existing adult-oriented use and/or cannabis/hemp-derived business shall have no legal status to claim a public nuisance against such business. The decision of any landowner proposing to build or develop within vicinity of an approved, existing business shall not place the business in a non-conforming status, nor shall it prevent the business from maintaining the use and all associated commercial activities. Such business shall be allowed to continue operation unhindered.

13. WIRELESS COMMUNICATION TOWERS/FACILITIES

a. **Intent**

The City of Yutan seeks to protect the public's health, safety, and general welfare through regulation of telecommunication facilities within the City's jurisdiction, including broadcasting towers and antennas, to:

- Accommodate the provision of wireless communication services to residents, businesses, and visitors;
- Enhance the ability of service providers to serve the community quickly, effectively, and efficiently through effective design standards and clear review procedures;
- Protect residential property values and the visual environment from the adverse impacts of communication facilities through careful siting and location requirements;
- Limit the number of broadcasting towers needed to serve the Yutan community by requiring the co-location of wireless communication infrastructure on existing antenna support structures, rooftop-mounted structures, public buildings, and utilities.

b. **Review Procedure & Application Requirements**

Small satellite dishes and/or antennae for residential purposes shall be exempt from these requirements, provided that the satellite dishes do not exceed a diameter of 10 feet.

Satellite dishes and antennae are encouraged to be a neutral color (black, gray, sky blue,

brown, etc.) or match the color of siding/roofing materials in order to blend in with the environment and generally camouflage the infrastructure.

Conditional use review and approval, following the procedure of Section ~~1.dX~~, shall be required prior to construction, development, and/or installation activities on a new or existing broadcasting tower; this includes reconstruction, modification, and addition to an existing tower.

An application shall be submitted to the Zoning Administrator and include the following:

1. 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.
2. The legal description and address of the tract of land on which the tower is to be located.
3. 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.
4. 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 co-located on another tower or useable antenna support structure.
5. Engineer's certification, including 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 local ordinance and state, federal, and ANSI standards.
6. 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.
7. 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.
8. Proof of the ability to engage in liability insurance, as required by Section 13.h, below.
- ~~8.9.~~ Proof of the ability to engage in a performance bond for the expenses of removal and disposal in the amount of: \$125,000 for a new tower; \$30,000 for co-location proposals. Prior to issuance of formal approval, documentation of the performance bond's execution shall be submitted to the City.

**c. Standards for Construction & Facility Location**

- i. Towers shall be allowed only in those districts where they are listed as a conditional use.
  - ii. Towers shall meet the following setbacks from other towers:
    - Monopole tower structures shall be a minimum of 750 feet from all other towers, (regardless of type: monopole, self-supporting lattice, guyed, etc.).
    - Self-supporting lattice or guyed-wire towers shall be a minimum of 1,500 feet from all other self-supporting lattice or guyed-wire towers.
  - iii. In addition to any necessary review under the Adopted Building Codes of Yutan, wireless communication facilities shall conform to the construction standards set forth by state and federal laws and the applicable requirements of the American National Standards Institute. Upon completion of broadcasting tower and/or facility construction, including modifications and additions, an engineer's certification that the facility is structurally sound and in compliance with the necessary regulatory standards shall be filed with the Zoning Administrator.
- d. **Illumination & Security**
- i. Towers shall not be artificially lit except as required by the Federal Aviation Administration. In cases where there are residential uses within a distance of 300% of the tower's height, the tower shall be equipped with dual mode lighting.
  - ii. All facilities shall be designed and constructed to prevent unauthorized access. Self-supporting lattice and guyed-line towers are encouraged to be enclosed within a security fence.
- e. **Exterior Finish**
- All towers not requiring FAA paint/markings shall have an exterior finish which enhances compatibility with adjacent land uses; neutral colors such as sky blue or grey are encouraged.
- f. **Landscaping**
- Property on which telecommunication facilities are proposed to be located shall be subject to the landscaping requirements of Section 2.0X.
- g. **Inspections**
- The City reserves the right to conduct inspection of towers, antennae, support structures, and all applicable buildings upon reasonable notice to the tower owner or operator to determine compliance with this code and to prevent structural and equipment failures and accidents which may cause damage, injuries, or public nuisance.
- h. **Liability Insurance**
- If conditional use approval for such facilities is granted, the owner/lessee shall – prior to issuance of a building permit or other form of final approval – secure public liability insurance for personal injury, death, property damage, and umbrella insurance coverage for the facility, as set forth below:
- i. Commercial General Liability covering \$1,000,000 per occurrence / \$2,000,000 aggregate;
  - ii. The insurance policy shall be maintained for the duration of the operation of the facility, and the insurance policy shall contain endorsement obligating the

insurance company to furnish the City with notice of the policy's termination in writing at least 30 days prior to the cancellation of said policy.

iii. Renewal or replacement policies shall be delivered to the City at least fifteen days before the expiration of the insurance that is being renewed or replaced.

**i. Performance Bond**

Prior to issuance of formal approval, proof of execution of a performance bond in the appropriate amount and specified to be "in the favor of the City of Yutan" shall be submitted to the City.

**h-j. Maintenance**

Proper maintenance of all infrastructure related to wireless communication facilities, including towers, support infrastructure, utility buildings, and antennae, shall be the responsibility of the facility owners and their lessees; the City shall have the authority to require repair/upkeep if the facility's condition becomes a public nuisance and/or the owners/lessees fail to conduct proper maintenance according to the conditions of approval.

**i-k. Abandonment**

If any facility – including all of its associated appurtenances (individual towers, structural footings, fencing, outbuildings/sheds, cabinets, etc.) – appears to be unused or abandoned for a period of one year, the City may notify the tower owner that the site could be determined abandoned.

Upon receipt of written notice by certified mail, the tower owner shall have thirty (30) days to show evidence that the tower has been in use or under repair during the period of apparent abandonment.

If the tower owner fails to demonstrate active use or repair, then the City shall issue determination of abandonment of the site and the tower owner shall have 75 days to dismantle and remove the tower.

In the event that ~~such~~ removal does not occur, conditional use approval shall be revoked. Furthermore, the City shall have authority to recover the performance bond made in its favor and remove the facility and its associated appurtenances in accordance with applicable law. the facility shall be declared a public nuisance by the City and the City Attorney shall proceed necessary action to abate the nuisance pursuant to all applicable law. The Additional costs ~~thereof~~ for all remedial actions shall be against the facility owner, the real estate on which the tower is located, and/or the property's owner.

**14. USE DISTRICTS**

**a. District Classifications**

In order to classify, regulate, and restrict the locations of uses and locations of buildings designated for specific areas, and to regulate and determine the areas of yards, courts, and other open spaces within or surrounding such buildings, the lands within the City of Yutan's jurisdiction are hereby classified into districts, the boundaries of which shall be as shown on the official zoning map.

**b. Upon Annexation**



Areas annexed into the corporate limits of the City of Yutan shall be zoned in accordance with the procedures of state law and this code.

**c. Rules for Interpretation of District Boundaries**

When uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- i. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- ii. Boundaries shown to follow platted lot lines shall be interpreted to follow those lot lines.
- iii. Boundaries shown to follow City limits shall be interpreted to follow those limits.
- iv. Boundaries shown to follow railroad lines shall be interpreted to follow to be midway between the main tracks.
- v. Boundaries shown to follow shorelines shall be interpreted to follow those shorelines. In the event of naturally-occurring changes to the shoreline, the interpretation shall move with the naturally-occurring shoreline. Boundaries shown to follow the center lines of water bodies shall be interpreted to follow such center lines.
- vi. Boundaries shown to be parallel to or extensions of features described above shall be interpreted as such. Distances not specifically indicated shall be determined by the map's scale.
- vii. 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 anticipated as described above, the Board of Adjustment shall interpret the district boundaries.
- viii. Where a district boundary line divides a lot which was in single ownership at the time of passage of this code, the Board of Adjustment may permit extension of the applicable regulations for either portion of the lot, however, such extension shall not exceed fifty feet beyond the district line into the remaining portion of the lot.

**15. (TA) TRANSITIONAL AGRICULTURE ZONING DISTRICT**

**a. Intent**

This 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.

**b. Uses**

**i. Permitted Uses:**

- Single-family residential;
- One accessory dwelling unit;
- Farming, pasturing, orchards, greenhouses, landscaping/horticultural services, and nurseries, including the sale and distribution of agricultural products, excluding the sale and distribution of chemicals;



- ~~F~~Commercial farms for breeding, raising, and selling wild game, fish, and livestock, subject to all provided that no livestock feedlot or yard for more than 20 animal units shall be established, provided that any building for the enclosure or shelter of animals shall be setback at least 50 feet from all street and lot lines;
- Churches
- Public parks and recreation areas, playgrounds and conservation areas including flood control facilities;
- Family Child Care Home II;
- Public and private schools;
- Public uses, including but not limited to recreational uses, fire stations, utilities, and utility distribution systems, community centers, auditoriums, libraries, or museums;
- Farm/agricultural equipment and building material (including pre-fab shed) sales, on lots with direct legal and physical access to Highway 92;
- Roadside stands and truck gardens offering for-sale agricultural products produced on the premises;
- Civic, social, and fraternal organizations;
- Buildings and facilities for the raising and care of animals for 4-H, Future Farmers of America, and other rural school organizations;
- Cemetery(-ies) and/or mausoleums, provided all structures are located at least 50 feet from all property lines;
- Commercial recreation areas and facilities, such as swimming pools, fishing lakes, and hunting/gun clubs;
- Grazing of horses and donkeys/mules without stable facilities on a minimum of one acre, so long as no more than one animal unit per acre are located on the subject lot.
- Private stables and facilities for housing animals and fowl for non-commercial purposes on at least ~~five-one~~ five acres, provided that no more than two animal units are located per acre and that all stables, buildings, or structures in which ~~horses or other~~ animals are housed ~~may be~~ are no closer than 300 feet to any residential district within city limits;
- Public and private riding academies on at least five acres provided that ~~no all~~ stables, buildings, or structures in which horses or other animals are housed ~~be are no~~ closer than 300 feet to a residential district within city limits;
- Private or commercial kennels and facilities for the raising, breeding, or boarding of dogs and other small animals, handling six dogs/animals or less, provided that such facility is located a minimum of 100 feet from property lines and a minimum of 1,000 feet away from any residential zoning district within city limits, and located on a minimum of five acres;
- Public overhead/underground local distribution facilities.

ii. **Conditional Uses:**

- ~~Hospitals, clinics, and medical institutions, including educational, religious, and philanthropic institutions and convalescent homes;~~
- Colleges and universities;
- Legal Offices;
- Private or commercial kennels and facilities for the raising, breeding, or boarding of dogs and other small animals, handling seven dogs/animals or more, provided that such facility is located a minimum of 100 feet from property lines and a minimum of 1,000 feet away from any residential zoning district within city limits, located on a minimum of five acres;
- Resource extraction and sales, including dirt sales;
- Veterinarians' offices and animal hospitals;.
- Wind energy systems, pursuant to Section ~~9X~~;
- Wireless communication facilities, pursuant to Section ~~13X~~.

iii. **Temporary Uses:**

- Temporary greenhouses;
- Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction activities;
- Temporary structures for festivals or commercial events.

iv. **Permitted Accessory Uses:**

- Buildings and uses customary to the permitted and conditional uses, including facilities in conjunction with residential use (private swimming pools, tennis courts, etc.);
- Home Occupation
- Family Child Care Home I

c. **Bulk Regs**

- i. **Minimum Lot Density:** 3 acres per unit
- ii. **Minimum Lot Width:** NONE
- iii. **Setbacks:**
  - **Front Yard:** 40 feet from the property line, or 100 feet from the centerline of a county road with a 66-foot right-of-way, whichever is greater.
  - **Side Yard:** 20 feet
  - **Rear Yard:** 20 feet
- iv. **Maximum Building Height:** 35 feet
- v. **Maximum Lot Coverage:** 45%

16. (R-WEST) WESTERN RESIDENTIAL ZONING DISTRICT

a. **Intent**

The purpose of this district is to recognize and accommodate the existing residential development occurring in the historic "old town" neighborhoods of the community and to allow residential development at an increased density in areas where appropriate facilities exist to maintain a sound and pleasant environment for residents.

b. **Uses**

i. **Permitted Uses:**

- Single-family residence, detached;
- Single-family residences, attached: including duplexes, triplexes, or townhouses, in conformance with density requirements;
- Churches, temples, seminaries, and convents, including residences;
- Public and private schools;
- Public uses, including but not limited to parks, recreational areas, conservation areas, fire stations, community centers, auditoriums, libraries, museums, utilities (including overhead/underground local distribution equipment), and/or flood control facilities.

ii. **Conditional Uses:**

- One accessory dwelling unit per lot;
- Multiple-family dwellings, in conformance with density requirements;
- Light Industrial and/or Light Commercial Uses, under limited operation and the conditions of Section ~~8X~~ (~~S~~see “Commercial/Industrial Uses within R-West”), on a lot located within 150 feet of the right-of-way for 2nd Street;
- Bed and breakfast;
- Funeral home and mortuary;
- Civic, social, and fraternal organizations;
- Family Child Care Home II

iii. **Temporary Uses:**

- Buildings and uses incidental to construction activities which shall be removed upon completion or abandonment of the construction;
- Temporary structures for festivals or commercial events.

iv. **Accessory Uses:**

- Buildings and uses customary to the permitted and conditional uses, including facilities in conjunction with residential use (private swimming pools, tennis courts, etc.);
- Home occupation.
- Decks, gazebos, and elevated patios – either attached or detached.
- Family Child Care Home I.

c. **Bulk Regs**

i. **Minimum Lot Density:** 3,000 square feet per dwelling unit

ii. **Lot Width:** NONE

iii. **Maximum Building Height:** 35

iv. **Maximum Lot Coverage:**

- For detached single-family development and non-residential development: 45%;
- For attached, two-family, and multi-family residential development: 59%

v. **Setbacks:**

- **Structures on Adjacent Property:** 10 feet (Applies to structures on adjacent property, NOT structures located on the subject lot.)
- **Front Yard:** 15 feet
- **Side Yard:**
  - Adjacent ~~Property~~ Lots: 6 feet
  - Adjacent Street/Road: 15 feet
- **Rear Yard:**
  - Primary Structures: 20 feet, which may be reduced to 20% of the lot's depth when the required rear setback is greater than 20% of the lot's depth.
  - Accessory Structures: 6 feet; for private garages proposed to be located near a legally-recognized alley, the rear yard setback shall be reduced to one (1) foot, provided that the proposed garage, including all eaves and other structural attachments, is wholly located within the subject property's boundaries.

#### 17. (R-EAST) EASTERN RESIDENTIAL ZONING DISTRICT

##### a. **Intent**

This district is intended to recognize and accommodate the existing residential development occurring on the eastern portions of the community and to accommodate low-density residential development and other compatible uses.

##### b. **Uses**

###### i. **Permitted Uses:**

- Single-family residential;
- Churches, temples, seminaries, and convents, including residences;
- Public and private schools;
- Public uses, including but not limited to parks, recreational areas, conservation areas, fire stations, community centers, auditoriums, libraries, museums, utilities (including overhead/underground local distribution equipment), and/or flood control facilities.

###### ii. **Conditional Uses:**

- One accessory dwelling unit per lot;
- Single-family attached residences, including duplexes, triplexes, or townhouses, subject to conformance with minimum density;
- Civic, social, and fraternal organizations;
- Family Child Care Home II.

###### iii. **Temporary Uses:**

- Buildings and uses incidental to construction activities which shall be removed upon completion or abandonment of the construction.
- Temporary structures for festivals or commercial events.

###### iv. **Accessory Uses:**

- Buildings and uses customary to the permitted and conditional uses, including facilities in conjunction with residential use (private swimming pools, tennis courts, etc.).

- Home occupation.
- Decks, gazebos, and elevated patios – either attached or detached.
- Family Child Care Home I.

c. **Bulk Regs**

i. **Minimum Lot Density:**

- Detached Single-Family Dwelling: 8,500 square feet per unit
- Attached Single-Family Dwelling: 4,250 square feet per unit

ii. **Lot Width:**

- Detached Single-Family Dwelling: 60 feet
- Attached Single-Family Dwelling: 30 feet per unit

iii. **Maximum Building Height**: 35 feet

iv. **Maximum Lot Coverage**: 45%

v. **Setbacks:**

- **Structures on Adjacent Property**: 10 feet (Applies to structures on adjacent property, NOT structures located on the subject lot.)
- **Front Yard**: 30 feet
- **Side Yard**:
  - Adjacent ~~Property~~ Lots: 6 feet
  - Adjacent Street/Road: 30 feet
- **Rear Yard**:
  - Primary Structures: 25 feet, which may be reduced to 20% of the lot's depth when the required rear setback is greater than 20% of the lot's depth.
  - Accessory Structures: 6 feet

18. (B-CBD) COMMUNITY BUSINESS ZONING DISTRICT

a. **Intent**

This district is intended to foster and maintain an area to benefit retail trade, business, cultural, and social activities of the community. This district is not intended for uses located along or adjacent to Highway 92 and other arterial roadways.

b. **Use Limitations**

- Parking, driveways, and signs shall not be allowed in the required front yard within 15 feet of any residential district.
- When adjacent to residential districts, the Zoning Administrator may require new construction to provide a permanent screen six feet in height in order to minimize impacts on residential properties.

c. **Uses**

i. **Permitted Uses:**

- Business services, including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, banking/finance/investment services, dance studio, antique stores, auto parts and supplies, barber/beauty shop, bicycle shop, car washes, communication services, computer store, laundry and dry cleaning, exercise/fitness/tanning facility, flower shop,

funeral homes and mortuaries, gift shop, hobby/craft/toy store, jeweler, locksmith, photographer, framing shop, printing and/or publishing, restaurant/café/fast food, second-hand/thrift store, tire store, meeting hall for social clubs and fraternal/sorority organizations, telephone/utility office, commercial greenhouse and/or garden center, veterinary office or animal hospital (must be located 100 feet from a residential district), etc.

- Residences in conjunction with the principle use when located above the ground floor;
- Bar/~~tavern~~/lounge and/or liquor store;
- Convenience store with limited fuel sales;
- Family Child Care Home I + II;
- Public uses, including parks and recreation areas, emergency service provider facilities, libraries, schools and educational facilities, community centers and auditoriums, playgrounds and conservation areas including flood control facilities;

ii. **Conditional Uses:**

- Outdoor Entertainment.
- Churches, temples, seminaries, and convents including residences for teachers and pastors. (NOTE: Places of worship may be considered as a conditional use in B-CBD, however, these uses are permitted within the City's residential zones and therefore encouraged to be located within residential neighborhoods.)
- Retail motor vehicle sales and service.
- Hospitals, clinics, and medical institutions, including care facilities~~educational, religious, and philanthropic institutions and convalescent homes~~;
- Multi-family dwelling units
- Service station and minor automobile repair services.
- Motels, hotels and trailer campgrounds.

iii. **Temporary Uses:**

- Buildings and uses customarily incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- Temporary structures for festivals or commercial events.
- Fireworks stands, provided all criteria established by law are met.

iv. **Accessory Uses:**

- Buildings and uses customarily incidental to the permitted uses.
- Parking
- Signs
- Fences

d. **Bulk Regs \*SEE USE LIMITATIONS**

- Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- Multi-Family Dwelling Density:** 1,500 square feet per unit

iii. **Lot Width:** NONE

iv. **Setbacks:**

- **Front Yard:** None, except when adjacent to any residential district, the setback shall be 25 feet.
- **Side Yard:** None, except that when adjacent to any residential district, the setback shall be 25 feet.
- **Rear Yard:** None, except: when adjacent to an alley, the setback shall be five feet; when adjacent to any residential district, the setback shall be 25 feet. ~~If an alley exists between the two, the setback from the subject property's rear boundary shall be five feet.~~

v. **Maximum Building Height:** 45 feet

vi. **Maximum Lot Coverage:** NONE~~40%~~

#### 19. (B-HWY) HIGHWAY BUSINESS DISTRICT

a. **Intent**

The Highway Business District is intended to establish standards that foster and maintain commercial activities along Nebraska Highway 92, distinct from commercial areas located within town. The design standards herein are designed to promote safe traffic circulation, high quality design and site planning, and flexibility in development to support an attractive, viable business corridor.

b. **Use Limitations**

- i. Parking, driveways, and signs shall not be allowed in the required front yard within 15 feet of any residential district.
- ii. When adjacent to residential districts, the Zoning Administrator may require new construction to provide a permanent screen six feet in height in order to minimize impacts on residential properties.

c. **Uses**

i. **Permitted Uses:**

- Business services, including: antique sales establishments; barber shops and beauty parlors; bowling alley, drive-in restaurant, indoor theater, or other such entertainment facility, provided such building is located 100 feet from any residential district boundary; business offices; car washes; farm implements display or salesroom; filling stations and convenience stores; frozen food lockers; golf driving ranges, including miniature golf; laundry and dry-cleaning establishments; lumber yards, hardware stores, and building material sales yards; marine craft displays, service, and repair including accessories; mortuaries and funeral homes; motels, hotels, and trailer campgrounds; private clubs and lodges; professional offices; public utilities and railroad facilities; restaurants, including drive-thru facilities; nightclubs and ~~taverns~~bars; veterinarian or animal hospital, provided an such building, kennel, or exercise runway is located at least 100 feet away from any residential district; public uses, including but not limited to recreational uses, fire stations, utilities and utility distribution systems, community centers, auditoriums, libraries, or



museums; public parks and recreation areas, playgrounds, and conservation areas including flood control facilities.

**ii. Conditional Uses:**

- Multi-family dwelling units;
- Living quarters used by caretakers of any commercially-used property;
- Self-storage garages, according to the standards of Section ~~10X~~;
- Wireless communication facilities, pursuant to Section ~~13X~~;
- Adult-oriented uses and cannabis/hemp-derived businesses on properties with direct legal and physical access to Highway 92;
- Casino;
- Automobile displays, sales, service, and repair, provided the following standards are met:
  - Sales yards and parking lots shall be hard-surfaced in concrete or asphalt;
  - Sales lots shall be designed to allow 250 square feet of area per vehicle on display;
  - The off-street parking requirements of Section ~~7X~~ shall be applied for employees and customers;
  - The property shall be designed to provide proper ingress and egress from the site.
- Hospitals, clinics, and medical institutions, including ~~care facilities educational, religious, and philanthropic institutions and convalescent homes~~;
- Strip mall retail business or service establishments supplying commodities or performing services as a stand-alone building or other grouping of businesses, including: bakeries, commercial/vocational schools, department stores, pharmacies, furniture stores, grocer stores, gift shops, hardware stores, parking garages, specialty shops, indoor/outdoor theaters, and variety stores.

**iii. Temporary Uses:**

- Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- Temporary structure for festivals or commercial events.
- Fireworks stands, provided all criteria established by law are met.

**iv. Accessory Uses:**

- Buildings and uses customarily incidental to the permitted uses.
- Signs
- Parking
- Fences
- Decks, gazebos, elevated patios either attached or detached.

**d. Bulk Regs \*SEE USE LIMITATIONS**



- i. **Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- ii. **Lot Width:** NONE
- iii. **Setbacks:**
  - **Front Yard:** 25 feet
  - **Side Yard:** None, except that when adjacent to any residential district, the setback shall be 25 feet.
  - **Rear Yard:** None, except: when adjacent to an alley, the setback shall be five feet; ~~that~~ when adjacent to any residential district, the setback shall be 25 feet. ~~If an alley exists between the two, the setback from the subject property's rear boundary shall be five feet.~~
- iv. **Maximum Building Height:** 45 feet
- v. **Maximum Lot Coverage:** 40%

## 20. (I-LTE) LIGHT INDUSTRIAL DISTRICT

### a. **Intent**

The Light Industrial District provides basic standards for limited industrial, wholesale, and storage activities in order to preserve land for the expansion of basic economic activities, to free those areas from intrusion by incompatible land uses, to serve these areas with adequate transportation facilities, and to – so much as is reasonably possible – minimize hazard to adjacent properties so much as is reasonably possible.

### b. **Use Limitations**

- i. Minimum height requirements may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
- ii. Parking, driveways, and signs shall not be allowed in the required front yard within 15 feet of any residential district.
- iii. When adjacent to residential zones, the Zoning Administrator may require new construction to provide a permanent screen six feet in height in order to minimize impacts on residential properties.

### c. **Uses**

#### i. **Prohibited Uses:**

- Ethanol production and plant facilities; and
- Poison and chemical extermination manufacturing.

#### ii. **Permitted Uses:**

- Assembly, fabrication, and processing of products inside an enclosed building, except hazardous or combustible materials; automobile storage yard, provided all vehicles are kept in an enclosed and screened area; retail auto sales and service; bottling work; building material sales yard with enclosed and screened storage areas; carting, express, or storage yard; construction and heavy equipment sales/service; dying and cleaning establishments; farm and industrial equipment sales; highway maintenance yards or buildings; laboratories; machine shop or metal working excluding drop hammers and other noise producing tools; lumber yards; manufacture and assembly of electrical and electronic

appliances; manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously-prepared materials; printing and publishing business; self-storage units (per Section ~~10X~~); stone and monument works; utility substations, pumping stations, and water reservoirs; and warehouse and/or wholesale businesses.

**iii.iii. Conditional Uses:**

- Concrete or cement product manufacturing;
- Grain storage bins and elevators;
- ~~[JUST SCREEN EVERYTHING?]~~ Auto body repair shops, provided the following minimum standards are met:
  - ~~○ All vehicles waiting for repair shall be screened from view;~~
  - All exhaust fumes from painting shall comply with federal and state requirements;
  - ~~○ All parts shall be screened;~~
  - ~~○ Parts shall not be stacked taller than the fence or wall;~~
  - Parts are not intended to be inventoried for more than a one-year period;
  - The subject property is not to be used as an Automobile Wrecking Yard or Junk Yard;
  - ~~○ Screened-in areas shall be opaque fence or solid wall at least eight feet in height.~~
- Live-in quarters used by live-in watchmen or custodians during periods of construction or when necessary as an accessory to permitted uses;
- Overhead and underground utility main transmission lines, including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs;
- Telecommunication and wireless communication facilities, pursuant to Section ~~13X~~;
- Research facilities;
- Adult-oriented uses and cannabis/hemp-derived businesses on properties with direct legal and physical access to Highway 92;
- Automobile junk yard or wrecking yard, per Section ~~11X~~;
- Truck terminal and dock facilities to include truck washing;

**iii.iv. Temporary Uses:**

- Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- Temporary structures for festivals or commercial events.
- Fireworks stands, provided all criteria established by law are met.

**iv.v. Accessory Uses:**

- Buildings and uses customarily incidental to the permitted uses.
- Signs
- Parking
- Fences

~~d. Performance Standards~~

~~All permitted development shall comply with the standards of Section X (Industrial Uses).~~

~~e.d.~~ Bulk Regs \*SEE USE LIMITATIONS

- i. **Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- ii. **Lot Width:** NONE
- iii. **Setbacks:**
  - **Front Yard:** 25 feet
  - **Side Yard:** NONE, except when adjacent to any residential district, the side yard setback shall be 25 feet.
  - **Rear Yard:** NONE, except when adjacent to any residential district, the rear yard setback shall be 25 feet.
- iv. **Maximum Building Height:** 45 feet
- v. **Lot Coverage:** NONE

21. (I-HVY) HEAVY INDUSTRIAL DISTRICT

a. **Intent**

This district provides standards for those lands which are suitable for intense industrial, wholesale, and storage activities in order to preserve land for the expansion of basic economic activities, to free those areas from intrusion by incompatible land uses, to serve these areas with adequate transportation facilities, and to – so much as is reasonably possible – minimize hazard to adjacent properties so much as is reasonably possible.

b. **Use Limitations**

- i. Minimum height requirements may be exceeded, provided the setback is increased by one foot for every one foot increase in building height.
- ii. No parking, driveways, or signs shall be allowed in the required front yard within 15 feet of any residential district.
- iii. When adjacent to residential zones, new construction shall provide a permanent screen six feet in height in order to minimize impacts on residential properties.

c. **Uses**

i. Prohibited Uses:

- Ethanol production and plant facilities; and
- Poison and chemical extermination manufacturing.

i.ii. **Permitted Uses:**

- Assembly, fabrication, and processing of products inside an enclosed building, except hazardous or combustible materials;
- Automobile storage yard, provided all vehicles are kept in an enclosed and screened area;
- Bottling work;
- Building materials yard with enclosed and screened storage areas;
- Carting, express, or storage yard;
- Construction and heavy equipment sales and service;

- Dying and cleaning establishments;
- Farm and industrial equipment sales;
- Highway maintenance yards or buildings;
- Laboratories;
- Lumber yard;
- Machine shop or metal working excluding drop hammers and other noise-producing tools;
- Manufacture and assembly of electrical and electronic appliances;
- Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials;
- Printing and publishing business;
- Self-storage units, per Section ~~10XXX~~;
- Stone and monument works;
- Utility substations, pumping stations, and water reservoirs;
- Warehouses and wholesale businesses;
- Contractors' yard;
- Grain storage bins and elevators;
- Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use;
- Livestock auction or sales barn.
- Research facilities.
- Truck terminal and dock facilities.

#### 7-iii. **Conditional Uses:**

- Alfalfa dehydrating plant;
- Asphalt mixing, manufacture, or refining;
- Auto body repair shops, subject to the following standards:
  - All activities associated with the use, including vehicles, parts, and storage areas, shall be screened from view by a privacy fence or solid wall at least eight feet in height
  - ~~All exhaust fumes from painting areas meet federal/state requirements~~
  - Parts are not intended to be inventoried for more than a one-year period
  - The activities involved are not to be used in a manner that would be defined as an automobile wrecking or junk yard
- Automobile junk yard or wrecking yard provided the standards of Section 7.15 are met;
- Boiler works;
- Concrete/cement product manufacturing;
- Disinfectant manufacture;
- Grain storage bins and elevators;

- Adult-oriented uses and cannabis/hemp-derived businesses on properties with direct legal and physical access to Highway 92.
- Wireless communication facilities, per Section ~~13X~~.

#### ~~iii~~.iv. **Temporary Uses:**

- Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- Temporary structures for festivals or commercial events.
- Fireworks stands, provided all criteria established by law are met.

#### ~~iv~~.v. **Accessory Uses:**

- Buildings and uses customarily incidental to the permitted uses.
- Signs
- Parking
- Fences

#### d. **Bulk Regs \*SEE USE LIMITATIONS**

- Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- Lot Width:** NONE
- Setbacks:**
  - **Front Yard:** 25 feet
  - **Side Yard:** NONE, except when adjacent to any residential district, the side yard setback shall be ~~10~~25 feet.
  - **Rear Yard:** NONE, except when adjacent to any residential district, the rear yard setback shall be 25 feet.
- Maximum Building Height:** 45 feet
- Lot Coverage:** NONE

## 22. DEFINITIONS

### a. **Rules** [SECTION 2.01 OF CURRENT ZONING]

For the purpose of this code, the following rules apply:

- The word “shall” is mandatory.
- The word “may” is permissive.
- The words “use,” “used,” “occupy, or “occupied” as applied to any land or building shall include the words “intended,” “arranged,” or “designed” to be used or occupied.
- Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context. Where doubt exists, a common dictionary shall be referenced for interpretation.

### b. **Terms**

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

- ii. **ACCESSORY DWELLING UNIT:** an additional, subordinate dwelling unit on the same lot as a primary single-family residence/dwelling, either attached to the primary dwelling or detached.
- iii. **ACCESS, LEGAL AND PHYSICAL:** the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use, including appropriate easement(s) or right-of-way across all necessary properties.
- ~~iv. **ACCESSORY STRUCTURE:** a detached structure, the use of which is incidental and accessory to the principle structure located on the same lot.~~
- ~~iv.~~ iv. **ACCESSORY USE:** see “USE.” a use that is incidental, related, clearly subordinate, and complimentary to the main use of the subject lot, which does not alter the principal use of said lot or affect other lots within the district.
- ~~vi.~~ v. **ADJACENT:** to abut, to border on, to be contiguous with, or to have property or district lines in common, including property separated by an alley.
- ~~vii.~~ vi. **ADULT-ORIENTED USE:** any business which offers its patrons specific services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to ‘specified sexual activities’ or ‘specified anatomical areas,’ including, without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, and adult body painting studios.
- ~~viii.~~ vii. **AGRICULTURAL/FARM BUILDINGS AND STRUCTURES:** any building or structure which is necessary or incidental to the normal conduct of a farm, including but not limited to residence of the operator, residence of hired help, 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.
- ~~ix.~~ viii. **AGRICULTURE:** the raising and harvesting of crops and/or the rearing of livestock, including wild game and fish use of land for agricultural purposes (i.e., for obtaining a profit by raising, harvesting, and selling crops; for the feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honeybees; for dairy production and the sale of dairy products; or any other agricultural or horticultural use. Agricultural use shall not be construed to include any lot less than twenty acres or any non-agricultural commercial or industrial development.
- ~~x.~~ ix. **ALLEY:** a passageway, usually narrow, between two parallel streets and usually at the rear of the properties facing the street. Alleys are primarily for utility access and the convenience of the abutting property owners minor public service street or public thoroughfare measuring 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another public roadway. Buildings facing an alley shall not be construed as satisfying the requirements of this definition related to frontage on a dedicated street.

~~xix.~~x. **ALTERATION:** any change, addition, or modification in construction, use, or occupancy of an existing structure; includes 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, pilons, retaining walls, or similar components.

~~xii.~~ **ALTERATION, STRUCTURAL:** see “Structural Alteration”

~~xiii.~~xi. **AMENDMENT:** a change in the wording, context, or substance of this code; a change, addition, or deletion in any zoning district boundary or classification upon the zoning map.

xii. **ANIMAL UNIT:**

- Slaughter & Feeder Cattle = 1.0 x [head count]
- Cow/Calf Pairs = 1.2 x [head count]
- Mature Dairy Cattle = 1.4 x [head count]
- Swine, 55+ pounds = 0.4 x [head count]
- Weaned Pigs, less than 55 pounds = 0.04 x [head count]
- Sheep = 0.1 x [head count]
- Horses = 2.0 x [head count]
- Chickens = 0.01 x [head count]
- Turkeys = 0.02 x [head count]
- Ducks = 0.2 x [head count]
- Other Species (inc. immature dairy cattle): calculated as the average weight of the animal(s) divided by 1,000 pounds, multiplied by the head count of the animal.

~~xiv.~~ **ANIMALS, FARM:** livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation, including but not limited to horses, cattly, sheep, swine, goats, chickens, and turkeys

~~xv.~~xiii. **ANTENNA:** a device designed and intended for transmitting or receiving communication signals.

~~xvi.~~xiv. **AUTOMOBILE WRECKING YARD:** 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; includes the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

~~xvii.~~xv. **BAR:** any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises.

~~xviii.~~xvi. **BASEMENT:** the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.

~~xix.~~xvii. **BEACON:** a light with one or more beams directed into the atmosphere at one or more points; such light(s) may rotate or move.

~~xx.~~xviii. **BED AND BREAKFAST:** a house, or portion thereof, where short-term lodging rooms and meals are provided; the operator shall live on the premises.

~~xxi.~~xix. **BEDROOM:** a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door or doorway.



- ~~xxii-xx.~~ **BERM:** a raised form of earth to provide screening or to improve the aesthetic character.
- ~~xxiii-xxi.~~ **BOARD OF ADJUSTMENT:** the board created by the city which has the statutory authority to hear and determine appeals, specific interpretations, and variances from this code.
- ~~xxiv-xxii.~~ **BROADCASTING TOWER:** a structure built for the purpose of supporting wireless communication antennae and/or beacons.
- ~~xxv-xxiii.~~ **BUFFER:** 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/public road. (Also see “screenings.”)
- ~~xxvi-xxiv.~~ **BUILDING:** 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.” Operable and licensed trailers, with wheels, shall not be considered as buildings.
- ~~xxvii-xxv.~~ **BUILDING, ACCESSORY:** any detached, subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory structures includes farm buildings, garages, carports, and small storage sheds.
- ~~xxviii-xxvi.~~ **BUILDING, AREA OF:** the sum in square feet of the ground area(s) occupied by all buildings and structures on a lot.
- ~~xxix-xxvii.~~ **BUILDING CODE:** the laws that regulate construction and require permits to do work identified as the Adopted Building Codes of Yutan.
- ~~xxx-xxviii.~~ **BUILDING HEIGHT:** ~~the vertical distance above grade to the highest point of the roof, measured from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance at the exterior wall of the building. (Also see “Height of Building.”)~~
- ~~xxxi.~~ ~~**BUILDING INSPECTOR:** the staff member appointed by the City of Yutan to conduct activities related to administration and implementation of the building code.~~
- ~~xxxii-xxix.~~ **BUILDING, PRINCIPAL:** a building where the main or primary use of the lot or premises is located. (Also see “USE, PRINCIPAL.”)
- ~~xxxiii-xxx.~~ **BUILDING SETBACK LINE:** the minimum distance between a structure and property lines, streets, easements, or other designated features, as prescribed and required by this code. ~~between any property line and the closed point of the building line or face of any building or structure related thereto.~~
- ~~xxxiv-xxxi.~~ **CAMPGROUND:** a lot intended for the temporary occupancy of which is designed, maintained, intended, or used for the purpose of providing sites for non-permanent overnight use by tents, campers, and major recreational vehicles with primary purposes of recreation; ~~having open areas that are natural in character.~~
- ~~xxxv-xxxii.~~ **CAR WASH:** 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, not including semi-trailer tractors, buses, and commercial fleets.



- ~~xxxvi-xxxiii.~~ **CARE FACILITY:** a facility(-ies) subject to state licensing requirements that provides housing and assistance for individuals unable to live independently, either on a temporary or permanent basis.
- ~~xxxvii-xxxiv.~~ **CARPORT:** an open-sided shelter for automobiles.
- ~~xxxviii-xxxv.~~ **CELLAR:** a building space having more than one-half of its height below the average adjoining grade lines.
- ~~xxxix-xxxvi.~~ **CEMETERY:** land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
- ~~xl-xxxvii.~~ **CENTERLINE (OF STREET):** the direct center of the width of a street's right-of-way or easement.
- ~~xli-xxxviii.~~ **CHANNEL:** the geographical area within either the natural or artificial banks of a watercourse or drainage way.
- ~~xlii-xxxix.~~ **CHILD CARE** See Family Child Care Home I + II
- ~~xliii-xl.~~ **CLUB:** an association of persons collected for a common purpose; not including groups organized primarily to render for-profit business services.
- ~~xliv-xli.~~ **COMMUNITY CENTER:** a place, structure, or other facility used for religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
- ~~xl-xlii.~~ **COMPATIBILITY:** harmony in the appearance of two or more external design features in the same vicinity.
- ~~xlvi-xliii.~~ **COMPATIBLE USES:** a land use which is congruous with, tolerant of, and/or has no adverse effects on existing neighborhood uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled, and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris, contamination of surface/ground water, aesthetics, vibration, electrical interference, and radiation.
- ~~xlvi-xliv.~~ **CONDITIONAL USE:** a use requiring approval by the City after finding that it would not be detrimental to public health, safety, and general welfare if controlled as to ~~prevent and/or mitigate negative impacts~~number, size, area, location, relationship to the general vicinity, and/or through other minimal protective characteristics.
- ~~xlvi-xlv.~~ **CONSERVATION AREA:** lands intended to preserve natural resources, wildlife, and/or habitat. environmentally sensitive and valuable lands protected from any activity that would significantly alter the ecological integrity, balance or character, except in over
- ~~xlix-xlvi.~~ **CONVENIENCE STORE:** a retail store ~~containing less than 5,000 square feet of gross floor area~~ that is designed and stocked to primarily sell food, beverages, and household supplies. ~~It is designed to attract and accommodate~~ large volumes of stop-and-go traffic.
- ~~l-xlvii.~~ **DENSITY:** the allowed number of dwelling/business units per ~~acre of land~~ area (square feet or acres) allowable on a given lot.
- ~~li-xlviii.~~ **DEVELOPER:** any person, partnership, or entity that is responsible for any undertaking that requires review and approval from the City.

- ~~iii.xlix.~~ **DEVELOPMENT:** any man-made change to real estate, including but not limited to buildings or other structures, mining, dredging, filing, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- ~~liii.l.~~ **DRIVE-IN:** an establishment where customers can be served without leaving a vehicle.
- ~~liv.li.~~ **DRIVEWAY:** any vehicular access to an off-street parking or loading facility.
- ~~lv.iii.~~ **DUPLEX:** a building designed or used for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- ~~lvi.liiii.~~ **DWELLING:** any building or portion thereof which is designed and used exclusively for single-family residential purposes, including manufactured homes but excluding mobile homes.
- ~~lvii.liv.~~ **DWELLING, MANUFACTURED HOME:** ~~a factory-built~~ housing designed to be easily transported and placed at an intentional, permanent building site. ~~structure which is to be used as a place for human habitation, which This dwelling is not constructed or equipped with a permanent hitch or axles/wheels, except other device allowing it to be moved other than to a permanent the intended building site, which does not have permanently attached to its body or frame any wheels or axles, and which This type of dwelling shall bears a label certification that it was built inof compliance with standards promulgated by the U.S. Department of Housing & Urban Developmentfederal standards for construction and safety.~~
- ~~lviii.~~ **DWELLING, MOBILE HOME:** see “MOBILE HOME.”
- ~~lix.lv.~~ **DWELLING, MODULAR:** any pre-fabricated structure used for dwelling purposes and moved onto a site in an essentially-complete and constructed condition in one or more parts to establish a single-family residence on a permanently established and attached foundation. Shall meet or be equivalent to the construction criteria defined by the Nebraska State Department of Health & Human Services; modular dwellings not meeting these standards shall be deemed a mobile home and subject to the requirements of mobile homes.
- ~~lx.lvi.~~ **DWELLING, MULTIPLE-FAMILY:** 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.
- ~~lxi.lvii.~~ **DWELLING, SINGLE-FAMILY:** a detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.
- ~~lxii.lviii.~~ **DWELLING, SINGLE-FAMILY (ATTACHED):** a one-family dwelling unit attached to one additional single-family dwelling, separated by an unpierced common wall through the structure; the common wall shall sit along the property line separating ownership of the structure.
- ~~lxiii.lix.~~ **DWELLING UNIT:** one space constituting a separate, independent residence containing cooking, toilet, and sleeping facilities, and physically separate from any other residences which may be in the same structure.
- ~~lxiv.lx.~~ **EASEMENT:** a documented legal right to occupy or use another’s land for a limited, specific purposeauthorization by a property owner for the use by another;

~~for a specified purpose and for a designated portion of the subject property OR an interest in land owned by another that entitles its holder to a specific limited use or enjoyment.~~

~~lxxv. **EDUCATIONAL INSTITUTION:** a public or non-profit institution or facility which conducts regular academic instruction at pre-school, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, non-profit research institutions, and religious institutions. Such institutions must either: 1) Offer general academic instruction equivalent to the ...~~

~~lxxvi-lxxi.~~ **ENLARGEMENT:** the expansion of a building, structure, or use in terms of volume, size, area, height, length, width, depth, capacity, lot coverage, or in number.

~~lxxvii-lxxii.~~ **ERECTED:** constructed upon or moved onto a site.

~~lxxviii-lxxiii.~~ **EXISTING AND LAWFUL:** the use of a building, structure, or land that was permitted, authorized, or allowed by law and existed in operation and use, prior to the enactment of a zoning regulation when first adopted or permitted.

~~lxxix-lxiv.~~ **EXTRA-TERRITORIAL JURISDICTION:** the area beyond corporate limits that the City has been granted powers to exercise zoning and building regulations under state law.

~~lxxx-lxv.~~ **FAMILY:** a household head and one or more persons related to the head by blood, marriage, or adoptions living together in a single dwelling unit

~~lxxxi-lxvi.~~ **FAMILY CHILD CARE HOME I:** a child care operation serving between four and eight children, subject to the review and approval of the State of Nebraska's requirements.

~~lxxxii-lxxvii.~~ **FAMILY CHILD CARE HOME II:** a child care operation serving eight or more children, subject to the review and approval of the State of Nebraska's requirements.

~~lxxxiii.~~ **FARM:**

~~lxxxiv-lxxviii.~~ **FARM/FARMING:** ~~the uses and activities associated with "AGRICULTURE" (defined above). the planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of swine or other animals.~~

~~lxxxv-lxix.~~ **FENCE:** a structure serving as an enclosure, barrier, or boundary.

~~lxxxvi-lxx.~~ **FIREWORKS STAND:** any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.

~~lxxxvii-lxxi.~~ **FLOOD:** a rising and overflowing of a waterbody onto normally dry land.

~~lxxxviii-lxxii.~~ **FLOODPLAIN:** level land that may be submerged by flood.

~~lxxxix-lxxiii.~~ **FLOOR AREA:** the sum of the horizontal areas of floor of a building or unit measured from wall-to-wall of the space involved.

~~lxxx-lxxxiv.~~ **FRONTAGE:** that portion of a lot which abuts a dedicated public street or highway.

~~lxxx-i-lxxxv.~~ **GARAGE, PRIVATE:** a detached accessory structure or a portion of a main building on the same lot as a dwelling for the housing of vehicles, including carports.

- ~~lxxxii.~~lxxvi. **GARAGE, PUBLIC:** any garage other than a private garage.
- ~~lxxxiii.~~lxxvii. **GRADE:** the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- ~~lxxxiv.~~lxxviii. **HAZARDOUS MATERIALS:** products of industrial or chemical process including, but not limited to, finished surplus, used/contaminated/unwanted fertilizer, herbicide, petroleum products, and other such processed waste material.
- ~~lxxxv.~~lxxix. **HEDGE:** a series of plants, shrubs, or other landscaping arranged in a manner to create a physical enclosure.
- ~~lxxxvi.~~ **~~HEIGHT (OF BUILDING):~~** ~~the vertical distance above grade to the highest point of the coping of a flat roof, the peak of a gable roof, or any other type of pitched, hipped, or mansard roof; not including those elements exempt from height requirements per Section X. The grade may mean the highest adjoining sidewalk or ground surface within a t foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.~~
- ~~lxxxvii.~~lxxx. **HOME OCCUPATION:** an in-home or home-based entrepreneurial business operating from a residential dwelling.
- ~~lxxxviii.~~lxxxi. **HOTEL/MOTEL:** a building offering lodging accommodations to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities.
- ~~lxxxix.~~lxxxii. **IMPERVIOUS SURFACE:** any portion of a lot covered with man-made improvements, including buildings, decks, and hard-surfaced driveways or parking areas.
- ~~xe.~~lxxxiii. **INDUSTRIAL:** a company, building, or use involved in manufacturing, fabrication, processing, creation, and/or destruction, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- ~~xei.~~lxxxiv. **JUNK YARD:** any lot used for storage, collection, purchase, sale, salvage, or disposal of otherwise discarded materials.
- ~~xeii.~~lxxxv. **JURISDICTION:** the power, right, or authority to interpret and apply the law.
- ~~xeiii.~~lxxxvi. **KENNEL:** an establishment for the grooming, breeding, boarding, and/or training of dogs, cats, and/or other common pets.
- ~~xeiv.~~lxxxvii. **LANDSCAPING:** the planting of suitable vegetation and the continued maintenance thereof.
- ~~xev.~~lxxxviii. **LAUNDRY:** an establishment that provides washing, drying, and/or pressed-ironing services for customers.
- ~~xevi.~~lxxxix. **LIVESTOCK:** livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation, including but not limited to horses, cattle, sheep, swine, goats, chickens, and turkeys.
- ~~xevii.~~xc. **LOADING AREA/ZONE/STALL:** an off-street space for the parking of vehicles while loading or unloading, and which may abut a street, alley, right-of-way, or other ingress/egress infrastructure.

- ~~xcviii~~-xci. **LOT:** a parcel or tract of land recognized by the Saunders County Register of Deeds.
- ~~xcix~~-xcii. **LOT AREA:** the total area within a given lot's boundaries.
- ~~e~~-xciii. **LOT, CORNER:** a lot located at the intersection of two roads or a bend in the road so that it is abutted on at least two sides by the road.
- ~~ei~~-xciv. **LOT COVERAGE:** the portion of a lot or building site which is occupied by any building or structure.
- ~~eii~~-xcv. **LOT DEPTH:** the horizontal distance between the front and rear lot lines.
- ~~eiii~~-xcvi. **LOT, DOUBLE FRONTAGE:** a lot whose front and rear lines both abut on streets.
- ~~eiv~~-xcvii. **LOT LINE:** the property boundary of a lot, including:
- **FRONT LOT LINE:** the property boundary abutting a street upon which development faces and/or is accessed from.
  - **SIDE LOT LINE:** any property boundary that is not the front or rear lot lines.
  - **REAR LOT LINE:** a property boundary which is opposite and most distant from the front lot line.
- ~~ev~~-xcviii. **LOT WIDTH:** the average horizontal distance between the site lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- ~~evi~~-xcix. **MANUFACTURING:** uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products.
- ~~evii~~-c. **MECHANICAL EQUIPMENT:** the tools, devices, and accessories related to water supply, drainage, heating, ventilation, air conditioning, etc.
- ~~eviii~~-ci. **MOBILE HOME:** ~~any pre-fabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in a complete condition and mounted on wheels, skids, jacks, blocks, horses, skirting, or a foundation, including any pre-fabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. A detached dwelling unit designed for transport on ordinary roadways. Such unit arrives on-site complete and ready for occupancy after assembly/installation to its intended foundation.~~  
The term "mobile home" shall include trailer home and camp cars, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
- ~~eix~~-cii. **NON-CONFORMING STRUCTURE:** a building which was lawful when established but which does not conform to the effective regulations.
- ~~ex~~-ciii. **NON-CONFORMING USE:** a use that was lawful when established but does not conform to effective regulations.
- ~~exi~~-civ. **NUISANCE:** anything that interferes with the use or enjoyment of property, endangers health or safety, or is offensive to the human senses (such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter).
- ~~exii~~. **NURSING HOME:** ~~a residential facility for four or more persons that provides living and sleeping facilities, including meal prep, dining areas, laundry services, and common recreational, social, and service facilities for the exclusive use of all~~



~~residents including residential staff personnel who occupy a room or unit in the residential facility.~~

~~exiii.cv.~~ **OFFICE:** a building, or portion thereof, where administrative, professional, or clerical operations occur.

~~exiv.cvi.~~ **OFF-STREET PARKING:** those areas and spaces designed, used, or intended for parking, including driveways and throughways providing access to those areas, and located on a lot of record and not within established easements or rights-of-way.

~~exv.~~ **OPEN SPACE:** 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.

~~exvi.cvii.~~ **OWNER:** the person(s) who have title to a subject lot or building/structure.

~~exvii.cviii.~~ **PARK:** any public or private land available for recreational, educational, cultural, or aesthetic use.

~~exviii.cix.~~ **PERMITTED USE:** any land use allowed by-right within a zoning district.

~~exix.cx.~~ **PREMISES:** a building or part of a building where activities occur, including the undeveloped land where those activities may occur and all appurtenances.

~~exx.cxi.~~ **PUBLIC UTILITY:** any building which furnishes the general public or any business so affecting the public interest as to be subject to the supervision or regulation by an agency of local/state/federal government.

~~exxi.~~ **RAILROAD:** the land use abutting railroad rights-of-way properties

~~exxii.cxii.~~ **RECREATIONAL VEHICLE (RV):** a vehicle designed for recreational use, including motor homes, truck campers, travel trailers, camping trailers, and fifth wheels. Mobile homes are not considered a recreational vehicle.

~~exxiii.cxiii.~~ **RESIDENCE:** a building used, designed, or intended to be used as a home or dwelling place for one or more families.

~~exxiv.cxiv.~~ **RESTAURANT:** a business establishment where meals may be purchased.

~~exxv.cxv.~~ **RIGHT-OF-WAY:** the legal right of passage over which a passage/thoroughfare is built

~~exxvi.cxvi.~~ **ROAD:** shall mean the same as “STREET.”

~~— ROAD, PRIVATE: see “STREET, PRIVATE.”~~

~~— ROAD, PUBLIC: see “STREET, PUBLIC.”~~

~~exxviii.cxviii.~~ **SCHOOL, DAY-OR-PRE:** a public or non-profit institution or facility which conducts regular academic instruction a school or center for children under school age.

~~exxxiii.cxviii.~~ **SCREENING:** a structure or planting that shields an area from view and/or negative impacts.

~~exxxix.cxix.~~ **SERVICE STATION:** location where the primary use is the supply of motor fuels and other motor vehicle goods/accessories, and where maintenance services (tune-up, lubrication change, washing, etc.) may be offered, not including heavy maintenance/repair such as engine overhauls, painting, and body repair.

~~exxxx.cxx.~~ **SETBACK LINE, FRONT YARD:** the line which defines the depth of the required front yard, parallel with the right-of-way or highway-setback line (if

established). The setback shall be measured from the property line, easement, or road right-of-way, whichever distance is more stringent.

~~exxxi-cxxi.~~ **SETBACK LINE, REAR YARD OR SIDE YARD:** the line which defines the width or depth of the required rear or side yard, parallel with the property line, removed wherefrom by the perpendicular distance prescribed for the yard in the applicable zoning district.

~~exxxii-cxxii.~~ **SETBACK LINE, STREET SIDE YARD:** the line which defines the depth of the designated street side yard on a corner lot, parallel with the street/road right-of-way line. The setback shall be measured from the property line, easement, or road right-of-way, whichever distance is more stringent.

~~exxxiii-cxxiii.~~ **SHOPPING CENTER:** a group of commercial establishments planned, constructed, and managed as a total entity including: customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, and protection from the elements.

~~exxxiv-cxxiv.~~ **SIGN:** a display, such as a lettered board or a configuration of neon tubing, used to identify or advertise a place of business or product.

~~exxxv-cxxv.~~ **SITE PLAN:** 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 specified parcel of land.

~~exxxvi-cxxvi.~~ **STORAGE:** the keeping of any goods, junk, material, merchandise, or vehicles on the same lot or premises for more than thirty days.

~~exxxvii-cxxvii.~~ **STORMWATER MANAGEMENT:** the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface or ground water and/or runoff, together with applicable managerial measures.

~~exxxviii-cxxviii.~~ **STORMWATER RUNOFF:** surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

~~exxxix-cxxix.~~ **STREET:** a public thoroughfare or right-of-way dedicated for such use and providing means of access to abutting property, including county roadways

- ~~**STREET, ARTERIAL:**~~ a road or street having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land; typically carrying relatively large volumes of traffic.
- ~~**STREET, COLLECTOR:**~~ a road or street having the equally important functions of moving traffic and providing access to adjacent land.

~~exl.~~ ~~**STREET CENTERLINE:**~~ see “**CENTERLINE (OF STREET).**”

~~cxxx.~~ ~~**STRUCTURE:**~~ Constructed assembly that provides support or enclosure, including bridges, towers, and buildings.

- **ACCESSORY:** a detached structure, the use of which is incidental and accessory to the principle structure located on the same lot.

- **TEMPORARY:** non-permanent constructions designed for short-term use, providing essential support in various applications such as construction, events, and emergency situations.
- ~~exli.~~ **STRUCTURAL ALTERATION:** 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, pilons, retaining walls, or similar components. ~~[MAYBE USE THE DEFINITION OF “STRUCTURAL ASPECT” IN LOCAL IRC AMENDMENTS]~~
- ~~exlii.~~ **TAVERN:** see “BAR.”
- ~~exliii.~~cxxxi. **TEMPORARY USE:** a use intended for limited duration to be located in a zoning district not permitting such use.
- ~~exliv.~~ **TOWER:** ~~[delete?] a structure intended for transmitting or receiving telecommunications.~~
- ~~exlv.~~cxix. **TOWNHOUSE:** a building containing three or more one-family dwelling units that extend from foundation to roof and have a yard or public way on not less than two sides.
- ~~exlvi.~~cxliii. **TRAILER, AUTOMOBILE:** a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for **human habitation** or carrying property; includes the common definition of a trailer coach.
- ~~cxliii.~~cxxxiv. **USE:** the purpose or activity for which land or buildings are designed, arranged, or intended.
  - **ACCESSORY:** a use that is incidental, related, clearly subordinate, and complimentary to the main use of the subject lot, which does not alter the principal use of said lot or affect other lots within the district.
  - **PRINCIPAL:** the main use of land or structure, a distinguished from an accessory use.
- ~~exlvii.~~ **USE, PRINCIPAL:** ~~the main use of land or structure, a distinguished from an accessory use.”~~
- ~~exlviii.~~cxliii. **UTILITY SERVICE:** any device which carries gas, water, electricity, oil, wastewater, telecommunications, and similar utilities into a building or development.
- ~~exlix.~~cxliii. **VARIANCE:** a deviance from the requirements established by this code.
- ~~eli.~~cxliii. **VEHICLE:** every device upon by which a person or property is transported.
- ~~eli.~~cxliii. **WAREHOUSE:** a building or premises in which goods, merchandise, or equipment is stored for eventual distribution.
- ~~eli.~~cxliii. **WIRELESS COMMUNICATION FACILITY:** a facility for the transmission and/or reception of radio frequency, microwave, or other signals for communication purposes, typically consisting of an equipment enclosure, antenna support structure, foundation, and one or more antennae. Amateur radio and land-mobile radio are excluded from this definition.
- ~~eli.~~cxliii. **YARD:** any open space on the same lot with a building or dwelling group, which **open space** is unoccupied and unobstructed from the ground upward to the sky,



except for building projections or for accessory buildings/structures permitted by this code.

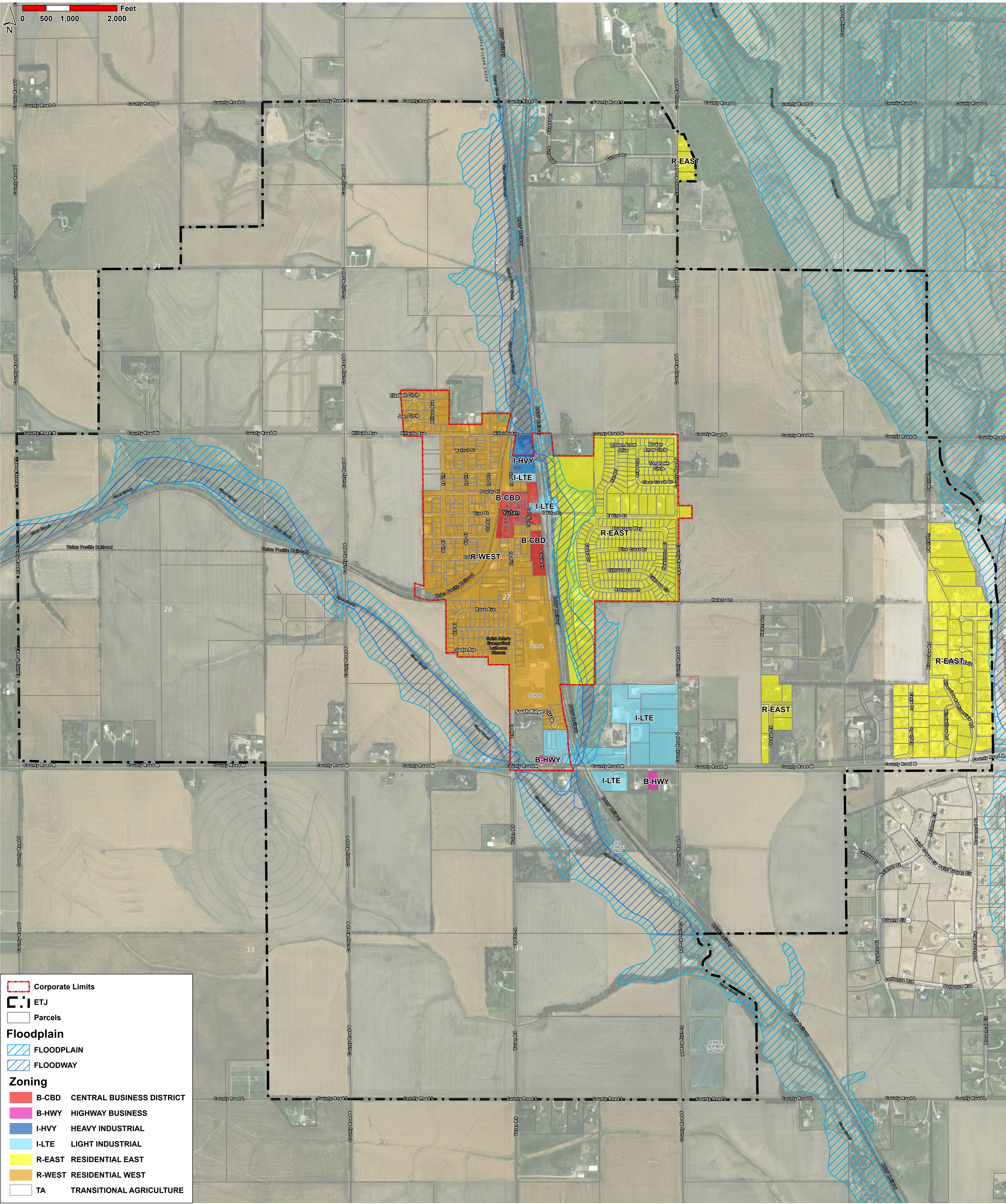
[eliv.cxli.](#) **YARD, FRONT:** the space between the front yard setback line and the front lot boundary, extending the lot's full width. ~~THE FRONT YARD SHALL ALWAYS BE ON THE NARROW SIDE OF THE LOT.~~

[elv.cxlii.](#) **YARD, REAR:** the space between the rear yard setback line and the rear lot line, extending the full width of the lot.

[elv.cxliii.](#) **YARD, SIDE:** the space extending from the front yard to the rear yard or, where no front yard is required by this code, from the front lot line to the rear lot line between side lot lines or side yards.

[elvii.cxliv.](#) **ZONING, PIECEMEAL:** the zoning classification of individual lots and/or portions of an individual lot that results in uncertainty of the future development of the whole lot and compatibility of uses within both the subject lot *and* its vicinity.





THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN SECTION \_\_\_\_ OF ORDINANCE NO. \_\_\_\_ OF THE CITY OF YUTAN, NEBRASKA. THIS OFFICIAL ZONING DISTRICT MAP SUPERSEDES AND REPLACES ANY OR ALL OTHER OFFICIAL ZONING DISTRICT MAPS ADOPTED ON THIS \_\_\_\_ DAY OF \_\_\_\_ 2025.

REVISION DATE	ORDINANCE NO.	SIGNATURE	REVISION DATE	ORDINANCE NO.	SIGNATURE

CITY OF  
**YUTAN, NEBRASKA**  
Official Zoning Map

Created By: C. Sloss  
Date: March 2018  
Revised By: M. Woodrum  
Revised: December 2025  
Software: ArcGIS Pro 3.6.0  
File: 180109.00



This map was prepared using information from record drawings supplied by JEO and/or other applicable city, county, federal, or public or private entities. JEO does not guarantee the accuracy of this map or the information used to prepare this map. This is not a scaled plat.



# MEMORANDUM

FROM: Robert Costa, Community Planner  
TO: City Council & Mayor of Yutan, Nebraska  
DATE: December 10, 2025 (Revised 1-13-2026)  
SUBJECT: Floodplain Management Code of 2025 (Ord. #818)

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[NOTE: This item was tabled during the 12-16-2025 Council Meeting. Changes to this report and draft ordinance that were made after the original submittal are noted in red and underlined.]

## INTRODUCTION

In association with the City's zoning revision - which removed floodplain requirements from its provisions - and updates to the State of Nebraska's model floodplain ordinance, the Floodplain Management Code of 2025 is hereby submitted for public review. The Planning Commission reviewed the code during a public hearing on December 9<sup>th</sup>, ultimately voting to adopt findings of fact and recommend approval of the code.

## ATTACHMENTS:

1. BY E-MAIL: Ordinance 818: Floodplain Management Code of 2025 (revised 1-8-2026)
2. Written Public Comment (*none received*)

## STAFF NOTES:

The proposed code conforms, as much as possible, with current federal and state standards for floodplain management. The code's provisions clarify the procedure for floodplain administration and closely mirror Yutan's existing requirements for floodplain development (with exception to the required elevation for structures in floodzones without a base flood elevation: *current requirements are for two feet above the highest grade; the update requires three feet above the highest grade*).

The proposed code was reviewed and approved by the Nebraska Department of Water, Environment, & Energy (DWEE), and then submitted to FEMA (approved by FEMA on 12-22-2025).

## FINDINGS OF FACT & RECOMMENDATION PROCEDURE:

If electing to approve the ordinance, the City Council will make findings to support their decision, which have been included as Section 1.0 of the ordinance.

## ORDINANCE #818

### *Floodplain Management Code of 2025*

***Pursuant to 44 CFR 60.3(d),  
Neb. Rev. Statutes Chapter 31 Article 10, and  
Neb. Admin. Code Title 455 Ch. 1***

*AN ORDINANCE INTRODUCED BY THE CITY OF YUTAN IDENTIFYING FLOODPLAIN, FLOODWAY, AND FLOOD FRINGE AREAS DEFINING THE SAME AND SETTING FORTH REGULATIONS THEREOF.*

BE IT ORDAINED BY THE MAYOR OF YUTAN, NEBRASKA AS FOLLOWS:

- 1) That the Planning Commission held a public hearing on December 9, 2025, to review this ordinance, consider public comment, and make findings on the proposed regulations, ultimately voting to recommend approval of the regulations;
- 2) That the City Council of Yutan, Nebraska, held a public hearing on ~~December 16, 2025~~ January 20, 2026, to consider the Planning Commission's recommendation, all public comment, and then review the proposed code and hereby fully adopts the authorization, findings, and statements made in Section 1.0 (below) as fully as if set out at length herein;
- 3) That Section 10-401 of Municipal Code be amended to state:

To promote the public health, safety, and general welfare and to minimize loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary expenditures for flood protection and relief, and impairment of the tax base, a floodplain management code was adopted by Ordinance #818 on ~~December 16, 2025~~ January 20, 2026. One copy of the adopted code shall be kept on file and available for inspection at the City Offices. (Am. Ord. 818, ~~12-16-2025~~ 1-20-2026)

- 4) That record of this ordinance's passage shall be kept by the City of Yutan;
- 5) That should any sentence, paragraph, or word of this ordinance be declared for any reason to be invalid, it is the intent of the Mayor and City Council of Yutan, Nebraska, that it would have passed all other portions of this ordinance;
- 6) That all ordinances or parts of ordinances related to floodplain management passed and approved prior to the passage, approval, and publication of this ordinance and in conflict herewith, are hereby repealed;
- 7) That this ordinance shall be published within the first fifteen days after its passage and approval, in pamphlet form, and shall be in full force and take effect on that date; and
- 8) That the City of Yutan shall adopt as floodplain management regulations the "Floodplain Management Code of 2025," as follows:

### **SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSE**

#### **1.1 STATUTORY AUTHORIZATION**

WHEREAS, the Nebraska Legislature delegated the responsibility to local governmental units to adopt regulations designed to protect the public health, safety, general welfare, and property of the people of the state. In Neb. Rev. Stat. §§ 31-1001 to 31-1023, the Nebraska Legislature further delegated the responsibility to such local governments to adopt, administer, and enforce floodplain management regulations which meet or exceed the standards adopted by the Nebraska Department of Water, Energy, and Environment (DWEE).

THEREFORE, the City Council of Yutan, Nebraska, ordains as follows:

## **1.2 FINDINGS OF FACT**

### **1.21 Flood Losses Resulting from Periodic Inundation**

The flood hazard areas of Yutan, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. (Neb. Rev. Stat. §31-1001)

### **1.22 General Causes of Flood Losses**

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages. (Neb. Rev. Stat. §§ 31-1001, 31-1015)

## **1.3 STATEMENT OF PURPOSE**

It is the purpose of this code to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.2 by applying the provisions of this ordinance/regulation to:

- 1.31 Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- 1.32 Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction;
- 1.33 Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding;
- 1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program (NFIP). (Neb. Rev. Stat. §§ 31-1001, 31-1019)

## **1.4 ADHERENCE TO REGULATIONS AND LAWS**

The regulations of this ordinance are in compliance with the NFIP regulations as published in Title 44 of the Code of Federal Regulations (CFR), the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1, and the floodplain management statutes (Neb. Rev. Stat. §§ 31-1001 to 31-1023). Prior to the community's adoption of these regulations, this ordinance must have been reviewed by the DWEE Floodplain Management Division for compliance with NFIP and State minimum standards. (Neb. Rev. Stat. §31-1019)

## **SECTION 2.0 GENERAL PROVISIONS**

### **2.1 COMPLIANCE**

Within identified special flood hazard areas of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. (44 CFR 60.3(b))

## **2.2 ABROGATION AND GREATER RESTRICTIONS**

This ordinance does not intend to repeal, abrogate, or impair any existent easement, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only. (44 CFR 60.1(b))

## **2.3 INTERPRETATION**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

## **2.4 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe boundaries or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create liability on the part of Yutan or any officer or employee thereof for any flood damages that may result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

## **2.5 SEVERABILITY**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

## **SECTION 3.0 REGULATED FLOOD HAZARD AREAS**

### **3.1 LANDS TO WHICH ORDINANCE APPLIES**

This ordinance shall apply to all lands within the City of Yutan's jurisdiction, including its Extra-Territorial Jurisdiction (ETJ) as shown on the City's Official Zoning Map, identified on Flood Insurance Rate Map (FIRM) panels #31155C0400D, #31155C0250D, #31155C0275D, and #31155C0425D all dated 4/5/2010 as Zones A, A1-30, AE, AO, or AH and within the Flood Fringe and Floodway established in Section 3.2 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator as identified in Section 4.1 of this ordinance, or the governing body under such safeguards and restrictions as the governing body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and where specifically noted in Sections 5.0 and 6.0. (44 CFR 59.2(c)) (44 CFR 60.3(b))

### **3.2 ESTABLISHMENT OF FLOOD HAZARD AREA BOUNDARIES**

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following areas: a floodway and a flood fringe, as identified in the

Flood Insurance Study (FIS) #31155CV000B dated 8/3/2016 and on accompanying FIRM panels as established in Section 3.1. The flood fringe shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99, and floodway areas in Zone AE that are identified on the FIRM panels. The floodway shall correspond to floodway areas in Zone AE that are identified on the FIRM panels. Within the floodplain, all uses not meeting the standards of this ordinance and those standards of the floodplain, flood fringe, and floodway shall be prohibited. (44 CFR 59.2(c))

### **3.3 ESTABLISHMENT OF THE FLOODWAY**

Located within special flood hazard areas established in Section 3.2 are areas designated as floodways. The floodway must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. The floodway boundary, where identified within the special flood hazard area, is as illustrated on the referenced maps and studies. Only uses having a low flood-damage potential and not obstructing flood flows shall be allowed within the floodway to the extent that they are not prohibited by Section 5.0 of this ordinance or by any other ordinance adopted by the community.

### **3.4 FLOOD DATA REQUIRED**

- 3.41 All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If FIS data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices. (44 CFR 60.3(b)(4))
- 3.42 In Zone A areas where base flood elevations are not provided, the DWEE Floodplain Management Division may determine base flood elevations and provide such data to the floodplain administrator upon request for applicable projects. Such base flood elevation data may not be used for the design of developments greater than 5 acres or 50 lots or for the design of hydraulic structures. (Neb. Rev. Stat. §31-1017(4)(6)) (44 CFR 60.3(b)(3) and (b)(4))
- 3.43 In Zone AE areas where base flood elevations have been established, the community shall utilize the FIS referenced in Section 3.2 of this ordinance for purposes of determining the elevation of the base flood. (44 CFR 60.3(c) and (d))

### **3.5 INTERPRETATION OF REGULATED FLOOD HAZARD AREA BOUNDARIES**

The boundaries of the floodplain, including the floodway and flood fringe, shall be determined by scaling distances on the official zoning map or on the FIRM. Where interpretation of the exact location of floodplain boundaries as shown on the zoning or other community map is needed, the floodplain administrator shall make the necessary interpretation. In such cases where interpretation is contested, the Floodplain Appeals Board, established in Section 9.11 of this code, will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the floodplain boundary on the land. The person contesting the location of the boundary shall be given reasonable opportunity to present their case to the Floodplain Appeals Board and to submit their own technical evidence, if so desired. (Neb. Rev. Stat. §14-401, §14-408, and §23-168.02)

### **3.6 ALTERATION OF A REGULATED FLOOD HAZARD AREA**

- 3.61 Alteration or Relocation of a Watercourse

- A. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying capacity characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations. (Neb. Admin. Code, Title 455, Ch. 1, §004.14) (44 CFR 60.3(b)(6) and (7))
- B. The community responsible for the alteration or relocation of a watercourse or drainway or for approving any such alteration or relocation shall notify the DWEE and adjacent communities prior to commencing or approving such activity. (Neb. Admin. Code, Title 455, Ch. 1, §004.14) (44 CFR 60.3(b)(6))

### 3.62 Encroachments

- A. Any floodplain development permit application proposing any of the following encroachments shall not be approved by the floodplain administrator unless the standards of Section 3.62(B) and 3.62(C) are met:
  - i. Any development in Zones A, A1-30, and Zone AE without a designated floodway that will cause a rise of more than one (1) foot in the base flood elevation [44 CFR 60.3(c)(13)]; or
  - ii. Any development that will cause a rise in the base flood elevations within the floodway [44 CFR 60.3(d)(3)]; or
  - iii. Alteration or relocation of a stream; then
- B. The applicant shall apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision (CLOMR) process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments. When applying to FEMA for a conditional approval, the following information must be included:
  - i. Certification that no structures are located in areas which would be impacted by the increased base flood elevation; (44 CFR 65.12(a)(5))
  - ii. Documentation of individual legal notice to all impacted property owners within and outside of the community, explaining the impact of the proposed action on their property. (44 CFR 65.12(a)(3))
  - iii. An evaluation of alternatives that would not result in an unacceptable base flood elevation increase that demonstrates why such alternatives are not feasible; (44 CFR 65.12(a)(2))
  - iv. The floodplain administrator may represent the permit authority for any necessary applications, approvals or endorsements such as the FEMA Community Acknowledgement Form to FEMA where affecting the special flood hazard area;
  - v. Any other supporting information and data as needed for approval. (44 CFR 65.12)



- C. The permit applicant shall supply the full package approved by FEMA to the floodplain administrator including any required notifications to potentially affected property owners. [44 CFR 60.3(d)(4) and 65.12]

### **3.7 ANNEXATION OR DETACHMENT**

Upon occurrence, the floodplain administrator shall notify the DWEE and FEMA in writing whenever the boundaries of the City of Yutan and/or its ETJ have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. The floodplain administrator must include within such notification a copy of a map of the community suitable for reproduction, clearly showing the new corporate limits or the new area for which the community has assumed or relinquished floodplain management regulatory authority. (Neb. Rev. Stat. §31-1019) (44 CFR 60.2(h))

## **SECTION 4.0 FLOODPLAIN MANAGEMENT ADMINISTRATION**

### **4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Community Planner, appointed by the City of Yutan, is hereby designated as the community's local Floodplain Administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. The floodplain administrator must serve to meet and maintain the commitments pursuant to 44 CFR 59.22(a) to remain eligible for National Flood Insurance for individuals and business within the political subdivision. If the local floodplain administrator position is unfilled, the community's Chief Executive or Chief Elected Official shall assume the duties and responsibilities herein. [Neb. Rev. Stat. §31-1019 and 44 CFR 59.22(b)(1)]

### **4.2 PERMITS REQUIRED**

A floodplain development permit shall be required before any development, construction, substantial improvement, or other development including placement of manufactured homes is undertaken within the lands regulated by this ordinance. No person, firm, corporation, government agency, or other entity shall initiate floodplain development without first obtaining a floodplain development permit from the local floodplain administrator. (44 CFR 60.3(a)(1) and (b)(1))

### **4.3 DUTIES OF THE FLOODPLAIN ADMINISTRATOR**

4.31 Duties of the floodplain administrator shall include, but not be limited to the following:

- A. Review, approve, or deny all applications for floodplain development permits from any entity, including permits for structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, improvements, or repairs; [44 CFR 59.1) (44 CFR 60.3(a)(3)]
- B. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied; [44 CFR 60.3(a)(3)]
- C. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required; [44 CFR 60.3(a)(2)]

- D. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding; [44 CFR 60.3(a)(4)]
  - E. Notify adjacent communities and the DWEE prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA; [44 CFR 60.3(b)(6)]
  - F. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished; [44 CFR 60.3(b)(7)]
  - G. Along watercourses where FIS data is provided, determine the elevation of the base flood utilizing the FIS referenced in Section 3.2 of this ordinance. In Zone A areas where base flood elevation data is not provided, request such data produced by a registered, professional engineer or architect from the applicant or the DWEE. [44 CFR 60.3(b)(4), (c), and (d)]
  - H. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain; [44 CFR 60.3(b)(5)]
  - I. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed; [44 CFR 60.3(b)(5)]
  - J. Verify, record, and maintain record of all improvements or repairs to existing structures to ensure compliance with Section 7.0 of this ordinance; [Neb. Admin. Code, Title 455, Ch. 1, §002.21, §002.22, §004.07, and §004.08]
  - K. Ensure the comprehensive development plan as amended is consistent with this ordinance; [44 CFR 60.2(g)]
  - L. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation. Procedures for violations and enforcement actions are established in Section 8.0 of this ordinance. (Neb. Rev. Stat. §31-1019)
- 4.32 Regarding the implementation of Neb. Admin. Code Title 455 Ch. 1 §002.21 "Substantial Damage", duties of the floodplain administrator in times of disaster shall include, but not be limited to the following:
- A. Review areas within the regulatory floodplain for damages to existing structures or other developments;
  - B. Review, approve, or deny all applications for floodplain development permits to complete any repairs in the floodplain.
  - C. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the damage occurred and before any repairs are made;

- D. Compare the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
  - E. Determine and document whether the proposed work constitutes repair of substantial damage; and
  - F. Notify the applicant if it is determined that the work constitutes repair of substantial damage and that compliance with the provisions of Section 7.0 of this ordinance is required;
- 4.33 Regarding the implementation of Neb. Admin. Code Title 455, Ch. 1 §002.22 “Substantial Improvement”, duties of the floodplain administrator reviewing permits to improve structures, including additions, alterations, reconstruction, or improvements of any kind including repairs, shall include, but not be limited to the following:
- A. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work;
  - B. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
  - C. Determine and document whether the proposed work constitutes substantial improvement; and
  - D. Notify the applicant if it is determined that the work constitutes substantial improvement and that compliance with the provisions of Section 7.0 of this ordinance is required.

#### **4.4 APPLICATION FOR PERMIT AND DEMONSTRATION OF COMPLIANCE**

- 4.41 To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- A. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit;
  - B. Describe the land on which the proposed development is to occur by lot, block, tract, house and street address, or similar description that will readily identify and definitively located the proposed building or development;
  - C. Indicate the use or occupancy for which the proposed development is intended;
  - D. Be accompanied by plans and specifications for proposed construction; and
  - E. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- 4.42 If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:

- A. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
  - B. Structures will be anchored to prevent flotation, collapse, or lateral movement;
  - C. Construction materials are resistant to flood damage;
  - D. Appropriate practices to minimize flood damage have been utilized; and
  - E. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent water from entering or accumulating within the components during conditions of flooding.
- (Neb. Admin. Code Title 455, Ch. 1, §004.02) [44 CFR 60.3(a)(3)]

- 4.43 For all new construction, substantial improvements, or repairs to substantial damage, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator. Such certification shall be completed by a licensed land surveyor, professional engineer or architect. [44 CFR 60.3(b)(5)(i)]
- 4.44 When floodproofing is utilized for a non-residential structure, a floodproofing certificate shall be provided to the floodplain administrator. Such certification shall be completed by a licensed professional engineer or architect. [44 CFR 60.3(b)(5)(ii)]
- 4.45 For all development proposed in the floodway, a certification shall be provided to the floodplain administrator demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge. Such certification shall be completed by a licensed professional engineer or architect. (Neb. Admin. Code, Title 455, Ch. 1, §005.01) [44 CFR 60.3(d)(3)]
- 4.46 For all development involving storage of materials or equipment, the applicant shall provide the floodplain administrator with plans and specifications for the operation consistent with Section 6.26 "Storage of Materials and Equipment". (Neb. Admin. Code, Title 455, Ch. 1, §004.15)
- 4.47 For all development involving the placement of recreational vehicles, the applicant shall provide plans and specifications for the operation consistent with the provisions of Section 6.27 "Recreational Vehicles." (Neb. Admin. Code, Title 455, Ch. 1, §004.13)
- 4.48 The floodplain administrator may request any other documentation or information related to the proposal as may reasonably be required to support compliance with the provisions of this ordinance.

## **SECTION 5.0 STANDARDS FOR FLOODWAY DEVELOPMENT**

### **5.1 GENERAL FLOODWAY PROVISIONS**

- 5.11 New structures for human habitation are prohibited. If the floodplain administrator determines that improvements or repairs to a lawfully existing structure for human habitation constitutes substantial improvement or substantial damage as described in Section 7.0, then the structure must comply with the floodplain management

requirements for new construction. (Neb. Admin. Code, Title 455 Ch. 1, §002.22 and §005.02)

- 5.12 All encroachments, including fill, new construction, substantial improvements, and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during the occurrence of the base flood discharge. These developments are also subject to all the standards of Section 6.0. (Neb. Admin. Code, Title 455, Ch. 1, §005.01) [44 CFR 60.3(d)(3)]
- 5.13 A community may permit encroachments within the regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements of such revisions as established under the provisions of Section 3.62 of this ordinance, and receives FEMA approval. [44 CFR 60.3(d)(4)]

## **SECTION 6.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT**

### **6.1 GENERAL FLOODPLAIN PROVISIONS**

- 6.11 Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the FIS or on base flood elevation determinations. (Neb. Admin. Code, Title 455, Ch. 1, §004.01) (44 CFR 60.3(c)(10))
- 6.12 A community may permit encroachments within the floodplain that would result in an increase in base flood elevations of more than one (1) foot, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements of such revisions as established under the provisions of Section 3.62 of this ordinance, and receives FEMA approval. (44 CFR 60.3(c)(13))

### **6.2 ELEVATION AND FLOODPROOFING REQUIREMENTS**

- 6.21 Residential Structures
  - A. In Zones A, AE, A1-30, and AH, all new construction, substantially improved, or substantially damaged residential structures shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor, professional engineer or architect. (Neb. Admin. Code, Title 455, Ch. 1, §004.07)
  - B. In Zone AO, all new construction, substantially improved, or substantially damaged residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified on the FIRM. If no depth number is specified on the FIRM, at least as high as three (3) feet above the highest adjacent grade. (Neb. Admin. Code, Title 455, Ch. 1, §004.07)
  - C. New residential structures are prohibited in the floodway. If the floodplain administrator determines that improvements or repairs to a lawfully existing

residential structure constitute substantial improvement or substantial damage, as described in Section 7.0, then the structure must comply with the floodplain management requirements for new construction. (Neb. Admin. Code, Title 455, Ch. 1, §002.22 and §005.02)

#### 6.22 Nonresidential Structures

- A. In Zones A, AE, A1-30, and AH, all new construction, substantially improved, or substantially damaged nonresidential structures shall:
  - i. Have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor, professional engineer or architect; or
  - ii. Be dry-floodproofed so that below one (1) foot above the base flood elevation, the structure along with attendant utility and sanitary facilities:
    - 1. Is watertight with walls substantially impermeable to the passage of water;
    - 2. Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - 3. Is certified by a registered professional engineer or architect to meet the standards of 6.22(A)(ii)(1-2). A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.44 of this ordinance. (Neb. Admin. Code, Title 455, Ch. 1, §004.08)
- B. In Zone AO, all new construction, substantially improved, or substantially damaged nonresidential structures shall:
  - i. Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM, or if no depth number is specified on the FIRM, elevated at least as high as three (3) feet; or
  - ii. Be dry-floodproofed so that below the required flood protection elevation defined in Section 6.22(B)(i), the structure along with attendant utility and sanitary facilities:
    - 1. Is watertight with walls substantially impermeable to the passage of water;
    - 2. Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - 3. Is certified by a registered professional engineer or architect to meet the standards of 6.22(B)(ii)(1-2). A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.44 of this ordinance. (Neb. Admin. Code, Title 455, Ch. 1, §004.08)

#### 6.23 Enclosures Below Lowest Floor

- A. For all new construction, substantially improved, or substantially damaged structures, fully enclosed areas below the lowest floor (excluding basements) and below one (1) foot above the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items. (Neb. Admin. Code, Title 455, Ch. 1, §004.10)
- B. For all new construction, substantially improved, or substantially damaged structures, fully enclosed areas below the lowest floor (excluding basements) and below one (1) foot above the base flood elevation shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters. Designs for this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - i. A minimum of two openings on different sides of each enclosed area having a net total open area of not less than one (1) square inch for every one (1) square foot of enclosed space;
  - ii. The bottom of all openings shall not be higher than one (1) foot above the interior or exterior grade, whichever is higher; and
  - iii. Openings may be equipped with screens, louvers, valves, or other coverings provided that they allow the automatic entry and exit of floodwaters and shall be accounted for in the determination of net total open area.  
(Neb. Admin. Code, Title 455, Ch. 1, §004.10) (44 CFR 60.3(C)(5)) (2018 IRC R322.2.2)

#### 6.24 Manufactured or Mobile Homes

- A. All new, substantially improved, or substantially damaged manufactured or mobile homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, shall be installed using methods and practices that minimize flood damage. For the purposes of meeting this requirement, all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement in accordance with local building codes or FEMA guidelines. If over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - i. Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side;
  - ii. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four additional ties per side; and
  - iii. Any additions to the manufactured home be similarly anchored.  
(44 CFR 60.3(b)(8))
- B. All new, substantially improved, or substantially damaged manufactured or mobile homes located within floodplains on sites:
  - i. Outside of a manufactured or mobile home park or subdivision;

- ii. In a new manufactured or mobile home park or subdivision;
- iii. In an expansion to a new manufactured or mobile home park or subdivision; or
- iv. In an existing manufactured or mobile home park or subdivision on which a manufactured or mobile home has incurred substantial damage as the result of a flood

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.24(A). (Neb. Admin. Code, Title 455, Ch. 1, §004.11)

- C. All new, substantially improved, or substantially damaged manufactured or mobile homes on sites in an existing manufactured or mobile home park or subdivision within floodplain areas that are not subject to the provisions of Section 6.24(B) must be elevated so that either:
  - i. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation. The elevation of the lowest floor shall be certified by a licensed land surveyor, professional engineer or architect; or
  - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade, and is securely anchored to an adequately anchored foundation system in accordance with Section 6.24(A).  
(Neb. Admin. Code, Title 455, Ch. 1, §004.12)
- D. New manufactured or mobile home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 6.38 "Subdivisions." [44 CFR 60.3(b)(3)]

### **6.3 DESIGN AND CONSTRUCTION STANDARDS**

#### **6.31 Anchoring**

- A. All new construction and substantial improvements, including repairs to substantial damage, must be designed and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. [Neb. Admin. Code, Title 455, Ch. 1, §004.02(i)] [44 CFR 60.3(a)(3)(i)]

#### **6.32 Building Materials and Utilities**

- A. All new construction and substantial improvements, including repairs to substantial damage, must be constructed with materials and utility equipment resistant to flood damage. [Neb. Admin. Code, Title 455, Ch. 1, §004.02(ii)] [44 CFR 60.3(a)(3)(ii)]
- B. All new construction and substantial improvements, including repairs to substantial damage, must be constructed by methods and practices that minimize flood and flood-related damages. [Neb. Admin. Code, Title 455, Ch. 1 §004.02(iii)] [44 CFR 60.3(a)(3)(iii)]



- C. All new construction and substantial improvements, including repairs to substantial damage, must be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. [Neb. Admin. Code, Title 455, Ch. 1 §004.02 (iv)] [44 CFR 60.3(a)(3)(iv)]

#### 6.33 Drainage

- A. Within Zones AO and AH, adequate drainage paths around structures on slopes are required in order to guide floodwaters around and away from proposed structures. [44 CFR 60.3(c)(11)]
- B. Within any flood prone area, subdivision proposals or other new development proposals including manufactured or mobile home parks or subdivisions must have adequate drainage to reduce exposure to flood hazards. [44 CFR 60.3(a)(4)(iii)]

#### 6.34 Water Supply and Sanitary Sewer Systems

- A. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems. (Neb. Admin. Code, Title 455, Ch. 1, §004.04) [44 CFR 60.3(a)(5)]
- B. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters. (Neb. Admin. Code, Title 455, Ch. 1, §004.05) [44 CFR 60.3(a)(6)(i)]
- C. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding. (Neb. Admin. Code, Title 455, Ch. 1, §004.06) [44 CFR 60.3(a)(6)(ii)]

#### 6.35 Other Utilities

- A. All public utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities. (Neb. Admin. Code, Title 455, Ch. 1, §004.03) (44 CFR 60.3(a)(4)(ii))
- B. Recreational vehicles placed in flood prone areas must only be attached to the site by quick-disconnect type utilities as established in Section 6.37 of this ordinance. (Neb. Admin. Code, Title 455, Ch. 1, §004.13) (44 CFR 60.3(c)(14))

#### 6.36 Storage of Materials

- A. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- B. The storage of other material or equipment may be allowed if the stored materials or equipment:
  - i. Are not subject to major damage by flood; and

- ii. Are firmly anchored to prevent flotation and lateral movement resulting from hydrodynamic and hydrostatic loads; or
  - iii. Are readily removable from the flood prone area within the time available after flood warning.
- (Neb. Admin. Code, Title 455, Ch. 1, §004.15)

#### 6.37 Recreational Vehicles

- A. Recreational vehicles to be placed on sites within the floodplain must:
    - i. Be on site for fewer than one hundred and eighty (180) consecutive days; and
    - ii. Be fully licensed and ready for highway use. A recreational vehicle that is ready for highway use:
      - 1. Must be on its wheels or jacking system;
      - 2. Must be attached to the site only by quick-disconnect type utilities and security devices; and
      - 3. Must not have any permanently attached additions.
    - iii. Recreational vehicles that cannot meet the provisions of Section 6.37(A)(i – ii) must meet the permit requirements and elevation and anchoring requirements for manufactured homes established in Section 6.24 of this ordinance.
  - B. Evidence to support that the recreational vehicles are not located on site for longer than the allowable period or that they are ready for highway use may be requested by the floodplain administrator as established in Section 4.46 and 4.47 of this ordinance.
- (Neb. Admin. Code, Title 455, Ch. 1, §004.13) (44 CFR 60.3(c)(14))

#### 6.38 Subdivisions

- A. Subdivision proposals and other proposed new development in the floodplain or partially in the floodplain, including manufactured or mobile home parks or subdivisions, are required to assure that:
  - i. All such proposals are consistent with the need to minimize flood damage;
  - ii. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
  - iii. Adequate drainage is provided so as to reduce exposure to flood hazards; and
  - iv. Proposals for development (including proposals for manufactured or mobile home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, must be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional

engineer in a format required by FEMA for Conditional Letters of Map Revision and Letters of Map Revision.  
(44 CFR 60.3(a)(4), (b)(3))

## **SECTION 7.0 EXISTING AND NONCONFORMING USE STRUCTURES**

### **7.1 DAMAGE TO EXISTING OR NONCONFORMING USE STRUCTURES**

- 7.11 The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing or nonconforming use structures. However, when a structure in the floodplain incurs damage by any means, including flood, a floodplain development permit is required for any repairs completed, and the following provisions apply:
- A. If any existing or nonconforming use structure is destroyed by any means, including flood, it shall not be reconstructed if the cost to return the structure to pre-damaged conditions when combined with any additional proposed improvements is equal to or exceeds fifty (50) percent of the pre-damage market value of the structure except that if the structure and any additions are (re)constructed in conformity with the provisions of this ordinance. Such damage shall constitute “substantial damage” as defined in Section 11.0 of this ordinance.
  - B. Any repairs to an existing or nonconforming use structure in the floodway shall comply with the provisions of Section 5.0 of this ordinance.
  - C. These limitations do not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations of the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.  
(Neb. Admin. Code, Title 455, Ch. 1, §002.21) (44 CFR 59.1 “Substantial damage”)

### **7.2 IMPROVEMENTS TO EXISTING OR NONCONFORMING USE STRUCTURES**

- 7.21 The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing or nonconforming use structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required, and the following provisions apply:
- A. Any additions, alterations, reconstruction, or improvements of any kind including repairs to an existing or nonconforming use structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall require the structure and any additions to fully comply with the provisions of this ordinance. Such improvements shall constitute a “substantial improvement” as defined in Section 11.0 of this ordinance.
  - B. Any addition, alteration, reconstruction, or improvement of any kind to an existing or nonconforming use structure in the floodway shall comply with the provisions of Section 5.0 of this ordinance.
  - C. Any addition, alteration, reconstruction, or improvement of any kind to an existing or nonconforming use structure that will change the compliance requirements of the structure shall require the structure and the addition to comply with the provisions governing such uses.

- D. These limitations do not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations of the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.  
(Neb. Admin. Code, Title 455, Ch. 1, §002.22) (44 CFR 59.1 “Substantial improvement”)

### **7.3 DISCONTINUED USE OF EXISTING OR NONCONFORMING USE STRUCTURES**

- 7.31 A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
- A. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance.
  - B. The Utility Department shall notify the floodplain administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.  
(Neb. Rev. Stat. §19-904.01 and §23-173.01)

## **SECTION 8.0 VIOLATIONS AND ENFORCEMENT**

### **8.1 VIOLATIONS**

- 8.11 Failure by any person, firm, corporation, government agency, or other entity to obtain a floodplain development permit from the floodplain administrator prior to any floodplain development shall constitute a violation of Section 4.2 of this ordinance.
- 8.12 Failure of a structure or other development to be fully compliant with the applicable provisions of this ordinance shall constitute a violation.
- 8.13 A structure or other development without a floodplain development permit, elevation certificate, applicable certification by a licensed professional engineer, or other evidence of compliance with these regulations is presumed to be in violation until the time at which such documentation is provided.  
(Neb. Rev. Stat. §31-1021) (44 CFR 59.1 “Violation”)

### **8.2 NOTICES**

- 8.21 When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall provide the alleged violator with a notice of such alleged violation. Such notice shall:
- A. Be in writing;
  - B. Include a location and description of the development;
  - C. Include an explanation of the alleged violation, including a reference to the local, state, or federal regulation the development is allegedly violating;
  - D. Provide an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance;

- E. Allow a reasonable time for the performance of any remedial act required;
  - F. Include a warning of the penalty that may ensue for any unresolved confirmed violations;
  - G. Include contact information for the community's designated floodplain administrator or other authorized community representative; and
  - H. Be served upon the property owner or their agent as the case may require;
- (Neb. Rev. Stat. §31-1021)

### **8.3 PENALTIES**

- 8.31 Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granted variances or special exceptions) shall constitute a misdemeanor. (Neb. Rev. Stat. §19-913, §23-114.05)
  - 8.32 Any person, firm, corporation, government agency, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than **\$100**, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
  - 8.33 The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
  - 8.34 Nothing herein contained shall prevent the City of Yutan or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy violation.
- (Neb. Rev. Stat. §31-1021)

## **SECTION 9.0 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES**

### **9.1 VARIANCE AND APPEALS PROCEDURES**

- 9.11 The City Council & Mayor of Yutan are hereby established as the City of Yutan's Floodplain Appeals Board, and shall hear and decide appeals and requests for variances from the requirements of this ordinance. (Neb. Rev. Stat. §19-907 and §23-168.01)
- 9.12 The Floodplain Appeals Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance. (Neb. Rev. Stat. §19-910 and §23-168.02)
- 9.13 Any person aggrieved by the decision of the Floodplain Appeals Board, or any taxpayer may appeal such decision to the District Court. (Neb. Rev. Stat. §19-912 and §23-168.04)
- 9.14 In evaluating such appeals and requests, the Floodplain Appeals Board shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

- A. The danger of life and property due to flooding or erosion damage;
  - B. The danger that materials may be swept onto other lands to the injury of others;
  - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
  - D. The importance of the services provided by the proposed facility to the community;
  - E. The necessity of the facility to have a waterfront location, where applicable;
  - F. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
  - G. The compatibility of the proposed use to the comprehensive plan and the floodplain management program for that area;
  - H. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
  - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site; and
  - K. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.
- (Neb. Admin. Code, Title 455, Ch. 1, §006)

## **9.2 CONDITIONS FOR VARIANCES**

- 9.21 Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in exceptional hardship to the applicant.
- 9.22 Variances shall only be issued based upon a determination that the granting of the variance will not result in increased flood heights.
- 9.23 Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 9.24 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided items 8.25-8.29 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- 9.25 Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- 9.26 Variances shall not be issued within any designated floodway if any increase in water surface elevations along the floodway profile during the base flood discharge would result.
- 9.27 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 9.28 The applicant shall be given a written notice signed by a community official that:
- A. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage; and
  - B. Such construction below the base flood elevation increases risks to life and property.
  - C. Such notification shall be maintained with a record of all variance actions as required in this Section.
- 9.29 All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.  
(Neb. Admin. Code, Title 455, Ch. 1, §006) (44 CFR 60.6(a))

## **SECTION 10.0 AMENDMENTS**

- 10.1 The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any changes in federal, state, or local regulations provided, however, that no such action may be taken until after public hearings by both the Planning Commission and the City Council in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearings shall be legally noticed as required by state and local law.
- 10.2 A copy of such amendments will be provided to the DWEE and FEMA for review and approval before being adopted.  
(Neb. Rev. Stat. §31-1017) (44 CFR 60.2(e))

## **SECTION 11.0 DEFINITIONS**

The terms defined below are considered necessary for the enforcement of this ordinance. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. Unless otherwise specified, all terms defined below follow the definitions established in Title 44 of the Code of Federal Regulations Part 59.1 and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455:

**1% Annual Chance Flood Hazard:** see "Base Flood".

**Addition:** an extension or increase in floor area, number of stories, or height of an existing building or structure. (Nebraska Existing Building Code 2018, Chapter 202)

**Alteration:** any construction or renovation to an existing structure other than a repair or addition. (Nebraska Existing Building Code 2018, Chapter 202)

**Appeal:** a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding:** a designated AO or AH zone on a community's FIRM with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood:** the flood having a one (1) percent chance of being equaled or exceeded in magnitude in any given year.

**Base Flood Elevation:** the elevation to which floodwaters are expected to rise during the base flood.

**Base Flood Elevation Determination:** a determination by the local floodplain administrator of the elevation of the base flood using data provided by federal, state, or other sources.

**Basement:** any area of the building having its flood subgrade (below ground level) on all sides.

**Building:** see "Structure."

**Community:** any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

**Development:** any man-made 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 or storage of equipment or materials. See also "obstruction."

**Drainway:** any depression two feet or more below the land which serves to give direction to a current of water less than nine (9) months of the year, and which has a bed and well-defined banks.

**Existing Construction:** any structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by the community as a basis for that community's participation in the NFIP. "Existing construction" may also be referred to as "existing structures."

**Existing Manufactured Home Park or Subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**Existing Structures:** see "Existing Construction."

**Expansion to an Existing Manufactured Home Park or Subdivision:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed



(including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding:**

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - i. The overflow of inland or tidal waters;
  - ii. The unusual and rapid accumulation or runoff of surface waters from any source; and
  - iii. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(ii) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(i) of this definition.

**Flood Fringe:** the portion of the floodplain of the base flood which is outside of the floodway.

**Flood Hazard Boundary Map:** an official map of a community where the boundaries of the special flood hazard area have been designated as Zone A.

**Flood Insurance Rate Map (FIRM):** an official map of a community delineating both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS):** an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Floodplain:** any land susceptible to being inundated by water from any source (see definition for "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

**Floodplain Management:** the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

**Floodplain Management Regulations:** zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such regulations which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing:** any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

**Flood damage resistant material:** any building product capable of withstanding direct and prolonged contact with floodwaters, without sustaining significant damage. Prolonged contact is defined as at least 72 hours. (FEMA Technical Bulletin 2)

**Floodway or Regulatory Floodway:** the channel of a river or other 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 one (1) foot.

**Freeboard:** a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade:** the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**Historic Structure:** any structure that is:

- B. Listed individually in the National Register of Historic Places maintained by the U.S. Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- C. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- D. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- E. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - i. By an approved state program as determined by the Secretary of the Interior; or
  - ii. Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Change (LOMC):** an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- A. **Letter of Map Amendment (LOMA):** an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area. (FEMA MT-1 Form Instructions)
- B. **Conditional Letter of Map Revision Based on Fill (CLOMR-F):** a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed. (FEMA MT-1 Form Instructions)
- C. **Letter of Map Revision Based on Fill (LOMR-F):** a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations. (FEMA MT-1 Form Instructions)
- D. **Conditional Letter of Map Revision (CLOMR):** a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not

revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective FIRM. (FEMA MT-2 Form Instructions)

- E. **Letter of Map Revision (LOMR):** Letters of Map Revision are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report. (FEMA MT-2 Form Instructions)

**Lowest Floor:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured Home:** a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" shall include "mobile home" but does not include "recreational vehicle." (Neb. Rev. Stat. §76-1463)

**Manufactured Home Park or Subdivision:** a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mobile Home:** see definition for "Manufactured Home."

**New Construction:** any developments for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**Nonresidential Structure:** A commercial or mixed-use building where the primary use is commercial or non-habitational.

**Obstruction:** any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culver, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained by the DWEE pursuant of the Safety of Dams and Reservoirs Act (Neb. Rev. Stat. §§46-1601 to 46-1670, as amended).

**Post-FIRM Structure:** a building that was constructed or substantially improved after December 31, 1974, or on or after the community's initial FIRM dated 4/5/2010, whichever is later.

**Pre-FIRM Structure:** a building that was constructed or substantially improved on or before December 31, 1974, or before the community's initial FIRM dated 4/5/2010, whichever is later.

**Principally Above Ground:** at least fifty-one (51) percent of the actual cash value of the structure is above ground.

**Recreational Vehicle:** a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured from the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation:** the Base Flood Elevation (BFE) plus a freeboard factor as specified in this ordinance.

**Repetitive Loss:** any flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**Residential Structure:** a non-commercial structure designed for habitation by one or more families or a mixed-use building that qualifies as a single-family, two-to-four family, or other residential structure.

**Special Flood Hazard Area (SFHA):** the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

**Start of Construction:** the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also included substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparations, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

**Structure:** a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.

**Subdivision:** the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development.

**Substantial Damage:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure”.

**Variance:** a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in exceptional hardship.

**Violation:** a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer, or other evidence of noncompliance with these regulations is presumed to be in violation until such time as documentation is provided.

**Watercourse:** any depression two (2) feet or more below the surrounding land that serves to give direction to a current of water at least nine (9) months of the year and that has a bed and well-defined banks. See also “drainway”.

ADOPTED AND APPROVED by the City Council of the City of Yutan, Nebraska

this TWENTIETH day of JANUARY, 20265.

This ordinance shall be in full force after its passage, adoption, and publication, and take effect

on the FOURTH day of FEBRUARY, 20265, in accordance with the City of Yutan, Nebraska.

Date of Publication: \_\_\_\_\_

Matt Thompson, Mayor

Date

ATTEST:

Brandy Bolter, City Clerk Date \_\_\_\_\_

SEAL

## Updated Executive Summary: Ordinance No. 819

**Purpose:** To update water and sewer service rates to meet new debt service requirements for DWSRF and CWSRF loans and to ensure long-term operational sustainability.

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### 1. Financial Justification

The City must address annual debt service payments totaling **\$76,139.61** (\$22,999.86 for water infrastructure and \$53,139.75 for sewer infrastructure). The proposed rate adjustments are designed to eliminate current operating deficits and ensure financial viability.

### 2. Phased Rate Implementation

To minimize the immediate financial impact on residents, the total combined monthly increase of **\$17.20** is currently proposed to be implemented in three equal increments of **\$5.73** over a 24-month period:

- **Phase 1:** Effective immediately upon passage.
- **Phase 2:** Effective 12 months after Phase 1.
- **Phase 3:** Effective 24 months after Phase 1.

### 3. Updated Rate Schedules (Within City Limits)

- **Water:** The minimum monthly rate is scheduled to transition from \$21.00 to a final rate of **\$27.15**. The consumption charge is set at **\$2.00 per 1,000 gallons**.
- **Sewer:** The minimum monthly rate is scheduled to transition from \$27.00 to a final rate of **\$38.05**. The consumption charge is set at **\$1.00 per 1,000 gallons** based on winter averages.

### 4. Billing & Delivery Policy

To promote administrative efficiency, the ordinance includes a new billing structure:

- **Electronic Billing:** Provided at **no cost** to the resident.
- **Mailed Paper Billing:** A **\$1.50 fee** per bill will be added to cover printing and postage costs.
- **Alternative:** Residents may pick up a paper copy at the City Office at **no charge**.

### 5. Resident Relief & Support

- **Senior Citizen Relief Program:** Residents age 65 and older are eligible for a **20% discount** on their total bill.
- **Tap Fees:** Water (\$687.50) and sewer (\$312.50) tap fees currently remain at existing levels.

## **6. Legislative Flexibility during Initial Readings**

Please note that during the first of the three required readings, the Council may propose and discuss adjustments to several key variables of this ordinance, including:

- **Implementation Timeline:** Modifying the 24-month phased schedule.
- **Base Fees:** Adjusting the flat monthly rates for water and sewer.
- **Consumption Charges:** Altering the price per 1,000 gallons for usage.
- **Tap Fees:** Revising the one-time connection fees.
- **Senior Discount:** Changing the percentage or eligibility requirements for the relief program.



## **ORDINANCE NO.**

**819**

**AN ORDINANCE OF THE CITY OF YUTAN, SAUNDERS COUNTY, NEBRASKA, TO AMEND AND UPDATE THE RATES OF WATER AND SEWER USAGE AND SERVICE TO ADDRESS NEW DEBT SERVICE REQUIREMENTS AND OPERATIONAL SUSTAINABILITY; TO PROVIDE FOR THE PHASING OF RATE INCREASES OVER A TWENTY-FOUR MONTH PERIOD; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, PROVISION OR PORTION FOUND UNCONSTITUTIONAL OR INVALID; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED EITHER IN PAMPHLET FORM OR BY POSTING; AND TO PROVIDE THAT THIS ORDINANCE SHALL NOT BE MADE A PART OF THE MUNICIPAL CODE OF THE CITY OF YUTAN, NEBRASKA.**

**WHEREAS**, the Mayor and Council of the City of Yutan, Nebraska, have the authority to set and fix utility rates by ordinance;

**WHEREAS**, the City has obtained DWSRF and CWSRF loans for essential infrastructure, necessitating annual debt service payments of \$22,999.86 and \$53,139.75, respectively;

**WHEREAS**, the Mayor and Council deem it necessary to increase the water and sewer rate schedule to ensure financial viability and eliminate current operating deficits.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF YUTAN, NEBRASKA:**

### **Section 1. Phased Rate Adjustment Schedule**

To ease the transition for residents, the total combined monthly rate increase of \$17.20 (consisting of \$12.20 for debt service and \$5.00 for infrastructure fees) shall be implemented in three equal increments of \$5.73 (rounded to the nearest cent) over a 24-month period.

- **Phase 1 (Initial Increase):** Effective the first day of the month following the passage of this Ordinance.
- **Phase 2 (Mid-Point Increase):** Effective twelve (12) months after the Phase 1 increase.
- **Phase 3 (Final Increase):** Effective twenty-four (24) months after the Phase 1 increase.

### **Section 2. Water Usage Rates (Within City Limits)**

The water rates shall be adjusted as follows to reach the final minimum monthly rate of \$27.15:

Rate Component	Current	Phase 1	Phase 2	Phase 3 (Final)
Base Rate	\$21.00	\$21.00	\$21.00	\$21.00
Debt Service	\$0.00	\$1.22	\$2.44	\$3.65
Infrastructure	\$0.00	\$0.83	\$1.66	\$2.50
<b>Total Min. Monthly</b>	<b>\$21.00</b>	<b>\$23.05</b>	<b>\$25.10</b>	<b>\$27.15</b>

- **Water Consumption Charge:** \$2.00 per 1,000 gallons, or fraction thereof.

### Section 3. Sewer Usage Rates (Within City Limits)

The sewer rates shall be adjusted as follows to reach the final minimum monthly rate of \$38.05:

Rate Component	Current	Phase 1	Phase 2	Phase 3 (Final)
Base Rate	\$27.00	\$27.00	\$27.00	\$27.00
Debt Service	\$0.00	\$2.85	\$5.70	\$8.55
Infrastructure	\$0.00	\$0.83	\$1.67	\$2.50
<b>Total Min. Monthly</b>	<b>\$27.00</b>	<b>\$30.68</b>	<b>\$34.37</b>	<b>\$38.05</b>

- **Sewer Consumption Charge:** \$1.00 per 1,000 gallons of water usage, based on the average usage from the previous January, February, and March.

### Section 4. Senior Citizen Relief Program

- A discount program is established to mitigate the impact of the rate hike for residents age 65 and older.
- **Proposed Discount:** 20% off the total bill.
- **Effect:** This discount is intended to effectively offset the rate increase for participating senior citizens.

### Section 5. General Provisions

- **Tap Fees:** Water tap fees remain \$687.50; sewer tap fees remain \$312.50.
- **Severability:** If any part of this Ordinance is found invalid, the remainder shall remain in effect.
- **Repealer:** Ordinance No. 754 and all other conflicting ordinances are hereby repealed.

### Section 6. Billing and Delivery

- **Electronic Billing:** Billing will be provided electronically at no cost.

- **Mailed Paper Copies:** Residents receiving a mailed paper copy of their bill will be assessed an additional \$1.50 per billing cycle for associated costs.
- **Office Pickup:** A paper copy of the bill may be obtained at the City Office at no charge.

### **Section 7. Effective Date**

This Ordinance shall be in full force from and after its passage, approval, and publication as required by law.

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**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.**

**CITY OF YUTAN, NEBRASKA**

**By: \_\_\_\_\_ Matt Thompson, Its Mayor**

**ATTEST: \_\_\_\_\_ Brandy Bolter, City Clerk**

# Memorandum

**To:** Mayor and City Council  
**From:** Brandy Bolter, City Clerk  
**Date:** 01/15/2026  
**Re:** Appointment of City Council President

---

We need to appoint a new City Council President, they will act as the Mayor in the absence of the Mayor and be an authorized signatory on the city bank accounts.

**Action Item** - Seeking a motion and a second to appoint a new City Council President

# Memorandum

**To:** Mayor and City Council  
**From:** Brandy Bolter, City Clerk  
**Date:** 01/15/2026  
**Re:** Correction to appointment

---

At the December meeting Cody Cardin was appointed as the Street and Sewer Superintendent which needs to be readdressed. Where as Administrator Oliva is the Street Superintendent Cody Cardin needs to be reappointed to the Street Maintenance and Sewer Department.

**Action Item** - Seeking a motion and a second to correct the appointment of Cody Cardin to the Street Maintenance and Sewer Department.



## City of Yutan Board and Commission Expression of Interest Form

### Instructions:

1. Please print legibly in black ink or type, if possible.
2. Please do not write on the back of this form; attach another sheet of paper if needed.
3. Return the completed form to the Yutan City Office by mail (P.O. Box 215, Yutan, NE 68073), by email (cityclerk@cityofyutan.com), or in person (112 Vine Street).

Please note that all information provided by you on this form is subject to Nebraska Open Public Record Statutes, meaning it can be requested by members of the public and can be discussed in public meetings.

Please indicate which of the following boards and commissions meet your interest:

☐ Board of Adjustment

☐ Board of Health

☐ Parks and Recreation Committee

☐ Library Board

☐ Community Redevelopment Authority

☒ Planning Commission

Name: Jon Chillenden

Home Address: 702 5<sup>th</sup> St. PO Box 37

Email Address: jchille@fremontelectricinc.com

Phone Number: 402-720-1039

Total Number of Years You Have Lived in Yutan: 9 years

Occupation: Electrician Employer: Fremont Electric

Highest Level of Education Completed: Trade School, Associate in business

Prior Appointed or Elected Offices Held (if any): City Council

Present/Past Community Volunteer Activities: youth sports coach

Reasons for Your Desire to Serve on this Board/Commission (specific interests, experience, and/or qualifications that would make you an effective board/commission member): \_\_\_\_\_

*For City Use Only:*

Appointed to: \_\_\_\_\_ Date: \_\_\_\_\_

# Memorandum

**To:** Mayor and City Council  
**From:** Brandy Bolter, City Clerk  
**Date:** 01/15/2026  
**Re:** Chittenden Appointment

---

Jon Chittenden has submitted his application for the open alternate position on the planning commission.

**Action Item** - Seeking a motion and a second to appoint Jon Chittenden as alternate to the planning commission.

Yutan Public Library Board Minutes  
Monday, January 5th, 2026  
6:30 pm Yutan Public Library

Notice of the meeting was given in advance thereof by posting notice at the Yutan Public Library, Post Office, and the Yutan City Office.

The meeting was called to order at 6:30 pm by President Lynn Hapke. Library Board members Smith-Dahlhauser, Casey, Chittenden, and Ford were present. Hapke informed all the individuals present of the location of the Open Meetings Act.

**1) Oath of Office**

- a. Chittenden, Casey, Smith-Dahlhauser, and Ford opened the meeting by taking the oath of office.

**2) Election of Officers (Chairman and Secretary)**

- a. Before any motions were made Ford asked for a description on the duties of the chairman and secretary. Library Director Van Ackeren explained the duties of the chairman and the secretary.
- b. A motion to appoint Michelle Smith-Dahlhauser as Library Chairman was made by Chittenden and seconded by Smith-Dahlhauser. Upon roll call vote was as follows: YEAH: Chittenden, Casey, Smith-Dahlhauser. NO: None, Abstain: Hapke, Ford. Motion Carried.
- c. A motion to appoint Dawn Ford as the Secretary was made by Smith-Dahlhauser and seconded by Chittenden. Upon roll call vote was as follows: YEAH: Casey, Ford, Chittenden NO: None, Hapke did not vote. Motion Carried.

**3) Consent Agenda**

- a. Approve Minutes of the December 1st, 2025, Regular Meeting
- b. Approve Minutes of the December 9th, 2025, Special Meeting
  - i. Casey asked about the foods for fines and how it works. Director Van Ackeren explained how the food for fines works and that it is a way for library patrons who have high fines are able to donate food that is donated in order to lower their fines.
  - ii. A motion to approve the December minutes with the adjustment of the fines income from fifty cents to five cents was made by Ford and seconded by Casey. Upon roll call vote was as follows: YEAH: Chittenden, Casey, Ford, Hapke. NO: None, Motion Carried.

**4) Presentation from guest**

- a. Mary Jo Robinson
  - i. Spoke about the duties of the library secretary and presented a blank template for the new library secretary to use for future meetings.

**5) Bills and Financial Reports**

- a. City Clerk/Treasurer Bolter presented the board with the expense report for financials that were paid out in December of 2025, along with the Profit and Loss reports. Discussion was held over the different forms and what the different expenses are.
- b. The board asked for the claims that need to be approved for this month. Director Van Ackeren presented the receipts for the board to inspect and approve for payment. Ford asked



about the deliveries being sent to a Lashara address and Director Van Ackeren stated that she has had some issues with packages being stolen from the Library when they are delivered while the library is closed. It was suggested from the board that Van Ackeren use the PO Box for future deliveries.

- c. A motion to approve the January claims was made by Hapke and seconded by Ford. Upon roll call vote was as follows: YEAH: Ford, Hapke, Casey, and Chittenden. NO: None, Motion Carried.

## **6) Directors Report**

- a. Director Van Ackeren presented the library statistics for December 2025. Van Ackeren also presented the new hours for the library. The board members asked why the library is closing at 3:00 pm most days and that maybe it could stay open for the kids walking home after school. Van Ackeren stated that being open after three does not work for her. Director Van Ackeren presented the staff plan of work to the board and what the duties are for each staff member and the board. The board stated that going forward that the secretary will develop the agenda and packets for the board meetings. Discussion was had over the process of weeding materials and how it is determined. Van Ackeren stated that the Nebraska Library Commission recommends weeding 1-3 percent of the inventory every year and that anything dated later than 2019 and does not have very many check outs they are weeded. The board also asked Director Van Ackeren how many hours she is required to have every year for certification and she stated that she is not sure since she always has more than what is required.

## **7) Discussion Items**

- a. Responsibilities of the Library Board-Lynn Hapke
  - i. Board member Hapke and Director Van Ackeren read through the duties and responsibilities of the Library Board.
- b. Dawn Ford: Goals, Budget, Volunteer Hours, Community Programs, Role Documents for Employees and Operating Hours.
  - i. Board member Ford asked about the short term and long term goals of the library. Director Van Ackeren stated that the library has a strategic plan for the library and that it is extensive, but that she would provide it to the board members for review. Ford asked about volunteer hours and if the library has ever used volunteers. Board member Hapke and Director Van Ackeren stated that they have never had a use for volunteers and that it is not something that is allowed. City Clerk/Treasurer Bolter stated that she has contacted the city attorney and that it has been stated that the library board put in place a policy to have volunteers. The board asked Bolter to get that in writing along with something from the insurance provider stating that a volunteer would be covered. It was decided to discuss this at a later date when more documentation could be presented to the board.

- 8) **Adjournment:** A motion to adjourn at 8:52 pm was made by Casey and seconded by Chittenden. Upon roll call vote was as follows: YEAH: Chittenden, Hapke, Ford, Casey. NO: None, Motion Carried.

**NEXT MEETING DATE**  
**February 2nd, 2026 at 6:30 pm**

## December 2025 Claims

12/19	Dollar General	Programs 1311	39.52
12/16	Post Office	Programs 1311	7.10
12/1	Culligan	Supplies #1326	9.00
12/10	Culligan	Supplies #1326	18.75
12/31	Culligan	Supplies #1326	10.00
12/4	Amazon	Collection #1310	97.99
12/3	Amazon	Collection #1310	16.52
12/3	Amazon	Supplies #1326	38.51
12/3	Amazon	Collection #1310	14.14
12/1	Amazon	Supplies #1326	48.13
11/29	Amazon	Collection #1310	15.99
12/24	Amazon	Collection #1310	19.45
12/27	Amazon	Supplies #1326	168.48
12/29	Amazon	Collection #1310	11.99
12/29	Amazon	Collection #1310	110.13
12/29	Amazon	Collection #1310	142.39
12/31	Amazon	Collection #1310	14.47
12/31	Amazon	Supplies #1326	22.91

Claims approved during  
board meeting 1/5/26

President: USD Date: 1-8-26  
 Secretary: Jeff Ford Date: 1-9-26  
 Director: Gavin Van Ackeren Date: 1/6/26

**CITY OF YUTAN MAINTENANCE DEPARTMENT**  
**MONTHLY REPORT FOR January 2026**

WATER DEPARTMENT

1. Monthly water test performed; negative results
2. Backflow tests completed.
3. Weather permitting we will blowout some fire hydrants and exercise valves.

PARKS

1. Remove trees from Hayes. Finished cleanup for FEMA funds.
2. Itan pavilion needs to have some boards added to prevent birds nesting.

OTHER

1. Christmas decor taken down.

NEXT MONTH

1. Repair equipment
2. Start prepping for spring/mowing/fertilizing
- 3.

15-January-2026

L. Woster

## **CITY OF YUTAN MAINTENANCE DEPARTMENT MONTHLY REPORT**

### **SEWER DEPARTMENT**

1. Transferring water from lagoon cell #2 to #3
2. Helped perform back flow testing in bull run
3. filled holes at lagoons
4. Replaced damaged t-posts on fence at lagoons
5. Pushed up tree pile

### **STREETS**

1. Removed trees from field east of Hays fields
2. Cut trees in ditch on CO RD 5
3. Pushed up tree pile
4. Continuing to fill pot holes.
5. Took down Christmas decorations
6. Fixed damaged gutter on shop
7. Fixed pin on skid loader quick attach

### **NEXT MONTH**

1. Measure sludge in Lagoons
2. Repair tailgate on dump truck
3. Prep mowers and spring equipment
4. Weather permitting start to clean wet well at lift station

15-Jan-2026

C.Cardin



112 Vine Street  
P.O. Box 215  
Yutan, Nebraska 68073

**Yutan  
Police  
Department**  
Office: (402) 625-2468  
Fax: (402) 625-2112  
Email: YutanPD@cityofyutan.com

December  
January 2026

2025 Activity Report  
Meeting

Calls for		Service	11
Traffic Stops	1		
Warnings	1		
Citations	0		
Driver's License Pick Up		0	
Alcohol Citations	0		
Drug Citations	0		
Criminal Citations	0		
Warrant Attempts	1		
Misdemeanor Arrest	1		
Felony Arrest	0		
Search Warrants		0	
Motor Vehicle Accidents	1		
Investigations	1		
HHS Intakes	1		
EPC/Self Committal	0		
Assist Other Agency	1		
Fire Department Assist	2		

**Business Checks**

Yutan	201
Mead	139

**Patrol Hours**

Yutan	
Mead	23.75

Citizen Assist	1
City Ordinance Violations	0
Towed Vehicles	0
Animal Neglect	1
Parking Warnings	1
Parking Citations	0
Open Doors	0
Vehicle Searches	0
Alarm Calls	0
UTV/ATV Inspections	0

# MEMORANDUM

FROM: Robert Costa, Community Planner  
TO: City Council & Mayor of Yutan, Nebraska  
DATE: January 14, 2026  
SUBJECT: **Community Planner's January 2026 Report**

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Thank you all for your patience with my absence last month. I'm looking forward to wrapping up your zoning and floodplain ordinance readings and moving on to this year's priorities. If the ordinances are adopted, changes to the building permits webpage will happen shortly thereafter.

Nebraska's 2026 legislative session began January 7th. The Urban Affairs Committee introduced LB798, which contains our proposal to allow second-class cities to have a combination of at-large and by-ward council members. On Tuesday, January 20th, the legislation will have its committee hearing. I will be testifying at the hearing and drafting a letter of support for you to review and potentially sign.

I will be actively watching the legislative session for bills that may impact our community and our day-to-day administrative procedures. As an example: Urban Affairs introduced legislation that would update the statewide minimum building codes. Any codified changes to the state's building code would need to be incorporated into our updates to the City's adopted building codes. If necessary, opportunities for us to offer Yutan's unique perspective on other legislation, through comment or testimony, will be on my radar.

On that note, I began preparing our changes to the remaining building codes that still need updates, which will include studying the International Building Code (IBC), its referenced codes and standards, and then securing inspector certification under the 2021 IBC. Obtaining the certification, updating/modifying the codes, and then comprehensively revising our municipal code to streamline administration of the building codes will be a major effort that I expect to keep me pretty busy during the coming months.

The Hazard Mitigation Plan for our region – a process that was begun by JEO and our Natural Resources District in 2024 – has been approved and released for individual communities' approval. I anticipate submitting that to you for consideration during February or March of this year.

The Planning Commission is set to review and provide recommendation on the blight study produced by JEO. Bob and I will continue working with the consultant to ensure the process meets review requirements and produces the best possible product for this community.

Thank you, as always, for your diligence and ever-patient attention to all matters before you.

## City Clerk's Report

**TO:** Mayor and City Council

**FROM:** Brandy Bolter, City Clerk

**DATE:** January 2026

**RE:** City Clerk's/Treasurers Activity Report – January 2026

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### I. Governance & Legislative Services

- **Annual Reorganization:** Following the start of the new year, all internal boards, committee assignments, and city appointments have been updated for the 2026 calendar year to ensure all municipal bodies are properly seated and compliant with local bylaws.

### II. Payroll & Year-End Tax Compliance

- **Tax Filings:** All federal and state year-end tax reports have been successfully submitted to the IRS and the Nebraska Department of Revenue. This includes the final reconciliation of all 2025 withholdings.
- **W-2 Distribution:** 2025 Wage and Tax Statements (W-2s) have been printed and distributed to all city employees ahead of the January 31st deadline.
- **2026 Withholdings:** Payroll systems have been updated with the current 2026 tax tables and Nebraska Circular EN requirements to ensure accurate processing for the new year.

### III. Utility Billing & Collections

- **December Enforcement:** Following the December billing cycle, **44 late letters** were mailed to past-due accounts. Subsequently, **15 door hangers** were placed for accounts remaining in arrears.
- **Current Delinquency Status:** As we move into January, collections efforts have resolved most issues, with only **three accounts** still remaining behind in payments. Staff is continuing follow-up on these specific accounts to bring them current.

### IV. Disaster Recovery & Compliance (August Storm)

- **FEMA/NEMA Coordination:** Active management of the Public Assistance (PA) grant process related to the August 2025 severe storm event continues.
- **Documentation & Submission:** Staff is working diligently to submit all required FEMA/NEMA forms, including damage assessments and necessary project applications. This ensures the City remains in full compliance for maximum federal and state reimbursement.

## V. Municipal Licensing & Renewals

- **2026 Pet Licensing:** The annual registration cycle is open. Notices were included in utility mailings, and staff is currently processing renewals and verifying rabies certifications.
- **ATV/UTV & Golf Cart Permits:** 2026 registration stickers are being issued. Owners are required to provide updated proof of insurance at the time of permit issuance.
- **Liquor License Renewals:** Coordination with the Nebraska Liquor Control Commission is ongoing for upcoming local retail renewals.

## VI. Records & Administrative Operations

- **Archive Audit:** We have begun the annual review of files per the Nebraska Secretary of State's Records Retention Schedules to identify records eligible for secure destruction.
- **Public Records Requests:** All January requests were fulfilled within the statutory three-business-day window.

## VII. Looking Ahead: February 2026

- **Candidate Filing Deadlines:** Monitoring filing dates for the upcoming 2026 election cycle.
  - **Incumbents:** Deadline to file is February 17, 2026.
  - **Non-Incumbents:** Deadline to file is March 2, 2026.



# MEMORANDUM

**TO:** Mayor and City Council Members

**FROM:** Bob Oliva, City Administrator

**DATE:** January 14, 2026

**SUBJECT:** Monthly Administrative Update - January 2026

## Overview

Please find the following updates regarding ongoing city projects, infrastructure developments, and facility assessments from the past month.

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### 1. Infrastructure & Utilities

- **Rise Broadband:** Internal staff is currently coordinating with representatives from Rise Broadband to address various questions and technical concerns. We are also in the process of scheduling a public forum to provide residents with information and allow for community feedback.
- **Water Tower Equipment:** Verizon has submitted formal plans for the installation of additional cellular equipment on the city water tower. These plans have been sent to Maguire Iron for a professional technical review to ensure the integrity of the structure.

### 2. Parks and Recreation

- **Pavilion Completion:** The pavilion is now finished. Astro Buildings has expressed interest in assisting the city with the installation of additional walls if the city chooses to move in that direction.
- **Project Funding:** Bill Rotert has suggested that Astro Buildings may be willing to donate the materials and labor for these additional walls, following the same model used for the ceiling installation.
- **Concession Stand:** This project is in the final stages of approval. We are waiting for the architect to finalize minor adjustments to the plans, after which we anticipate the process will move forward quickly.

### 3. Economic Development & Planning

- **Blight Study & CRA:** The Blight Study is nearing completion. Once the final report is delivered, a Community Redevelopment Authority (CRA) meeting will be scheduled to discuss upcoming development projects.
- **BNSF Railroad Cleanup:** BNSF is finishing the cleanup of the grain storage bins that were taken down by Mr. Divis approximately two years ago. The area is being prepared so it is suitable for growing grass or the wildflowers that the city has explored planting in various locations.

### 4. City Facilities & Real Estate

- **St. Peter's Church Inspection:** An inspection was recently conducted to evaluate St. Peter's Church as a potential future library or multi-purpose municipal space.
- **Assessment:** It is the professional opinion of staff that the building would be a great addition to the city and very useful. Discussions are ongoing with the church board to iron out further details.