

## **ARTICLE 1**

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### **GENERAL PROVISIONS**

#### **11.101 Title**

This title of the Seward, Nebraska Municipal Code shall be known as the Unified Land Development Ordinance of the City of Seward.

#### **11.102 Jurisdiction**

The provisions of this ordinance shall be applicable to all property within the corporate limits of the City of Seward and its two-mile extra-territorial jurisdiction as provided by Chapter 19, Article 9, Sections 19-901 through 19-929, and Chapter 16, Article 9, Sections 16-901 through 16-904, Revised Statutes of Nebraska, 1943, with the exception of those properties owned or acquired by municipal, county, or state government for the advancement of government projects or purposes.

#### **11.103 Purpose**

The purposes of the Unified Land Development Ordinance of the City of Seward are to:

- a. Serve the public health, safety, and general welfare of the city and its jurisdiction.
- b. Classify property in a manner that reflects its suitability for specific uses.
- c. Provide for sound, attractive development within the city and its jurisdiction.
- d. Encourage compatibility of adjacent land uses.
- e. Protect environmentally sensitive areas.
- f. Further the objectives of the Comprehensive Development Plan of the City of Seward.

#### **11.104 Consistency with Comprehensive Development Plan**

The City of Seward intends that this Unified Land Development Ordinance and any amendments to it shall be consistent with the City's Comprehensive Development Plan. It is the City's intent to amend this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

#### **11.105 Conflicting Provisions**

The Unified Land Development Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of the Unified Land Development Ordinance conflicts with any other provision of the Unified Land Development Ordinance, any other Ordinance of the City of Seward, or any applicable State or Federal law, the more restrictive provision shall apply.

#### **11.106 Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

**11.108 Severability of Provision**

If any chapter, section, clause, or phrase of this Unified Land Development Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**11.109 Publication**

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Clerk of the City of Seward, Nebraska.

**ARTICLE 2**

**DEFINITIONS**

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**11.201 Purpose**

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Unified Land Development Ordinance. The meaning and construction of words as set forth shall apply throughout the Unified Land Development Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

**11.202 General Construction of Language**

The following general rules of construction apply to the text of the Unified Land Development Ordinance.

a. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Unified Land Development Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

c. Shall, Must, and May

“Shall” and “must” are always mandatory. “May” is discretionary.

d. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

e. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. “And” indicates that all connected items or provisions apply.
2. “Or” indicates that the connected items or provisions may apply singly or in any combination.
3. “Either ... or” indicates that the connected items or provisions shall apply singly but not in combination.

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f. Referenced Agencies

Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Ordinance are those of the City of Seward.

**11.203 Definition of Terms**

For the purposes of this Unified Land Development Ordinance, certain terms and words are hereby defined. Certain sections contain definitions that are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

**11.204 A**

1. **Abutting:** Having lot lines or district boundaries in common. Use interchangeably with adjacent.
2. **Accessory Structure:** A structure that is incidental to and customarily associated with a specific principal use or building on the same site.
3. **Accessory Use:** A use that is incidental to and customarily associated with a specific principal use on the same site.
4. **Addition:** Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.
5. **ADT or Average Daily Traffic:** The average number of motor vehicles per day that pass over a given point or segment of street.
6. **Agent of Owner:** Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.
7. **Alley:** A public right of way, other than a street and twenty feet or less in width which is used as a secondary means of access to abutting property.
8. **Alteration:** Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.
9. **Apartment:** A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.
10. **Approving Authority:** The City Council of the City of Seward or its designee.
11. **ASCE:** The American Society of Civil Engineers.
12. **Attached:** Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

**11.205 B**

1. **Base Zoning District:** A district established by this Ordinance that prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.
2. **Basement:** A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.
3. **Beginning of Construction:** The initial incorporation of labor and materials within the foundation of a building or structure.
4. **Bicycle Lane and Path:** A designated lane on a roadway or an exclusive path separated from a roadway, designed specifically to accommodate the physical requirements of bicycling. Bicycle paths are ordinarily designed to accommodate other forms of non-motorized transportation or recreational movement, but will also accommodate motorized vehicles, such as motorized wheelchairs, designed specifically to provide access to people with disabilities.
5. **Block:** An area of land within a subdivision that is entirely bounded by streets and/or the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.
6. **Block Face:** The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Seward.
7. **Board of Adjustment:** A body, established by the City expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.
8. **Boulevard:** A public street generally characterized by a wider than normal right-of-way and extensive green space in relation to pavement surface. Boulevards may either include dual street channels separated by a landscaped median; or by a single street channel with wider than normal greenway setbacks behind the curb.
9. **Bufferyard:** A landscaped area around the perimeter of a tract of land, usually intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
10. **Building:** A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.
11. **Building Coverage:** The at-grade area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features, also referred to as the building footprint.
12. **Building Elevation:** An exterior wall of a building exposed to public view.
13. **Building Envelope:** The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

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14. **Building Line:** The outer boundary of a building established by the location of its exterior walls.
15. **Building Official:** The city official, designated by the City Council, who is responsible for the enforcement of the applicable building code and conditional uses.
16. **Building Permit:** A document that must be issued by the Building Official prior to erecting, constructing, enlarging, altering, moving, improving, removing, converting, or demolishing any building or structure on a platted lot/s or a parcel exceeding ten (10) acres in size as regulated by this Ordinance or by the applicable building codes of the City of Seward. Issuance of a building permit follows review of plans by the Building Official to determine that the proposed use of building or land complies with the provisions of the Unified Land Development Ordinance.
17. **Business:** Activities that include the exchange or manufacture of goods or services on a site.
18. **Business Center:** A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

**11.206 C**

1. **Cartway (or Road or Street Channel):** The actual surface area of a road used to accommodate motor vehicles, including moving traffic lanes, acceleration and deceleration lanes, and parking lanes. On a street with curbs, the cartway is measured from back to back of curbs. On streets without curbs, the cartway is measured between the outer edges of the pavement.
2. **Centerline Offset:** The distance between the centerline of roads intersecting a common road from the same or opposite sides.
3. **Certificate of Occupancy:** An official certificate issued by the Building Official or his/her designee prior to occupancy of a completed building or structure, upon finding of conformance with the applicable building code and this Unified Land Development Ordinance.
4. **Change of Use:** The replacement of an existing use type by a new use type.
5. **Channel:** The bed or banks of a natural stream or drainageway that convey the constant or intermittent flow of water, including storm run-off.
6. **City:** The City of Seward, Nebraska.
7. **City Council:** The City Council of Seward, Nebraska.
8. **Common Area:** An area held, designed, and designated for common or cooperative use within a development.
9. **Common Development:** A development proposed and planned as one unified project not separated by a public street or alley.
10. **Common Open Space:** Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

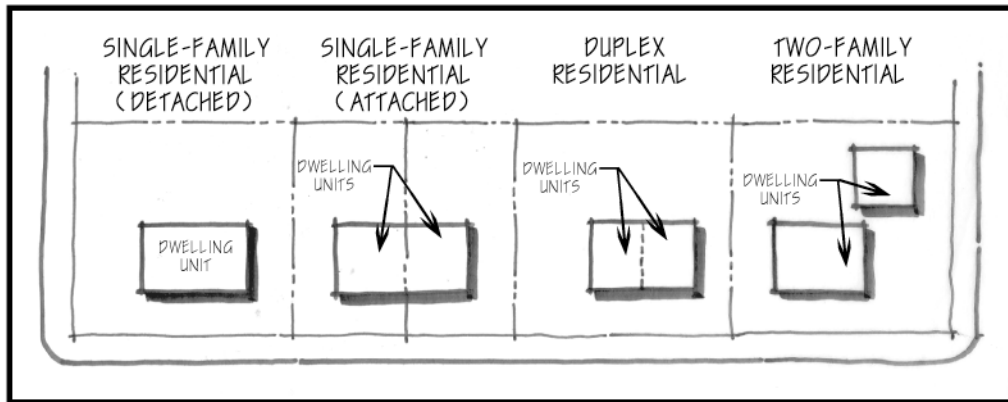
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11. **Compatibility:** The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.
12. **Comprehensive Plan:** The duly adopted Comprehensive Development Plan of the City of Seward.
13. **Concept Plan:** A preliminary presentation that includes the minimum information necessary, as determined by the Zoning Administrator, to be used for the purpose of discussion or classification of a proposed plat prior to formal application.
14. **Special Use Permit:** An approval of a use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Conditional uses are allowed in a zoning district only at the discretion of and with the explicit permission of the Planning Commission, as provided by Section 11.4403 of this Ordinance.
15. **Condominium:** An ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses.
16. **Conservation Development:** A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.
17. **Conservation (or Cluster) Subdivision:** Wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.
18. **County:** Seward County, Nebraska.
19. **Courtyard:** An open, unoccupied space, bounded on two or more sides by the walls of the building.
20. **Conventional Subdivision:** A subdivision which literally meets all nominal standards of the Unified Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.
21. **Creative (or Innovative) Development or Subdivision:** A subdivision that, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Unified Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Conservation Subdivisions and Traditional Neighborhood Districts.
22. **Cul-de-sac:** A local street with only one outlet and with an opposite end providing for the reversal of traffic.
23. **Curb:** A vertical or sloping edge of a roadway, intended to define the edge of the cartway and to channel or control drainage.

**11.207 D**

1. **Dedication:** A grant of land to the City or another public agency for a public purpose.
2. **Density:** The amount of development per specific unit of a site.
3. **Design standards:** Standards that set forth specific improvement requirements.
4. **Detached:** Fully separated from any other building or not jointed to another building in such a manner as to constitute an enclosed or covered connection.
5. **Detention basin:** An artificial or natural water collection facility, designed to collect surface or subsurface water and to control its rate of discharge, in order to prevent a net increase in the rate of water flow that existed prior to a development.
6. **Developer:** The legal owner(s) or authorized agent of any land engaged in a proposed development.
7. **Development:** A planning or construction project involving substantial improvement or change in the character and/or land use of a property.
8. **Divided street:** A street with opposing lanes separated by a median strip, center island, or other form of physical barrier, which cannot be crossed except at designated locations.
9. **Drive-in Services:** Uses that involve the sale of products or provision of services to occupants in vehicles.
10. **Drainage:** The removal of surface or ground water from land by drains, grading, or other means.
11. **Drainage system:** The system through which water flows from the land.
12. **Driveway:** A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.
13. **Dwelling Unit:** One or more rooms, designed, occupied or intended for occupancy as a separate place of residence, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of one family, as defined in this section, maintaining a household.

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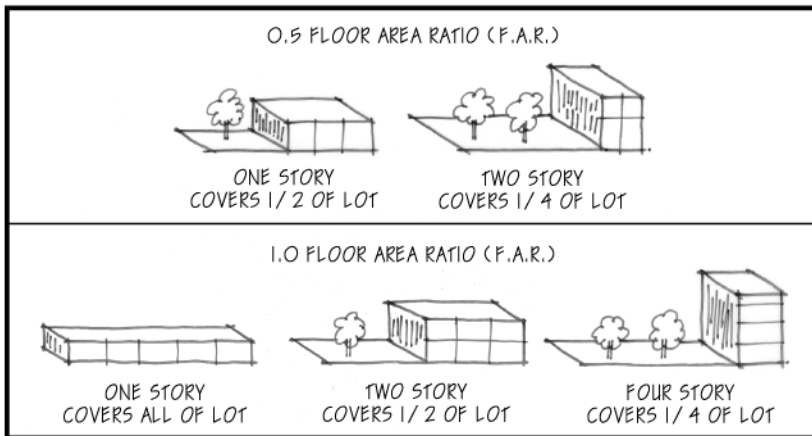
**11.208 E**

1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility, where fee simple title remains with the property owner.
2. Enclosed: A roofed or covered space fully surrounded by walls.
3. Existing Use: The use of a lot or structure at the time of the effective date of this Ordinance.

**11.209 F**

1. Family: One (1) or more persons, related or unrelated, living together as a single housekeeping unit with or without domestic servants, caregivers, foster children, and supervisory personnel in a group living arrangement. The term “family” shall not include occupancy of a residence by persons living in fraternities, sororities, clubs, or transient or permanent commercial residential facilities catering to the general public. The term “family” also excludes the occupancy of nursing and convalescent homes.
2. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building.
3. Federal: Pertaining to the Government of the United States of America.
4. Final Plat Approval: The final official action of the City Council, upon a recommendation by the Planning Commission, permitting the filing of a subdivision with the Seward County Register of Deeds and the conveyance of individual parcels and lots to subsequent owners.
5. Floor Area Ratio (FAR): The quotient of gross floor area of all buildings on a site divided by gross site area of the site.

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6. **Frontage:** The length of a property line of any one premise abutting and parallel to a public street, private way, or court from which access is permitted.

**11.210 G**

1. **Garage:** An accessory building or portion of a main building used primarily for storage of motor vehicles.

2. **Grade:** The elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

(a) For buildings having walls facing one street only, the grade shall be the elevation of the ground at the center of the wall facing the street.

(b) For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.

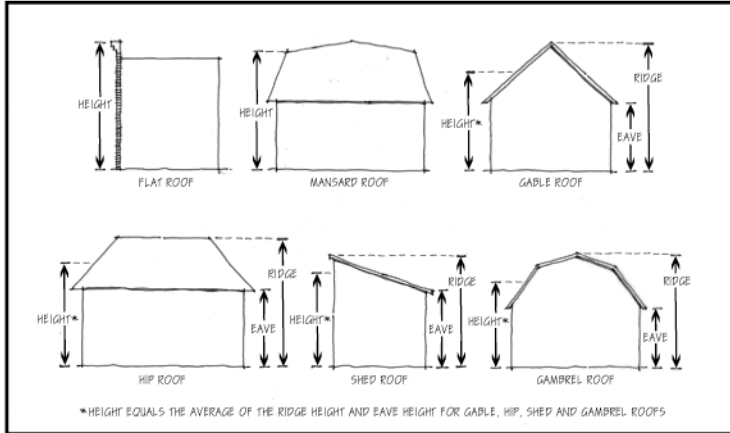
(c) For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

3. **Gross Floor Area (GFA):** The total enclosed horizontal area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of mechanical equipment rooms, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

**11.211 H**

1. **Height:** The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.

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2. **Home Based Business/Home Occupation:** An accessory occupational use conducted within a dwelling unit or accessory structure by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.
3. **Housing Unit or Dwelling Unit:** A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking.

**11.212 I**

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

**11.213 J**

**11.214 K**

**11.215 L**

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

(a) **Perimeter Landscaped Area:** Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.

(b) **Interior Landscaped Area:** Any landscaped area within a site exclusive of required perimeter landscaping.

2. **Lane:** An approved private right-of-way that provides access to residential properties and meets at least three of the following conditions:

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- (a) Serves twelve or fewer housing units or platted lots.
- (b) Does not function as a local street because of its alignment, design, or location.
- (c) Is completely internal to a development.
- (d) Does not exceed 600 feet in length.

3. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

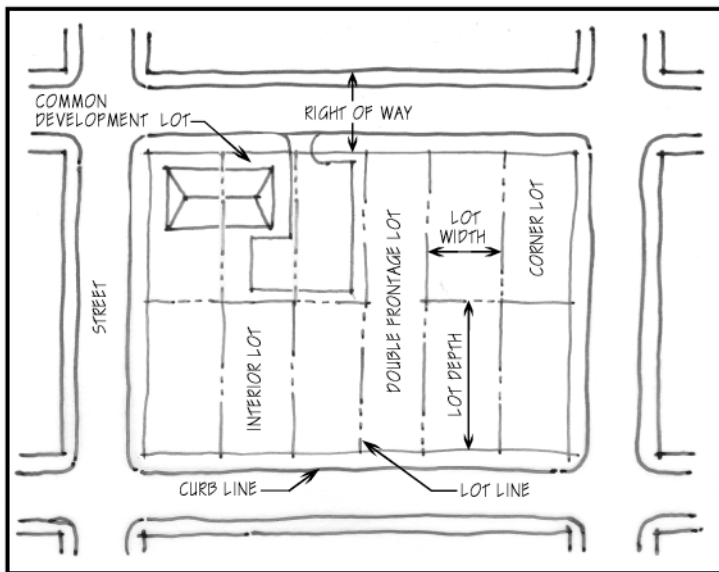
4. Lot: A platted parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the Seward County Register of Deeds. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development, Conservation Development, or Traditional Neighborhood Development.

(a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

(b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two non-intersecting streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot)

(c) Interior Lot: A lot other than a corner lot whose sides do not abut a street.

(d) Common Development Lot: When two or more contiguous lots are developed as part of a single development, these lots may be considered a single lot for purposes of this ordinance.



4. Lot Area: The total horizontal area within the lot lines of a lot.

5. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

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6. **Lot Line:** A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement.

(a) **Front Lot Line:** The lot line separating a lot and a public or private street right-of-way or easement.

1) For an interior lot, the lot line separating the lot from the right-of-way or easement.

2) For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

(b) **Rear Lot Line:** The lot line that is opposite and most distant from the front line.

(c) **Side Lot Line:** Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

7. **Lot Width:** The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

**11.216 M**

1. **Main:** The principal artery of a system of continuous piping which conveys fluids and to which branches may be connected.

2. **Major subdivision:** Any subdivision not defined and approved as a minor subdivision.

3. **Manufactured Home Dwelling:** A dwelling unit built in compliance with National Manufactured Housing Construction and Safety Standards Act, 42USC 5401 to 5426 et seq., and the regulations promulgated by the United States Department of Housing and Urban Development, and when constructed shall bear the seal of the Department of Health and Human Services Regulation and Licensure as required by Section 71-1559 of the Nebraska Revised Statutes.

A. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted when the following additional requirements are met:

a. Any dwelling unit shall have no less than nine hundred (900) square feet of floor area.

b. Any dwelling shall have no less than eighteen (18) feet exterior width.

c. The roof shall be pitched with a minimum vertical rise of two (2) and one-half (1/2) inches for each twelve (12) inches of horizontal run.

d. The exterior shall be of a color, material and scale comparable with existing residential site-built single-family dwellings. The home shall have a non-reflective roof material, which is or simulates asphalt or wood shingles, tile or rock.

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- e. The dwellings shall have wheels, axles, transporting lights, and removable towing apparatus removed if present.
- f. The dwelling shall be placed upon a permanent foundation approved by the City of Seward.
- g. All utility services shall be directly connected to the structure.

B. Manufactured homes which do not meet all of the standards in paragraph (1.) above, may be placed in a manufactured home park or as permitted by code, provided the structure is transportable in one (1) or more sections which in the traveling mode are eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, are three hundred twenty (320) or more square feet and which are built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

4. **Minor subdivision:** A subdivision of land which creates no more than four lots from any single parcel of land; requires no extension of streets, sewers, utilities, or other municipal facilities; no dedication of easements or rights-of-way or annexation; complies with all pre-existing zoning requirements; and has not been subject to a previous administrative or minor subdivision.

5. **Mixed Use Building:** A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

6. **Mixed Use Development:** A single development that incorporates complementary land use types into a single development.

7. **Mobile Homes:** A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities, but not bearing a seal attesting to the approval and issuance of the Nebraska Department of Health or conformance to the manufactured home procedural and enforcement regulations, as adopted by the US Department of Housing and Urban Development; or not otherwise satisfying the definition of Manufactured Home Dwellings.

8. **Mobile Home Park:** A unified development under single ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display, inspection, sale, or storage.

9. **Mobile Home Subdivision:** A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage.

10. **Monument:** An identification marker established by a registered land surveyor at each section corner, block corner, lot corner, or other point as required by this Ordinance.

11. **Moving lane:** Any traffic lane within a cartway where traffic movement is the primary or sole function.

**11.217 N**

1. **Nonconforming Development:** A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Unified Development Ordinance but which complied with applicable regulations at the time of construction.
2. **Nonconforming Lot:** A lot which was lawful prior to the adoption, revision, or amendment of this Unified Land Development Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Unified Development Ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.
3. **Nonconforming Sign:** A sign that was legally erected prior to the adoption, revision, or amendment of this Unified Development Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Unified Development Ordinance.
4. **Nonconforming Structure:** A structure which was lawful prior to the adoption, revision, or amendment of this Unified Development Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Unified Development Ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.
5. **Nonconforming Use:** A land use which was lawful prior to the adoption, revision, or amendment of this Unified Development Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Unified Land Development Ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.
6. **Nuisance:** An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

**11.218 O**

1. **Off-site:** Located outside the boundaries of the parcel that is the subject of an application.
2. **Open Space:** Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
3. **Outdoor Storage:** The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
4. **Overlay District:** A district established by this Ordinance that prescribes special regulations to be applied to a site only in combination with a base district.
5. **Owner:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

**11.219 P**

1. **Parking Facility:** An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Unified Development Ordinance. Parking facilities include parking lots, private garages, and

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parking structures. Vehicle storage is a use distinct from parking. Vehicle storage is also governed by applicable provisions of Section 34, Parking Regulations.

2. **Parking Lane:** A lane located on the sides of streets, designated or allowing on-street parking of motor vehicles.
3. **Parking Spaces:** An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with “parking stall”. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.
4. **Paved:** Permanently surfaced with poured concrete, concrete pavers, or asphalt.
5. **Performance Bond:** A surety bond or cash deposit posted by a contractor or developer made out to the city in an amount equal to the full cost of the improvements. The bond amount shall be that of the contract price and shall be legally sufficient to secure to the City that said improvements will be constructed in accordance with the terms of the contract documents within a period specified by this Ordinance.
6. **Permitted Use:** A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Unified Development Ordinance.
7. **Planning Commission:** The Planning Commission of the City of Seward.
8. **Planned Unit Development:** A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
9. **Plat:** A document, usually a map or maps, expressing the designation or division of land into one or more lots or parcels, any one of which is ten acres or less. Plats include preliminary and final plats.
  - (a) **Preliminary Plat:** A plat indicating the proposed layout of a development and related information, intended for the purpose of preliminary approval by approving authorities but not for filing with the Seward County Register of Deeds.
  - (b) **Final Plat:** The final map of the subdivision which is presented for Final Approval. The Final Plat contains detailed information and documentation and is designed to be filed with the Register of Deeds.
10. **Porch, Unenclosed:** A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.
11. **Premises:** A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
12. **Principal use:** The main use of land or structures as distinguished from an accessory use.

*General Provisions and Definitions*

13. **Private Garage:** A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.

14. **Property Line:** The boundary between separate property ownerships, as recorded by the legal description of a parcel and defined by the Seward County Register of Deeds. In subdivisions, property lines are usually but not in every case coincident with lot lines.

**11.220 Q**

**11.221 R**

1. **Recreational Vehicle:** A vehicle towed or self propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers.

2. **Regulation:** A specific requirement set forth by this Unified Development Ordinance that must be followed.

3. **Remote Parking:** A supply of off-street parking at a location not on the site of a given development.

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

5. **Rural Subdivisions:** A residential subdivision located more than one-half mile past the corporate limits but within the two mile planning jurisdiction of the City; or outside of areas designated for future urban development by the Comprehensive Plan.

**11.222 S**

1. **Salvage Yard (or Salvage Services):** Places of business engaged in the storage, sale, dismantling or other processing of used or waste materials that are not intended for reuse in their original forms, including automotive wrecking yards, junkyards, or paper salvage yards.

2. **Sanitary Sewer:** A sewer that conducts sanitary wastes from a point of origin to a treatment or disposal facility. In developing areas, sanitary sewers normally include interceptor, outfall, local, and lateral sewers.

a) **Interceptor:** A sanitary sewer that serves as a trunk, collecting sewage generated by a number of individual developments.

(b) **Outfall:** A sanitary sewer that may be developed to connect an individual subdivision or development to an interceptor sewer.

(c) **Local:** A pipe that connects lateral sewers to an outfall or interceptor sewer.

(d) **Lateral:** A private service line connecting buildings to local sewers.

*General Provisions and Definitions*

3. **Septic system:** An underground system, utilizing a watertight receptacle to receive the discharge of sewage and a soil absorption leach field, which provides for the decomposition of wastes produced by development on a single lot.
4. **Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this ordinance.
5. **Setback:** The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
6. **Sidewalk:** A paved path provided for pedestrian use, usually located at the side of and detached from a road, but within the right-of-way.
7. **Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
8. **Site:** The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
9. **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, and principal site development features proposed for a specific parcel of land; and any other information that may be reasonably requested by the City in order that an informed decision can be made on the associated request.
10. **State:** The State of Nebraska.
11. **Storm Sewer:** A conduit that conducts storm drainage from a development or subdivision, ultimately to a drainageway or stream.
12. **Story:** The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.
13. **Street:** Land dedicated for public use, from right-of-way line to right-of-way, which affords a primary means of access to the abutting property. Streets may be categorized in a hierarchy or conceptual arrangement of streets based on function. The hierarchical approach classifies streets from courts or lanes, which provide private access to a limited number of lots, to arterials, which accommodate large volumes of high-speed, regional traffic. Street types contained within the hierarchy include:
  - (a) Court or lane
  - (b) Local
  - (c) Collector
  - (d) Expressway
  - (e) Minor Arterial
  - (f) Major Arterial

*General Provisions and Definitions*

14. **Street, Arterial:** Street or highways intended to provide for through traffic movement between areas of the city or across the city. Major arterials usually imply relatively high speeds and traffic volumes, and are often subject to control of access to individual properties. Minor arterials are generally intended to provide trips of moderate lengths and imply lower operating speeds and more frequent points of local access than major arterial streets.

15. **Street, Collector:** A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.

16. **Street, Designed:** A future street designated on the Comprehensive Development Plan to insure traffic carrying capacity between neighborhoods, connections between neighborhoods and major activity centers and accommodation of major through traffic. Such streets may be designated as collectors, arterials or expressways with the tentative location of the street shown on the Transportation Plan.

17. **Expressway:** A major street with limited access for high traffic speeds and volumes designed to move traffic around the city rather than through it.

18. **Street, Intersecting and Principal:** In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.

19. **Street, Local:** A street which is used primarily for access to the abutting properties.

20. **Street, Major:** A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.

21. **Street Yard:** The distance between a lot line adjacent to a public street and the wall or façade of a building parallel to such lot line. If the building wall is not parallel to the lot line, the street yard depth shall be the distance between the street lot line and a parallel line that equals the average distance of the building wall or façade from the street lot line.

22. **Structure:** Any object constructed or built and attached or anchored permanently or semi permanently to the ground in such a way as to prevent routine movement.

23. **Subdivision:** The division of a lot, tract, or parcel into two or more lots, tracts, parcels, or other units of land for title transfer or development, when one of the resultant lots is equal to ten acres or less.

**11.223 T**

1. **Townhouse:** A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

2. **Townhouse Structure:** A building formed by at least two and not more than twelve contiguous townhouses with common or abutting walls.

**11.224 U**

1. **Urban Subdivision:** A residential subdivision generally located within the corporate limits of the City of Seward or less than 1/2 mile of such corporate limits; or within an area designated for future urban development by the Comprehensive Development Plan.
2. **Use:** The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
3. **Utilities:** Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land.

**11.225 V**

1. **Vacation:** The official abandonment of public right-of-way or easement by the City in accordance with State law.
2. **Variance:** A modification of the application of certain regulations or provisions of this Ordinance by the Board of Adjustment, under the authority provided by this Ordinance and State Statutes.
3. **Vehicle, motor:** Any passenger vehicle, motorcycle, recreational vehicle, or truck that is propelled or drawn by mechanical power.

**11.226 W**

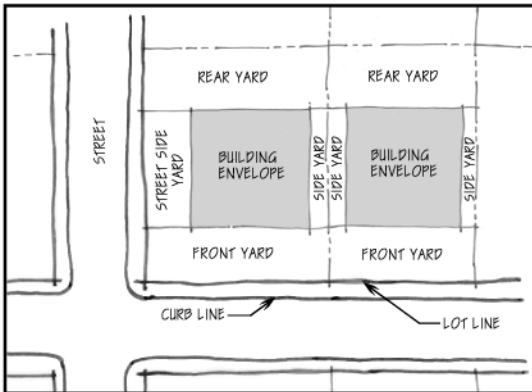
**11.227 X**

**11.228 Y**

1. **Yard; Required:** That portion of a lot that lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.
  - (a) **Front Yard:** The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:
    - 1) The yard along the blockface to which a greater number of structures are oriented; or
    - 2) The yard along a street that has the smaller horizontal dimension.
  - (b) **Rear Yard:** The space extending the full width of a lot, lying between the rear lot line and the rear setback line.
  - (c) **Side Yard:** The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

*General Provisions and Definitions*

(d) **Street Side Yard:** On a corner lot, the space extending from the front yard to the rear yard, between the street side yard setback line and the street side lot line.



**11.229 Z**

1. **Zoning Administrator:** The city official authorized by the City Council to administer this Unified Development Ordinance.

2. **Zoning District:** A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Unified Land Development Ordinance.

## ARTICLE 3

### USE TYPES

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#### 11.301 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

#### 11.302 Determinations

##### a. Classification of Uses

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Seward shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

##### b. Records

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

#### 11.303 Agricultural Use Types

Agricultural use types include the planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in Seward or Seward Counties; or the raising and feeding of livestock or poultry.

##### a. Horticulture

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

##### b. Crop Production

The raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

##### c. Animal Production

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of

natural vegetation is the major feed source; or the raising of animals for recreational or educational use. Typical uses include grazing, ranching, free ranch dairy farming, and poultry farming.

d. Confined Animal Feeding Operation (CAFO)

The use of a site of any size for the confined feeding or holding of 1,000 or more animal units of livestock or poultry, or of a site with a gross density of 2 or more animal units per acre, within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Livestock and poultry shall include any animal or fowl that are used primarily for use as food or food products for human consumption, or for laboratory or testing purposes. A CAFO does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed. For the purpose of calculating animal units, the animal unit equivalents for each type of livestock are established as follows:

<u>Type of Livestock</u>	<u>Equivalent Animal Units Per Acre</u>
Slaughter and feed cattle	1.00
Mature dairy cattle	1.40
Swine	0.75
Sheep	0.20
Horses	2.00
Turkeys	0.20
Ducks	0.20
Chickens	0.10

e. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

**11.304 Residential Use Types**

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

a. Single-Family Residential

The use of a site for one dwelling unit, occupied by one family. Mobile home units, as defined by this Section, are not a single-family residential use type.

1. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
2. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

b. Duplex Residential

The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

c. Two-Family Residential

The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

d. Townhouse Residential

The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

e. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as townhouse units.

f. Downtown Residential

The use of upper levels above street level of a building within the Central Business District of the City of Seward for single- or multiple-family residential uses.

g. Group Residential

The use of a site for the residence of more than three unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units. Group Residential uses are limited to facilities that are officially recognized or operated by a college or university, government agency, or nonprofit organization. Typical uses include fraternity or sorority houses and dormitories not incorporated into a College and University use type.

h. Lodging House

The use of a site for the residence of more than four unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units.

i. Manufactured Home Residential

Use of a site for one or more manufactured home dwellings, as defined in Section 11.216.

j. Mobile Home Park

Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

k. Mobile Home Subdivision

Division of a tract of land into lots that meet all the requirements of the City of Seward's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

l. Retirement Residence

A building or group of buildings which provide residential facilities, provided that 75% of the residents are at least sixty years of age, or households headed by a householder of at least sixty years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

**11.305 Civic Use Types**

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses that are strongly vested with social importance.

a. Administration

Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

b. Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

c. Clubs

Uses providing meeting, recreational, or social facilities for a private, nonprofit or noncommercial association, primarily for use by members and guests.

1. Clubs (Recreational): Clubs that provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs, private or nonprofit community or recreation centers, and private golf courses and driving ranges.

2. Clubs (Social): Clubs that provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

d. College and University Facilities

An educational institution of higher learning that offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

e. Convalescent Services

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

f. Cultural Services

A library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

g. Day Care Services (Limited)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

h. Day Care Services (General)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

i. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

j. Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

k. Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than four unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.
2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.

l. Group Home

A facility licensed by the State of Nebraska in which no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.

m. Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

n. Health Care

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors.

o. Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

p. Maintenance Facilities

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

q. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

r. Postal Facilities

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

s. Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska.

t. Public Assembly

Facilities owned and operated by a public agency, charitable nonprofit, or private organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums and arenas, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

u. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of Nebraska shall constitute prima facie evidence of religious assembly use.

v. Safety Services

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

w. Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

x. Utilities

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

**11.306 Office Use Types**

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

a. Corporate Offices

Use of a site for administrative, processing, or research offices, which generally does not provide service to clientele from Seward and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Seward, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.

b. General Offices

Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

c. Financial Services

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, credit unions, savings banks, and loan companies. An ATM (Automatic Teller Machine) that is not accompanied on-site by an office of its primary financial institution is considered within the Personal Services Use Type. The Financial Services use type is divided into two categories. Financial Services A includes less than 4,000 square feet of floor area and has no more than two drive-up lanes (including ATM lanes). Financial Services B includes 4,000 square feet or more of floor area and/or has more than two drive-up lanes.

d. Medical Offices

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska. The Medical Offices use type is divided into two categories. Medical Offices A includes less than 3,000 square feet of floor area. Medical Offices B includes 3,000 square feet or more of floor area.

**11.307 Commercial Use Types**

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

a. Agricultural Sales and Service

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

b. Automotive and Equipment Services

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. Automobile Auction Lots: Sale of motor vehicles through a process of periodic auctions or bid procedures. Automobile auction lots usually include large on-site storage areas of motor vehicles

and lack showrooms, auto repair facilities and other structures and facilities that are typical of new car dealerships.

2. **Automotive Rental and Sales:** Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

3. **Auto Services:** Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.

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

5. **Equipment Rental and Sales:** Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

6. **Equipment Repair Services:** Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

c. **Bed and Breakfast**

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner or resident manager of the structure, include no more than four units, and accommodate each guest or visitor for no more than 14 consecutive days during any one month period.

d. **Business Support Services**

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

e. Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

f. Campground

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 14 consecutive days during any one month period.

g. Cocktail Lounge

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

h. Commercial Recreation (Controlled Impact)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Controlled Impact Commercial Recreation uses typically take place entirely within enclosed buildings or, when outdoors, have limited effects related to lighting, hours of operation, or noise. Typical uses include theaters, private dance halls, billiard or bowling centers, game arcades, indoor skating facilities, miniature golf courses, and private golf courses.

i. Commercial Recreation (High Impact)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. High Impact Commercial Recreation uses are typically located outdoors and have operating effects caused by lighting, noise, traffic, or hours of operation that create substantial environmental impacts. Typical uses include shooting ranges, lighted driving ranges, go-kart tracks, amusement parks, race tracks, and private baseball complexes.

j. Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast and communications towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

k. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

l. Consumer Services

Establishments that provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

m. Convenience Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

n. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and the sales of fuel for motor vehicles.
2. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.
3. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 but less than 40,000 square feet. Typical uses include grocery stores and locker plants.
4. Supermarkets: Establishments selling a wide variety of food commodities, related items, and often providing a variety of non-food goods and services, using facilities larger than 40,000 square feet. Typical uses include large grocery stores.

o. Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

p. Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to regulations of the City of Seward and/or the State of Nebraska.

q. Kennels

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which more than four animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.

r. Laundry Services

Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

s. Liquor Sales

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

t. Lodging

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

u. Personal Improvement Services

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a nonprofessional nature. Typical uses include driving schools, health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

v. Personal Services

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska when performing massage services as a part of the profession or trade for which licensed or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

w. Pet Services

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

x. RV (Recreation Vehicle) Storage

Establishments that include the storage and/or display of boats, campers, and motorized recreational vehicles for the purpose of rental or sale.

y. Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

z. Restaurants

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use.

1. Restaurant (Drive-in or Fast Food): An establishment that principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.

2. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

aa. Restricted (or Adult) Businesses

Any business activity that offers the opportunity to view specified sexual activities or view and touch specified anatomical areas in a manner that lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet this criteria if the sale of such material constitutes more than 20% of the sales or retail floor area of the establishment. For the purposes of this definition, specified anatomical areas include the following if less than opaquely covered: human genitals, the pubic region, pubic hair, or the female breast below a point immediately above the top of the areola. Specified sexual activities include any of the following conditions:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts or representations of acts of human masturbation, sexual intercourse with humans or animals, oral sex, or flagellation.

(3) Fondling or erotic touching of human genitals, public region, buttock, or female breast.

(4) Excretory functions as part of or in connection with any activities set forth in (1) through (3) above.

Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize primarily sexual content in their inventory and marketing practices; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters. Businesses may be classified as adult entertainment businesses without regard to service of alcoholic beverages.

bb. Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:

1. **Limited Retail Services:** Establishments providing retail services, occupying facilities of 3,000 square feet or less. Typical establishments provide for specialty retailing or retailing oriented to Seward and its surrounding vicinity.
2. **Medium Retail Services:** Establishments providing retail services, occupying facilities between 3,001 and 10,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general purpose retailing oriented to Seward and its surrounding vicinity.
3. **Large Retail Services:** Establishments providing retail services, occupying facilities between 10,001 and 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for specialty retailing or general retailing oriented to Seward and its surrounding vicinity.
4. **Mass Retail Services:** Establishments providing retail services, occupying facilities over 40,000 square feet in a single establishment or multi-tenant facility. Typical establishments provide for general retailing oriented to Seward and the surrounding region.

cc. Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

dd. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

ee. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

ff. Travel Centers

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which less than 30% of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for Diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes.

gg. Truck Stops

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which 30% or more of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes but is not limited to fuel islands for Diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes.

hh. Vehicle Storage (Short-term)

Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

ii. Veterinary Services (General)

Veterinary services and hospitals for small animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries and crematoria, and veterinary hospitals for livestock and large animals.

jj. Veterinary Services (Large Animal)

Veterinary services and hospitals for large animals such as cows, bulls, horses, and other livestock. Typical uses include veterinary hospitals for livestock and large animals.

### **11.308 Parking Use Types**

#### a. Off-Street Parking

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

#### b. Parking Structure

The use of a site for a multilevel building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site.

### **11.309 Industrial Use Types**

Industrial use types include the on-site extraction or production of goods by nonagricultural methods, and the storage and distribution of products.

#### a. Agricultural Industry

Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products that create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain elevators, storage of agricultural chemicals such as anhydrous ammonia. Agricultural industries do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

#### b. Construction Yards

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

#### c. Custom Manufacturing

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding 2 horsepower, or

3. A single kiln not exceeding 8 KW or equivalent.

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

d. Light Industry

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

e. General Industry

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

f. Heavy Industry

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

g. Recycling Collection

Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

h. Recycling Processing

Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

i. Resource Extraction

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding site grading for a specific construction project or preparation of a site for subsequent development. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and removal of dirt for off-site use.

j. Salvage Services

Places of business engaged in the storage, sale, dismantling or other processing of used or waste materials that are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junkyards, or paper salvage yards.

k. Vehicle Storage (Long-term)

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

l. Warehousing (Enclosed)

Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

m. Warehousing (Open)

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage.

**11.310 Transportation Use Types**

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

a. Aviation (General)

Airports, including take-off and landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. Typical uses include private or municipal airports.

b. Aviation (Private)

Take-off or landing strips or fields within a parcel generally put to other uses and primarily used for the convenience of the owner of the parcel. Typical uses include private airstrips within a large property.

c. Railroad Facility

Fixed railroad facilities, including switching yards, equipment servicing facilities, and freight terminal facilities, but not including normal right-of-way.

d. Transportation Terminal

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

d. Truck Terminal

A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

**11.311 Miscellaneous Type Uses**

a. Alternative Energy Production Devices

The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geothermal energy installations, or water-powered mills or generating facilities.

b. Amateur Radio Tower

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

c. Communications Tower

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

d. Construction Batch Plant

A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

e. Landfill A (Non-putrescible Solid Waste Disposal)

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

f. Landfill B (Putrescible and Non-putrescible Solid Waste Disposal)

The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

g. Wind Energy Conservation System (WECS)

Any device that converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.