

ARTICLE 31

SUPPLEMENTAL USE REGULATIONS

11.3101 Purpose

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Articles 4 through 19 of this Ordinance.

11.3102 Supplemental Use Regulations: Agricultural Uses

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.

a. Crop Production in Non-Agricultural Districts

Crop production is a permitted interim use in any zoning district.

b. Horticulture and Crop Production: Retail Sales

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG District, subject to the following requirements:

1. Garden Centers

- (a) A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.
- (b) Garden centers must conform to all site development regulations for the zoning district.
- (c) Any garden center adjacent to a residential district must maintain a 20-foot landscaped buffer yard, consistent with the standards established in Section 11.3305.

2. Roadside Stands

- (a) A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
- (b) A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
- (c) A roadside stand may operate for a maximum of 180 days in any one year.

b. Animal Production in the RR District

1. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the RR District, provided that any building housing such animals shall be at least 50 feet from any property line and 25 feet from any dwelling unit on the site. Any such activity must be located entirely within a rear yard. The raising of fowl shall be limited to 50 birds per acre, up to a maximum of 500 birds.
2. Within the RR District, any lot of 1 acre and over may maintain one horse, llama, or other equine and/or hoofed animal and its immature offspring. Such a lot may have one additional animal for each additional two acres of lot area, up to a maximum total of ten animals. No stable shall be located closer than 50 feet to any dwelling unit on the site or 50 feet to any property line.

c. Animal Production: Separation from Residential Uses

1. Animal Production use types may not be established within 500 feet of a pre-existing residential districts, including RR through RM.
2. No feeding or disposal of garbage, rubbish, or offal associated with animal production shall occur within 500 feet of any pre-existing residential districts, including RR through RM.

d. Confined Animal Feeding Operations (CAFO)

1. No new confined animal feeding operations shall be established within the zoning jurisdiction of the City of Seward.
2. A CAFO that is lawfully in existence on the effective date of this Ordinance may continue to operate as a permitted use in an AG District. Operation and expansion of such a facility shall be subject to the following requirements:
 - a) Any expansion must maintain a minimum setback of 500 feet from the property line of its parcel and a minimum separation of 1,760 feet from any residential, commercial, or industrial structure other than that of the owner of the facility. Separations shall be measured between the nearest points of the CAFO expansion and any affected structure.
 - b) Livestock wastes shall be removed or disposed of by spraying or spreading on land promptly followed by discing or plowing; grinding or dehydrating in properly designed dehydrators; or composting in a facility located at least two miles from a residential zoning district.
 - c) Insect and rodent control mechanisms shall be instituted for confined areas by removal or disposal of manure; or by other accepted pest control methods.
 - d) All ground surfaces within CAFO areas shall be graded and compacted to provide proper drainage. No appreciable amount of surface runoff from CAFO

areas shall be carried into a roadway ditch, drainage area, or other low-lying area.

- e) Water shall be retained on site to prevent runoff onto neighboring properties except in the event of a storm event with a 4% or smaller probability of occurrence within any 24-hour period, corresponding to a 25-year flood level.
- f) A CAFO shall not produce measurable increases in pollution in any public water-based recreation facility, public water supply, or any waterway that is part of a public or private water supply.

3. General Standards and Special Use Permit Application Requirements

- a) All aspects of the CAFO operation shall comply with the standards of the Nebraska Department of Environmental Quality.
- b) Expansion of a lawfully existing CAFO is subject to approval of a Special Use Permit. All expansions, alterations, or modifications of existing CAFO's shall comply with the setback and separation requirements set forth in this section. The Special Use Permit application for expansion shall include certification of plan review and approval by the Nebraska Department of Environmental Quality; a site plan indicating the location and maximum area of the confined area; and a detailed description of operations that specified the maximum number and type of livestock to be confined, waste disposal plans, drainage plans, and pollution control measures.
- c) A transfer of ownership of an existing CAFO shall require application and approval of a Special Use Permit, and compliance with the standards of this section.

11.3103 Supplemental Use Regulations: Residential Uses

a. Separation from CAFO's

No new residential use shall be established within 1,760 feet of an existing CAFO, except for the residence of the owner or operator of the CAFO, employee, or working tenant.

b. Downtown and Group Residential in CBD District

Downtown and Group Residential uses are permitted in the CBD District only on levels above street level. A unit or units specifically designed for occupancy by disabled residents may be developed at street level, subject to approval by the Board of Adjustments.

c. Group Residential

Group residential and boarding house uses, when permitted, are subject to the requirements set forth in Table 11.3101.

Table 11.3101

Group Residential and Boarding House Density Requirements by Zoning District

Zoning District	Terms of Permitted Use	Maximum Number of Unrelated Persons in Structure	Minimum Floor Area per Resident (square feet)	Minimum Site Area per Resident
AG	Special Use for Group Residential	5	500	1,500
R-2	Special Use for Group Residential	6	350	1,000
R-3	Special Use for Group Residential	10	300	850
R-4	Permitted for Group Residential, Special Use for Boarding House	15	250	650
RM	Special Use for Group Residential	6	350	1,000
UC, C-1 and C-1(N)	Special Use for Group Residential	10	300	650

d. Mobile Home Parks in the RM District

Mobile Home Parks and mobile home residential use are permitted in the RM District. Such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to compliance with the following regulations:

1. Certification

- (a) A certification of compliance with all ordinances and regulations regarding mobile home licensing, zoning, health, plumbing, electrical, building, fire protection and any other applicable requirements shall be required of all Mobile Home Parks.
- (b) The Building Official is authorized to perform an annual inspection of any Mobile Home Park to ensure compliance with these regulations.
- (c) These regulations do not address the structural integrity of any units within a Mobile Home Park. Compliance with these regulations does not represent city warrant of the structural integrity of any structure or unit in such a facility.

2. Minimum and Maximum Area

A Mobile Home Park shall be considered to be one zoned lot. The minimum contiguous area of a Mobile Home Park shall be two acres.

3. Density Requirements

- (a) The maximum gross density of a Mobile Home Park shall be 7 units per acre.
- (b) The minimum size of an individual mobile home space shall be 4,000 square feet for single-wide mobile home units and 5,000 square feet for double-wide mobile home units.
- (c) Each mobile home space shall have a width of at least 40 feet and a length of at least 75 feet.

4. Site Development Standards

- (a) **Setbacks:** Each Mobile Home Park shall have a minimum perimeter setback of 30 feet. No space for a dwelling unit or any other structure shall be permitted in the required setback.
- (b) **Setback landscaping:** All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened in conformance with Article 33 of this Ordinance.
- (c) **Impervious Coverage:** Impervious coverage for a Mobile Home Park shall not exceed 60 percent of the total site area.
- (d) **Open Space:** Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.
- (e) **Separation Between Mobile Home Units:** The minimum separation between a mobile home unit and attached accessory structure and any other mobile home units and/or accessory structure shall be 20 feet.
- (f) **Separation and Setbacks for Accessory Buildings:** An accessory building on a mobile home space shall maintain a minimum rear and side yard setback of five feet. A minimum distance of ten feet shall be provided between any mobile home and an unattached accessory building.

5. Street Access and Circulation Requirements

- (a) **Access to Public Street:** Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet. Direct access to a mobile home space from a public street is prohibited.

(b) **Vehicular Circulation:** The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width shall be 27 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 100 feet. No such cul-de-sacs may exceed 300 feet in length.

(c) **Separation between Units and Circulation Areas:** The minimum distance between a mobile home unit and any attached accessory structure and the pavement of an internal street or parking area shall be ten feet.

(d) **Sidewalks:** Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least four feet.

(e) **Street and Sidewalk Standards:** All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.

(f) **Parking Requirements:** Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.

6. Utilities

a) All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.

(b) Complete water and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Unified Land Development Ordinance.

(c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Unified Land Development Ordinance.

(d) All electric, telephone, gas, and other utility lines shall be installed underground.

7. Foundation Requirements

a) All mobile homes shall be secured to the ground by tie-downs and ground anchors that comply with the requirements of the Nebraska Department of Health and Human Services.

(b) All mobile homes shall be blocked at a maximum of ten foot centers around the perimeter of each unit; such blocking shall provide 16 by 16 inch bearing on the stand.

(c) Pads shall be a hard surface capable of carrying the weight and of sufficient length to support all blocking points of the mobile home.

(d) Each home shall be skirted within 30 days of its placement in the park. Skirting materials shall be compatible with the exterior finish of the mobile home.

8. Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.

9. Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning Commission and City Council. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.

e. Mobile Home Subdivisions in the MH District

1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Unified Land Development Ordinance of Seward. Site development regulations shall be the same as those required in the R-2 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.

2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance. All units shall be installed on a permanent foundation with complete removal of wheels and towing packages.

f. Retirement Residence

1. Maximum Floor Area Ratio is 0.5 for buildings up to and including three stories. The number of living units and occupants is determined by Floor Area Ratio rather than site area per unit regulators. For example, the maximum gross floor area of a retirement residence on a 100,000 square foot site is 50,000 square feet.

2. Any action that would result in occupancy of the project by persons less than retirement age requires approval of a Special Use Permit by the City Council following a recommendation by the Planning Commission.

g. Two-Family Residential

Where permitted, two-family residential development is subject to the following regulations

1. The second dwelling unit shall be located to the rear of the site and shall be separated from the primary dwelling unit by 25 feet.

2. The second dwelling unit shall be served by a driveway at least ten feet in width, leading from the public adjacent to the lot.

3. Both structures shall meet all other setback requirements of the zoning district.

11.3104 Supplemental Use Regulations: Civic Uses

a. Clubs

Clubs located adjacent to residential uses shall maintain a bufferyard of not less than fifteen feet along the common boundary with such residential use.

b. Day Care Centers (General)

1. Each day care center (general) must be validly licensed by either the State of Nebraska or the appropriate governmental agency.
2. Each facility shall provide a minimum of 50 square feet of outdoor play area per child, fully enclosed by fence or wall that is at least 42 inches but not more than 72 inches in height. Play areas shall be easily accessible from the main facility and be free of hazards, including potential traffic hazards.
3. Special Use Permit applications for General Day Care Centers shall specify the number and projected ages of children to be cared for at the facility, and the number of projected full- and part-time staff.

c. Group Care Facilities and Group Homes

1. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental agency.
2. Group homes are permitted in the CBD District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval as a Conditional Use by the Planning Commission.

11.3105 Supplemental Use Regulations: Commercial Uses

a. Auto Service, Repair, Equipment Repair, Travel Center, Truck Stop, RV Storage, and Body Repair Uses

1. Where permitted in commercial districts, all repair activities, including oil drainage, lifts, and other equipment, must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-way. Screening is subject to provisions of Article 33 of this Ordinance.
2. Any spray painting must take place within structures designed for that purpose and be approved by the Building Official.

3. All entrances and exits serving a gasoline or Diesel service station, convenience store offering fuel sales, or automobile repair shop shall be at least 150 feet from a school, public park, religious assembly use, hospital, or residential use, as measured along any public street. Such access shall be at least 40 feet away from the right-of-way line of any intersection.

4. All fuel pumps shall be set back at least fifteen feet from any street line.

b. Auto Washing Facilities

1. Each conveyor operated auto washing facility shall provide on-site stacking space for five vehicles per washing lane on the approach side of the washing structure and on-site stacking space for two vehicles on the exit side.

2. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.

c. Automobile, RV, and Equipment Rental and Sales

1. All outdoor display areas for rental and sales facilities shall be hard-surfaced, unless screened from casual view as provided by Section 11.3306.

2. Body repair services are permitted as an accessory use to automobile rental and sales facilities, provided that such repair services shall not exceed 25% of the gross floor area of the building.

d. Bed and Breakfasts

1. When permitted in residential districts, bed and breakfasts shall include a maximum of four guest units and the residence of the facility owner.

2. Bed and Breakfasts permitted in the CBD District must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.

e. Campgrounds

1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.

2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.

3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

f. Construction Sales and Service

Retail home improvement stores and centers may include outdoor storage of materials and must comply with the following conditions:

1. Architectural design and materials shall be consistent with the current or projected character of the surrounding area.
2. All outside storage or display of merchandise or other materials or equipment shall be screened from view at eye level from a public street or adjacent property.
3. All storage buildings with overhead doors, drive openings, or open bays and all loading areas shall be fully screened from view at eye level from a public street or adjacent property.
4. Minimum screening shall be consistent with screening standards set forth in Section 38.6.
5. All areas not occupied by buildings or landscaping shall be paved with concrete or asphalt, or surfaced with gravel or similar treatment to reduce dust.

g. Convenience Storage

When permitted outside of the I-2 District, convenience storage facilities shall be subject to the following additional requirements:

1. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
2. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
3. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
4. No storage buildings may open into required front yards.
5. Facilities must maintain landscaped bufferyards of 30 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Article 33.

h. Kennels

1. The minimum lot size shall be two acres.
2. No building or dog runs shall be located nearer than 100 feet from any property line and 500 feet to the property line of any residential use or district.

3. All kennel facilities shall be screened around such facilities or at property lines to prevent distracting or exciting animals. Screening shall be of a type provided by Section 33, establishing landscape and screening standards.

i. Restricted (Adult Entertainment) Businesses

Adult entertainment businesses shall be subject to the following restrictions, and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

1. No adult entertainment business shall be open for business between the hours of twelve midnight and six a.m.

2. A new adult entertainment business shall not be allowed within 1,000 feet of an existing adult entertainment business.

3. A new adult entertainment business shall not be located within 500 feet of any residentially zoned district or 1,000 feet of a preexisting school, public park, or place of worship.

4. The provisions of this chapter shall apply to any adult entertainment businesses in existence at the time the ordinance codified in this chapter takes effect. All nonconformance shall come into compliance on or before January 1, 2005, and no such nonconforming use shall be permitted to expand in size or scope and the rights granted in this chapter shall terminate upon cessation of business, sale or transfer of ownership of the adult entertainment business.

5. Measurement of distances. For the purpose of this chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.

6. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is prohibited by this code or any laws of the state or the United States.

7. No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semipublic area.

8. An adult entertainment business shall post a sign at the entrance of the premises, which shall state the nature of the business and shall state that no one under the age of eighteen years is allowed on the premises. The sign shall comply with the city's sign regulations. This

section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.

9. Nuisance Operation: Any adult entertainment business operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance, and the city attorney may, in addition to or in lieu of prosecuting a criminal action under this chapter, commence an action or actions, proceeding or proceedings, for the abatement, removal or enjoinder thereof, in the manner prescribed by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment business contrary to the provisions of this chapter.

11.3106 Supplemental Use Regulations: Industrial Uses

a. Resource Extraction

Resource extraction, where permitted, is subject to the following additional requirements:

1. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties as determined by review of the Zoning Administrator. Erosion control facilities, including retention and sediment basins, are required of each facility, if necessary, to meet this standard.
2. Surface Drainage: The surface of the use may not result in the collection or ponding of water, unless specifically permitted as part of a Special Use Permit.
3. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.
4. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:
 - (a) Restoration of slopes to a gradient not exceeding 33% as soon as possible.
 - (b) Installation of perimeter safety screening and/or fencing.
 - (c) Installation of visual screening adjacent to any property within a residential or public use district consistent with Bufferyard Standards contained in Article 33. Resource extraction uses in the AG District shall be subject to the same bufferyard requirements as those in the I-2 District.
5. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternately, the site may be used as a lake or body of water, subject to approval by the City Council with the recommendation of the Planning Commission and the appropriate Natural Resources District.

b. Salvage Services and Long-term Vehicle Storage and Dismantling

1. Screening:

(a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped bufferyards.

(b) Each existing salvage services facility shall be screened as provided above within one year of the effective date of this Ordinance.

(c) The above requirement shall also apply to uses adjacent to residential zoning districts or residential uses that include the long-term storage and dismantling of vehicles

2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.

3. No new Salvage Services use may be established within 500 feet of the nearest property line of a pre-existing residential zoning district or of any pre-established civic use.

11.3107 Performance Standards in Industrial Districts

The following performance standards apply to all industrial uses permitted within an industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.

2. Fire Hazard: No operation shall involve the use of highly flammable gases, corrosive materials, strong acids or bases, liquids, or inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of Seward County and the City of Seward.

3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the I-1 district shall generate sound levels in excess of 65 dbA between the hours of 7:00 am and 10:00 pm, and 55 dbA between the hours of 10:00 pm and 7:00 am, measured at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.

4. Sewage and Wastes: No operation shall discharge into a sewer, drainage way, or the ground any material, which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of

people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.

6. Odor: The emission of odors determined by the Planning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.

7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements shall not exceed 5 parts per million for sulfur dioxide or carbon monoxide or 1 part per million for hydrogen sulfide taken at the property line of the operation.

8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation, which exceeds a displacement of 0.003 inch.

9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.

10. Storage of Chemical Products: If allowed by Special Use Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 200 feet from any Residential, Office, or Commercial zoning district.

11.3108 Telecommunications Towers

In any district where radio, television, microwave, cellular, or other communication towers are allowed as a permitted or Special Permit Use, such towers are subject to the following additional requirements.

a. Tower Siting

1. It is the policy of the City of Seward to encourage co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers have been explored and exhausted. Applicants may not be denied space on an existing tower within the City of Seward and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansion plans prohibit co-location.
2. The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the

proposed height is the minimum height necessary for the successful functioning of the tower.

b. Tower Setbacks, Design, and Height

1. Free-standing towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 % of the tower height. The Planning Commission may recommend and the City Council approve a reduction to the set back with a Special Use Permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
2. The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the City of Seward. The City encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support buildings shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall generally not be permitted for accessory support buildings.
3. All tower installations shall maintain landscaped peripheral yards with a minimum depth of 35 feet from surrounding property lines. One tree consistent with the provisions of Article 33 shall be planted for every 500 square feet of required peripheral yard area.
4. As part of the Special Use Permit approval process, the City Council may permit the tower to exceed the height restrictions otherwise allowable in the district.
5. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
6. Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.
7. Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

c. City Site Selection Criteria in Evaluating Applications for Communications Towers

1. Consistent with the policy of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

2. Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.
3. Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.
4. Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

f. Priorities for Siting

The following establishes the order of priorities for locating new communications facilities:

1. Public property, (excluding prairie, conservation or wildlife areas, or historic structures).
2. Appropriate existing structures, such as buildings, towers, water towers, and smokestacks in other zoned districts.
3. AG, I-1, or I-2 districts that do not adjoin or adversely impact residential neighborhoods.
4. Private non-residential property in C-2 or C-3 districts.
5. Private, non-residential properties in C-1 or UC districts.
6. Place antennas and towers on multi-family residential structures exceeding thirty feet (30') in height in districts zoned R-3, and R-4.
7. Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.
8. An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (30') within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing

buildings taller than thirty feet (30'), towers and water tanks within one-quarter mile of the proposed tower.

11.3109 Supplemental Use Regulations: Miscellaneous Uses

a. Landfills

1. Compliance with Codes: Each landfill must comply with all relevant city, county, State, or Federal codes and statutes.
2. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.
3. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of the City of Seward. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.
4. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State of Federal Highway.
5. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Environmental Quality.
6. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within the City of Seward and its extra-territorial jurisdiction.

b. Wind Energy Conservation Systems (WECS)

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the City Council, after recommendation by the Planning Commission, finds that the reduction is consistent with public health, safety, and welfare.
2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the City Council, after recommendation by the Planning Commission, finds that the reduction does not impede the operation of either WECS.

3. Any tower or rotor shall maintain a distance of at least 100 horizontal feet from any structure, power line, or antenna located on another property.
4. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
5. A fence eight feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
6. The height of the WECS may exceed the height restrictions of the base district by up to 50%. The bottom tip of any rotor must be at least 10 feet above any area accessible to pedestrians.

11.3110 Supplemental Use Regulations: Accessory Uses

a. Home-Based Businesses/ Home Occupations

Home-based businesses and home occupations are permitted as an accessory use in residential units and must register and obtain a permit from the office of the Building Inspector on an annual basis, subject to the following conditions:

1. External Effects:
 - (a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.
 - (b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.
 - (c) The home occupation shall be carried on entirely within the principal residential structure, or within an accessory structure that does not exceed 480 square feet in area or 15 feet in height.
 - (d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.
 - (e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.
 - (f) No home occupation shall discharge into any sewer, drainageway, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

2. **Employees:** The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.
3. **Extent of Use:** For all residential and agricultural zoning districts, the smaller of 25% of the floor area of the dwelling or 480 square feet may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.
4. **Signage:** Each home-based business shall be permitted to have one non-illuminated wall sign not to exceed six square feet in area.
5. **Traffic Generation and Parking**
 - (a) Home-based businesses may generate no more than 10 vehicle trips per day, corresponding to amount of traffic normally generated by a dwelling unit.
 - (b) Deliveries or service by commercial vehicles or trucks rated at ten tons gross empty weight is prohibited for any home-based business located on a local street.
 - (c) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than one vehicle used in connection with any home occupation shall be parked on the property. Such parking shall not be located in a required front yard. No more than two on-street parking spaces shall be used by the home occupation at any one time.
6. **Prohibited Home-Based Businesses/Home Occupations:** The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:
 - (a) Animal hospitals.
 - (b) General retail sales.
 - (c) Restaurants.
 - (d) Repair shops or service establishments that service major electrical appliance repair, motorized vehicles repair, small engines, and related items.
 - (e) Stables or kennels.
 - (f) Barber and beauty shops
 - (g) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

b. Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residency use.
2. Recreational activities and uses by residents.
3. Home occupations, subject to the provisions of this Ordinance.

4. Non-commercial convenience services for the primary use of residents of multi-family uses or mobile home parks, including laundromats, clubhouses, and post offices.

5. Garage sales, provided that the frequency of such sales at any one location are limited to one sale of no more than three days duration in a month, and three sales during any twelve month period.

c. Permitted Accessory Uses: Civic Use Types

Guidance Services and Health Care use types are permitted in the I-1 Limited Industrial zoning districts only as accessory uses to a primary industrial use.

d. Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.
3. Services operated for the sole benefit of employees of the principal use.

e. Permitted Accessory Uses: Agricultural Use Types

1. Garden centers and roadside stands, subject to the regulations set forth in Section 11.3102.
2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.
3. Buildings that directly serve and are required for the conduct of crop and animal production, are exempt from requirements for building permits and inspections. Structures that house other uses are subject to the requirements of this ordinance, even if located on property zoned or primarily zoned or used for agricultural purposes.

11.3111 Supplemental Use Regulations: Outdoor Storage outside of the I-1 and I-2 Zoning Districts

Outdoor storage is prohibited in all zoning districts except the I-1 Limited Industrial and I-2 General Industrial zoning district, except as provided in this section.

a. Agricultural Use Types

Outdoor storage is permitted only where incidental to agricultural uses.

b. Residential Uses and Property

Except as otherwise provided by this Ordinance, any goods, equipment, materials, machinery, and parts thereof stored on any residentially zoned property must be stored in completely enclosed buildings or in spaces screened by fencing and/or evergreen shrubbery providing at least an 80% screen and having a height of no less than 6 feet nor more than 8 feet.

c. Civic Use Types

Outdoor storage is permitted only where incidental to Maintenance Facilities, or in completely enclosed buildings or in spaces screened by fencing and/or evergreen shrubbery providing at least an 80% screen and having a height of no less than 6 feet nor more than 8 feet.

d. Commercial Use Types

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service, Auto Rentals and Sales, Construction Sales and Service, Equipment Sales and Service, Stables and Kennels, and Surplus Sales.

2. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, Long-term Vehicle Storage, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Section 11.3306. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.

e. Industrial and Miscellaneous Use Types

1. Outdoor storage is permitted where it is incidental to industrial uses within the AG and I-1 zoning districts. Any such outdoor storage is subject to screening requirements set forth in Article 33.

2. Outdoor storage is permitted where incidental to landfills.

11.3112 Supplemental Use Regulations: Temporary Uses

a. Purpose

These provisions are intended to permit occasional, temporary uses and activities, when consistent with the objectives of the Unified Land Development Ordinance and compatible with surrounding uses. They are further intended to prevent temporary uses from assuming the character of permanent uses.

b. Temporary Use Types

The following temporary uses are permitted, subject to the regulations contained within these sections:

1. Model homes or apartments, if contained within the development to which they pertain.

2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.

3. Public assemblies, displays, and exhibits.

4. Commercial circuses, carnivals, fairs, festivals, or other transient events, provided that events are located on property owned by the sponsoring non-profit organization, or are located within an AG, C-1, C-2, CBD, I-1, or I-2 zoning district. Such uses shall not exceed three weeks in duration.

5. Outdoor art shows and exhibits.

6. Seasonal sales, including Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.

7. Construction site offices, if located on the construction site itself.

8. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.

9. Construction Batch Plants in the I-1 District, provided that:

(a) No plant may be located within 600 feet of a developed residential use, park, or school.

(b) The facility is located no more than one mile from its job site. The Zoning Administrator may extend this distance to two miles, if such extension avoids use of local streets by plant-related vehicles.

(c) Hours of operation do not exceed 12 hours per day.

(d) The duration of the plant's operation does not exceed 180 days.

10. Additional temporary uses that the Zoning Administrator determines to be similar to the previously described uses in this section.

c. Required Conditions of All Temporary Uses

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.

2. The Zoning Administrator may establish other conditions that he/she deems necessary to ensure compatibility with surrounding land uses.

ARTICLE 32

SUPPLEMENTAL DEVELOPMENT REGULATIONS

11.3201 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements. They recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Ordinance and provide for specific areas of exception.

11.3202 Required Street Frontage

Except as permitted below, any lot used in whole or part for residential purposes shall provide a minimum frontage of 20 feet along at least one public street, or shall possess an exclusive, uninterrupted private easement of access or right of way of at least 20 feet wide to a public street. There shall not be more than one single-family housing unit for such frontage or easement. A common easement of access at least 40 feet in width may be provided for two or more single-family units or for one or more duplex, two-family, townhouse, or multiple-family housing units.

11.3203 Lot Size Exceptions

In any district permitting residential use types, a single-family use type may be located on any lot or plot of official record but nonconforming in size as of the effective date of this Ordinance, regardless of its area or width,

11.3204 Setback Adjustments

a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than five feet to the near side of the alley.

b. Encroachments on Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Architectural projections, including roofs that cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project two feet into a required yard.
2. Terraces, patios, uncovered decks, and ornamental features that have no structural element more than three feet above or below the adjacent ground level may project six feet into a required front yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or 15 feet from any street property line.

3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice may project into public right-of-way, unless such property is constructed on a State or Federal Highway. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
6. Swimming pools shall be subject to the same location and setback requirements as accessory buildings.
7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines. The spread of a flag when fully extended shall not extend onto public right-of-way.
8. Garage Setbacks: Any garage that fronts on a public street must be set back at least 20 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

c. Setbacks on Arterial Streets

Notwithstanding any other provision of this ordinance, the City may require a setback for all buildings built or altered, or off-street parking areas developed along a State or Federally designated highway that exceeds those normally required for the zoning district.

Lots of record under five acres in size; lots of record duly platted and approved prior to the effective date of this Ordinance, or where a properly dedicated and accepted frontage road right-of-way exists are exempt from these provisions and are instead subject to the setback requirements of their respective zoning district.

d. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

- (a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean front yard setbacks of the adjacent buildings.

(b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the front yard setback of the adjacent building.

(c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean front yard setback of all existing buildings on the blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

2. Corner Lots

(a) Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

(b) No setback adjustment shall permit encroachment into the vision clearance triangle.

e. Double Frontage Lots

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

f. Satellite Antennas

1. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

2. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:

(a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.

(b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.

(c) Each antenna shall be screened by a six foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

g. Vision Clearance Zones

Except in the CBD District, no structure or obstruction, including fences, walls, or landscape materials, shall be built to a height of between 24 inches and 10 feet above the established curb grade on the part of the lot within as vision clearance zone. The vision clearance zone shall be a triangle defined by:

1. 20 feet back from the intersection of curb lines and right-of-way edges of alleys.
2. 75 feet from the intersection of the centerlines of intersecting local streets.
3. 90 feet from the intersection of the centerlines of intersecting collector or arterial streets.

11.3205 Accessory Buildings and Garages

a. Setbacks and Setback Flexibility

Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:

1. **Side Yards:** An accessory building may be located a minimum of three feet from the side lot line of the property if it is located in an area from six feet behind the rear building line of the principal building to the rear property line and is under 15 feet in height. An additional one foot setback is required for every two feet above 15 feet in height, up to the minimum requirements of the zoning district.
2. **Front Yards:** No accessory building may be located between the front building line of the principal building and the front property line.
3. **Rear Yard:** The minimum rear yard setback for accessory buildings shall be 7.5 feet. The sum of the width of the alley and the rear yard setback shall be at least 20 feet if the accessory building is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as required by the individual zoning district. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.
4. **Street Yards:** No accessory building shall be located within 20 feet from any street right-of-way line.
5. **Garage Setbacks:** Any garage that fronts on a public street must be set back at least 20 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

b. Maximum Size of Residential Accessory Buildings

1. The maximum size of a detached accessory building for a single family detached, single-family attached, or duplex residential uses in the R-1, R-2, R-3, R-4 and RM Districts shall not exceed 900 square feet for lots less than one acre in size and 1200 square for lots exceeding one acre in size. An accessory building may exceed these maximums subject to approval of a Special Use Permit and other requirements of this section.
3. All accessory buildings on a site, taken together, must comply with the building coverage requirements for the zoning district.

c. Height of Accessory Buildings

In residential districts, the maximum height shall be 16 feet for any accessory building. Maximum height for a detached garage and/or other accessory building in an AG or RR District shall be 20 feet.

d. Architectural Requirements for Detached Garages

1. Exterior building materials and architectural designs used for detached garages for single-family detached, single-family attached or duplex residential structures shall be comparable to, or similar to, or architecturally harmonious with, the existing main residential structure.
2. Exterior materials shall be non-reflective and shall be of a color, material, and scale comparable to existing residential structures in the immediate area. Permanent siding shall be, or simulate, wood, wood shingles, brick, masonry, or tile. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run. Roof construction shall be of non-reflective materials which either are or simulate the appearance of asphalt, wood shingles, tile, or rock.

e. Other Requirements for Accessory Buildings: Physical Separation, Effects on Other Properties, Hazards, and Sequencing of Construction

1. Separation from Other Buildings: No accessory building shall be placed within five feet of any other building on its own property.
2. Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district, except as modified in this section.
3. Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory building must be entirely to the rear of the line of any principal building on such adjacent lot.
4. Hazards: Any accessory use that creates a potential fire hazard shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.
5. No accessory building shall be built upon any lot until construction of the principal building has begun.

11.3206 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

1. Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.
2. Any such equipment or vertical projections attached to a building and exceeding the height limit shall be screened to prevent visibility from public right-of-way or adjacent property

using materials or design features that are consistent with the overall design of the main building.

3. No such projection may be built which in the event of failure could constitute a hazard or fall onto either public right-of-way or property, or another private property

b. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

c. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are subject to the regulations of Section 11.3110b.

d. Special Use Permit Approvals

The City Council, following the recommendation of the Planning Commission, may grant an exception from the height limit for a zoning district for a Special Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the Special Use Permit.

11.3207 Exceptions to Site Development Regulations for Innovative Development Design: Conservation Subdivisions, Traditional Neighborhood Developments, or Planned Developments.

a. Purpose

As part of the approval process of innovative development designs, including Conservation Subdivisions, Traditional Neighborhood Developments, or Planned Unit Developments, the city may authorize greater flexibility in setbacks in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to Conservation Subdivisions.

b. Site Area Per Unit

1. Unless otherwise provided, the site area per unit for an innovative development as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.

2. Structures must maintain a 20-foot minimum sideyard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within an innovative development are permitted special minimum lot area and yard setback requirements set forth elsewhere in this Ordinance. An innovative subdivision must be planned and developed as a common development.
2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 20 feet from that public street or private way.

e. Coverage and Landscaping Requirements

Individual lots in an innovative development are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

11.3208 Fence Regulations

a. Location Restriction

1. Unless otherwise provided by this Ordinance or other sections of the Seward Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines.
2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

b. Applicability

The regulations contained in this section apply to all fences with a height above grade of 30 inches and over.

c. Sight Obstruction at Street Intersections

No fence or hedge permitted or required by this Section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance zone.

d. Facing

The finished surfaces of any fence shall face toward adjacent properties and street frontage.

e. Effect on Adjacent Properties and Drainage

Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

f. Fence Construction on Utility Easements

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

g. Residential Fences

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet.
2. Setbacks: All residential fences in front yards shall be a minimum of two feet behind adjacent sidewalks.
3. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

h. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.
3. The Board of Adjustments may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.

4. Barbed wire shall not be used in the construction of any fence outside of the I-2 General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the barbed wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Seward.

11.3209 Appeals

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Section 11.4408.