

Agenda
Yutan City Council
Tuesday, November 18th, 2025
7:00 P.M. – Yutan City Hall
112 Vine St, Yutan NE 68073

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

- 7:00 Meeting to Order
Statement from the Mayor Regarding the Posted Location of Open Meetings Act
Statement from the Mayor Regarding the Meeting Code of Conduct
Roll Call
Pledge of Allegiance
- 1) Consent Agenda**
a. Approve Minutes of October 21st, 2025 Regular Meeting
b. Treasurer's Report
c. Claims
- 2) Open Discussion from the Public**
a. Those wishing to speak on agenda items or other items relating to city business, not on the agenda may speak at this time only. Speakers must sign in with the Clerk or Administrator prior to the commencement of the meeting. Each speaker will be limited to three minutes. No action will be taken on these discussion items at this time.
- 3) Ordinances and Public Hearing**
a. Ordinance 816-Zoning Code Revision (Second Reading)
i. Staff Reporting
ii. Public Hearing
iii. Ordinance 816
b. Ordinance 817-Designating City Council as the Zoning Board of Adjustment
i. Staff Reporting
ii. Public Hearing
iii. Ordinance 817
- 4) Resolutions**
a. Resolution 2025-8 Year-end Certification of City Street Superintendent
i. Appointment of Bob Oliva, City Administrator, as City Street Superintendent
- 5) Other Action Items**

- a. Acceptance of Marky Kay Arps Resignation from the Library Board.
- b. Maguire Iron-Power Washing Water Tower
 - i. Jake Duggar with Maguire Iron

6) Discussion Items

- a. Utility rates for Sewer and Water

7) Supervisor Reports

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

8) Items for Next Meeting Agenda

Meeting Adjourned

NEXT MEETING DATEs

Planning Commission - December 9th, 2025, 7:00 P.M.

City Council Meeting - December 16th, 2025, 7:00 P.M.

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

Yutan City Council
Tuesday, October 21st, 2025
7:00 p.m. Yutan City Hall

EXTRACT FROM MINUTES OF A REGULAR MEETING OF THE MAYOR AND CITY COUNCIL OF THE CITY OF YUTAN, IN THE COUNTY OF SAUNDERS, STATE OF NEBRASKA HELD AT THE CITY OFFICE IN SAID CITY ON THE 21ST DAY OF OCTOBER 2025, AT 7:00 p.m.

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

The meeting was called to order at 7:00 p.m. by Mayor Thompson. Councilmembers Lawton, Schimenti, Mach and Smith were present. Mayor Thompson informed all the individuals present of the location of the Open Meetings Act and Code of Conduct. The meeting was opened with the Pledge of Allegiance and a statement from Mayor Thompson thanking everyone who helped put on Pumpkins in the Park.

1) Consent Agenda

- a. Approve Minutes of the September 29th, 2025, Budget Hearing Minutes
- b. Approve Minutes of the September 29th, 2025, Special Meeting Minutes
- c. Treasurer's Report
- d. **Claims-All Star Plumbing \$4,850.00, ARCS-LLC \$851.12, Blue Cross Blue Shield \$2,585.05, Bomgaars \$798.78, Capital Business Systems, Inc. \$368.04, Cardmember Services \$1,213.73, City of Wahoo \$1,350.00, Column Software PBC \$195.76, Cubby's \$395.11, Culligan of Omaha \$91.25, Colonial Research \$935.24, Costa, Robert \$10.50, DataShield \$61.67, Dibble, Janet \$53.12, DropIns Portables \$486.85, EFTPS-Federal Payroll Taxes \$14,658.89, Engel, Vicki \$270.00, Filament Essentials Services \$2,400.00, Frontier Cooperative \$1,019.24, Guardian \$42.50, Hometown Leasing \$69.74, Humbolt Specialty Mfg \$106.06, JEO Consulting Group \$532.50, Knutson, Anna \$71.09, Konecky Oil Company \$300.79, League Association of Risk Management \$455.70, Lowes \$259.18, Menards \$94.48, Metropolitan Utilities District \$50.00, Nebraska Department of Labor \$100.36, Nebraska Department of Revenue \$6,093.72, Nebraska Department of Revenue-Waste Reduction and Recycling Fee \$25.00, Nebraska Department of Revenue-Charitable Gaming \$2,951.06, Pitney Bowes Purchase Power \$455.88, Power Manager \$560.00, Railroad Managment Company III, LLC \$417.05, Sieh, Joanna \$120.24, Spectra Associates \$374.50, The Lincoln National Life Insurance Company \$392.49, The Radar Shop \$128.00, Thompson Construction Inc. \$4,940.00, Todd Valley Farms, Inc. \$755.00, Tri-Point Tree and Landscaping LLC \$12,000.00, U.S. Cellular \$106.83, Van Ackeren, Laurie \$42.35, Verizon Business \$40.01, Village of Mead \$112.50, Wahoo Newspaper \$197.19, Wilke Plumbing \$345.00, Woster, Luke \$103.06, Total w/o Payroll \$76,289.75, Payroll \$42,588.51, Total w/Payroll \$118,878.26.**

- e. A motion to approve the consent agenda was made by Schimenti and seconded by Lawton. Upon roll call vote was as follows: YEAH: Lawton, Schimenti, Mach, Smith. NO: None, Motion Carried.

2) **Open Discussion from the Public**

- a. Lindsay Nelson asked the city council how to go about putting the sales tax back on the pallet for the next primary election. He also asked what the process is for getting someone to clean up their yard.

3) **Ordinances and Public Hearings**

- a. Ordinance 815-Setting of the Employee Salaries for the 2025-2026 Fiscal year.
 - i. Staff Reporting-Administrator Oliva stated that he performed the employee evaluations for the year. Every employee received a 2.7% cost of living raise and the rest of the 5% was given on a scale depending on the evaluations that were reviewed by the Mayor and Council. The amount stated within the presented Ordinance is what was given for raises this year.
 - ii. Public Hearing-A public hearing was opened at 7:06 pm. There was no public comment on the employee salaries. The public hearing was closed at 7:07 pm.
 - iii. Ordinance 815-A motion to approve Ordinance 815- Setting of the Employee Salaries for the 2025-2026 Fiscal Year and to waive the three readings was made by Lawton and seconded by Schimenti. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. NO: None, Motion Carried.
- b. Ordinance 816-Zoning Code Revision
 - i. Staff Reporting-Community Planner Costa introduced a comprehensive zoning code revision, addressing numerous longstanding issues identified over the past two years with input from the planning commission and community stakeholders. The document is a working draft open to public and council feedback, with further revisions expected in November and December.
 - ii. Key Points include:
 - 1. Proposed expansion of the Extraterritorial Jurisdiction (ETJ) boundary, with affected landowners notified but no comments received. Additional outreach may be necessary.
 - 2. The planning commission forwarded a parking schedule alternatives and animal unit definitions for council consideration, though alternatives are not official recommendations.
 - 3. Animal unity definitions align with national standards on pollution from livestock, though enforcement by Nebraska is uncertain.
 - 4. Highlighted portions within the draft code indicate unresolved issues requiring council decisions, including definitions and other key topics.
 - iii. Public Hearing-Mayor Thompson opened the public hearing at 7:30 pm.
 - 1. **Home Occupations and Accessory Dwelling Units (ADUs)**
 - a. A lengthy discussion occurred regarding home occupations, focusing on:
 - i. Percentage of the primary or detached structure that can be used for home-based businesses (proposed 15%-50%, open for adjustment).

- ii. Differentiating small-scale businesses (e.g., Etsy sellers) from more intense uses (e.g., mechanics with multiple lawnmowers or noisy operations).
- iii. The importance of minimizing neighborhood impacts such as noise, traffic, and visual clutter.
- iv. The suggestion to require proof of business licensing (LLC or state incorporation) for home occupations to differentiate casual hobbyists from commercial operations.
- v. Whether home occupations should be allowed in detached structures at higher percentages or capacities than in the primary residence.
- vi. The challenge of regulating activities like automotive repair or battery rebuilding in residential zones.
- vii. The role of conditional use permits for accessory dwelling units (ADUs), which require public hearings and neighbor input. ADUs must be foundation-built and meet defined standards, excluding mobile homes or RV's unless converted properly.
- viii. The possibility of future changes in use (e.g., a tiny home approved as ADU later becoming a home occupation) would trigger required re-approval via conditional use review to prevent unintended business impacts in residential neighborhoods.

2. Setbacks, Screening, and Wireless Communications

- a. Setback requirements for buildings adjacent to public right-of-ways and private property lines were reviewed:
 - i. Existing standards call for 50 feet setbacks from public roads and 20 feet from adjacent properties.
 - ii. Some council members suggested reducing the property line setbacks to 5-10 feet depending on context to ease development constraints.
 - iii. Landscaping and screening requirements remain in place, with fencing and screening walls mandatory for certain commercial uses.
 - iv. Wireless communications regulations were discussed:
 - 1. The current \$50,000 performance bond for new cell towers was considered potentially low; council members were opposed to “fake tree” towers.
 - 2. Tower height is capped at 200 feet, with cell towers requiring conditional use approval to avoid proliferation.
 - 3. Abandonment provisions for unused towers require legal reviews to ensure enforceability and safety.

3. Dog Kennels and Commercial Setbacks

- a. Regulations for private dog kennels and commercial breeding facilities were reviewed:

- i. Facilities must be located at least 300 feet from residential zones and on a minimum 5-acre site.
 - ii. Council proposed increasing the setback to 1,000 feet to avoid conflicts in denser residential areas, particularly near the transitional zoning area (TA).
 - b. Commercial Building Setbacks:
 - i. A 5-foot rear setback from alleys were proposed to facilitate deliveries and reduce on street parking for trucks.
 - ii. No rear setback would be required where no alley exists, allowing buildings to be constructed on the property line.
 - iii. Dumpster placement in alleys remains regulated to keep travel ways clear.
- iv. Mayor Thompson closed the public hearing at 8:12 p.m.
- v. Ordinance 816-A motion to approve the first reading of Ordinance 816-Zoning Code Revision was made by Smith and seconded by Mach. Upon roll call vote was as follows: YEAH: Mach, Smith, Lawton, Schimenti. NO:None, Motion Carried.

4) Action Items

- a. Approval of the funds for the new concessions stands at Hayes Ballfields
 - i. Administrator Oliva went over the funding for the new concession stand at Hayes Ballfield. With \$250,000 budgeted, \$150,000 from Keno funds, and \$100,000 from reserve funds. Materials will be purchased by the city and labor costs paid separately to accommodate volunteer and city crew labor.
 - ii. A motion to approve funds for the new Hayes Ballfield Concessions stand was made by Schimenti and seconded by Mach. Upon roll call vote was as follows: YEAH: Smith, Lawton, Schimenti, Mach. NO: None, Motion Carried.
- b. Acceptance of the audit agreement
 - i. A motion to accept the Audit agreement with Ortmeier and Associates was made by Mach and Seconded by Lawton. Upon roll call vote was as follows: YEAH: Lawton, Schimenti, Mach, Smith. NO: None, Motion Carried.

5) Discussion Items

- a. Maguire Iron: Power Washing Water Tower-Jake Duggar
 - i. Administrator Oliva went over the specifics on painting and maintaining the city's water tower and revealed a proposal from Macquarie Iron for a maintenance contract. The last paint job was in 2014; repainting is needed every 10-15 years. The contract would finance the initial repaint (\$200,000 estimated) over multiple years with annual payments around \$20,000 after a catch-up period. Maguire would handle all maintenance, inspections, and repairs, providing continuity despite city staff or council changes. Risks include possible future opting out, potentially leaving unpaid balances. The contract term would likely be 7-10 years. Council requested further review but recognized the benefits of planned maintenance and budgeting predictability.

b. Blight Study

- i. Administrator Oliva went over the new map of the blight study that was conducted by Jeff Ray. Council discussed the residential plots west of Fifth Street, which are currently platted but zoned transitional ag (TA). Discussion was held over the potential use for TIF funds for street improvements in these areas, allowing redevelopment and infrastructure funding. The council reviewed vacant lots north of Rose Avenue and railroad tracks, noting some landlocked parcels with limited development potential. The council expressed desire to focus redevelopment efforts on blighted or underutilized areas rather than well-maintained neighborhoods.

c. Park Bench Placement

- i. Plans to install approximately 10 new park benches along walking trails, especially between the basketball and volleyball courts and near the playground, were discussed. Suggestions included consolidating benches near playground areas and creating double-sided benches to maximize seating without crowding. Installation is planned for November, with flags or markings to indicate proposed locations.

6) Supervisor Reports

- a. Library Director
- b. Water & Park
- c. Sewer & Street
- d. Police Chief
- e. Community Planner
- f. City Administrator-Kinetic is proposing a citywide fiber optic installation, involving multiple plan submissions and infrastructure entanglement with existing utility lines. Current city permitting processes for right-of-way utility work are informal, requiring development. Administrator Oliva voiced concerns about lack of prior council consultation and uncertainty about costs and fees. Council members emphasized the need for transparency, adequate fees to cover city review costs, and public communication about construction impacts.

Meeting Adjourned-A motion to adjourn at 8:52 pm was made by Lawton and seconded by Mach. Upon roll call vote was as follows: YEAH: Schimenti, Mach, Smith, Lawton. No: None, Motion Carried.

NEXT MEETING DATES

Planning Commission - November 11th, 2025, 7:00 P.M.

City Council Meeting - November 18th, 2025, 7:00 P.M.

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speakers shall address the mayor and city council only. Anyone attending the meeting who may require auxiliary aid or service should contact the city clerk in advance.

Matt Thompson, Mayor

Brandy Bolter, City Clerk/Treasurer

Banking

Account #	Account Name	Balance
3377	General Checking	\$ 138,552.20
7727	General Money Market	\$ -
7948	Water Bill	\$ 103,557.65
7970	Sewer Account	\$ -
Total Operating Funds(Liquid)		\$ 242,109.85
6578	Bond Fund	\$ 58,330.34
7725	Reserve Account	\$ 5,401.27
7959	Keno Checking	\$ 164,586.30
Total Reserve Funds (Liquid)		\$ 228,317.91
3101	City of Yutan CD	\$ 206,904.25
*3103	City of Yutan CD	\$ 382,244.80
**5415	City of Yutan CD	\$ 108,736.46
Total of CD Accounts		\$ 697,885.51
Total Liquid Funds		\$ 470,427.76
Total of all Funds		\$ 1,168,313.27

5469	Community Redevelopment	\$466,786.50
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Total Funds In all Accounts	\$ 1,635,099.77
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NOTE

* Used as colateral on 1st & Poplar Loan

** Used as colateral on Cedar Drive Loan

Date	11/13/25
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Bonds & Loans					
Account #	Account Name	Origin Date	Balance	Yearly Obligation	Paid From
8179	Cedar Drive Asph. Overlay	7/15/2020	\$ -	\$ -	3377 Gen
8435	Cruiser Purchase & BLDG	3/20/2023	\$ -	\$ -	3377 Gen
8407	2023 GMC Sierra & Access	10/31/2022	\$ -	\$ -	3377 Gen
8053	Skid Loader & UTV	5/1/2019	\$ -	\$ -	3377 Gen
2012	G.O. Bonds	3/27/2012	\$ 51,007.50	\$ 49,770.00	6578 Bond
2014	2014 Water Bonds	3/18/2014	\$ -	\$ -	6578 Bond
8325	Street Improvements	12/21/2021	\$ 581,164.55	\$ 106,405.48	CRA
7609	Splash Pad TIF	7/20/2016	\$ 143,647.08	\$ 12,022.00	CRA
7345	Thompson	5/26/2015	\$ 46,618.81	\$ 9,237.60	CRA
C318035	CWSRF	12/21/2021	\$ 858,402.48	\$ 53,139.75	7948 Water
D311662	DW311662	7/9/2023	\$ 655,382.21	\$ 22,995.86	7948 Water
	Sudbeck 1 TIF (Frontier 5897)	2015	\$ 567,989.40	\$ 73,464.84	CRA
	Sudbeck 2 TIF (Frontier 5898)	2017	\$ 495,105.70	\$ 64,283.56	CRA
	Sudbeck 3 TIF (Frontier 5899)	2020	\$ 415,316.22	\$ 54,054.36	CRA
	Mason Creek Apts. II	2024	\$ 182,000.00	\$ 18,570.00	CRA
8579	1st & Poplar Street 2019	2024	\$ 524,649.86	\$ 100,021.46	Gen/CRA

50/50 split

	Balance	Yearly Obligation
Bond Obligation	\$ 51,007.50	\$ 49,770.00
Gen Fund Obligation	\$ 262,324.93	\$ 50,010.73
CRA Obligation	\$ 2,656,785.48	\$ 388,048.57
Water/Sewer Funds	\$ 1,513,784.69	\$ 76,135.61
Total Obligation	\$ 4,483,902.60	\$ 563,964.91

Vendor	Amount	Discription	Account	
AKRS Equipment	\$500.56	Parts for the Sickie Bar	20650	
ARCS	\$1,171.12	Google workspace and new monitor for police	10310, 11260	
Astro Buildings	\$33,072.00	Pavillion Rebuild	14920	
Benefit Plans Inc.	\$176.25	Annual Plan Administration on employee 401k	10240	
Berney, Shaulee	\$150.00	Utility Deposit Return	88760, 98760	
Blue Cross Blue Shield	\$2,585.05	Health insurance for employees	2100H, 2100D	
Capital Business Systems	\$184.02	Office Phones	11080, 10080, 90080, 10680	
Cardmember Services	\$3,895.69	Credit card	Multiple	
City of Wahoo	\$450.00	Mosquito Spraying	14350	
Column Software PBC	\$120.03	Local Publishing	10330	
Cubby's	\$416.62	Monthly Gas Expense	11240, 20240, 80240, 90240	
Culligan	\$197.75	Water and coolers	10260, 80260, 90260, 20260, 13260	
DataShield	\$61.67	Document Shredding	10260	
DR Containers	\$2,450.00	Storage Container for Hayes	10830	Keno
Drews Farms	\$1,144.00	Harvesting of Soy Bean	90780	
Drop Ins Portables	\$486.85	Toilet Rentals	14260	
Eakes	\$716.51	Office Supplies and Doc. Mgt.	10260, 10310	
EFTPS-Federal Payroll Taxes	\$15,021.09	941 Employers Federal Tax	Multiple	
Engel, Vicki	\$270.00	Office Cleaning	10260	
Frontier Cooperative	\$140.96	Mid Month Service Fee and Fuel	20240, 80240, 90240	
Garage Door Services, Inc.	\$150.00	Repair on shed door at Itan	14340	
Grainger	\$118.16	No Parking Signs	20660	
Guardian	\$42.50	Life and Disability insurance	10240	
Holiday Inn Express & Suites	\$485.92	Hotel stay for Luke Woster During Water Conference	80280	
Hometown Leasing	\$69.74	Copier Lease	10680	
Konecky Oil Company	\$799.54	Water pump for Dodge Charger	10670	
LARM	\$3,753.00	Insurance Changes on Dodge Charger & workers Comp. Audit	Multiple	
Lowes	\$302.16	Street and Park Supplies	20260, 80260	
Menards	\$144.18	Park Supplies and water supplies	14260, 80260	
Metropolitan Utilities District	\$57.22	Shop gas utilities	20820	
Midwest Labratories	\$234.17	Lagoon Testing	90790	
NE Dept. of Revenue	\$933.73	Local Sales and Use Tax Form 10	80810	
Nebraska Public Health Environmental Lab	\$30.00	Water Testing	80640	
One Call Concepts, Inc.	\$6.56	Locate Fee	80270	
OPPD	\$4,825.89	Electrical Bill	Multiple	
Osborne, Airelle	\$150.00	Utility Deposit Return	88760, 98760	
Pitney Bowes	\$484.80	Lease for postal equipment	10680	
Pitney Bowes Purchase Power	\$455.79	Postage	10260, 80260, 90260	
Road Runner Transportation LLC	\$442.00	Monthly Garbage and an extra pickup for Yutan Days	20810	
Scholz Small Engine	\$375.96	Oil Change for the Public works UTV	20650, 14350, 80690, 90690	
T Rowe Price	\$587.50	Savings Plan	10240	
The Diamonds Groundskeeper	\$8,476.00	Ballfield Conditioner, Mound Clay, Chalk, Rapid Dry	14420	
The Lincoln National Life Insurance Company	\$392.49	Life and Disability insurance	10240	
US Cellular	\$106.83	Police Cellphone and Tablet	10080, 10090, 11080	
Van Ackeren, Laurie	\$36.36	Per Diem Reimbursment for Conference	13280	
Verizon Business	\$40.01	Police Hotspot	11080	
Village of Mead	\$169.61	Half of Hotel Stay for Library Director	13280	
Wahoo Newspaper	\$93.60	Library Newspaper Subscription	13100	
Wahoo-Waverly-Ashland Newspapers	\$227.34	Publishing of Budget Hearing	10330	
Zone Coverage	\$720.00	Winterizing of sprinklers on ballfields	14340	
			Bond Payment	
Total w/o Payroll	\$87,420.67		Various Purpose Bond-G.O. Bond	\$45,000.00
Payroll	\$29,824.32			
Total w/ Payroll	\$117,244.99			

FROM: Robert Costa, Community Planner
TO: City Council & Mayor of Yutan, Nebraska
DATE: November 13, 2025
SUBJECT: Ordinance #816: Zoning Code Revision (*SECOND READING*)

INTRODUCTION

A proposed revision of the City's zoning regulations has been drafted for consideration by the public, the Planning Commission, and the City Council. The product of numerous discussions between staff, stakeholders, the City Mayor, Planning Commissioners, and City Council, the proposed revision – titled “Yutan’s Community Zoning Code” – is hereby submitted for public review and consideration at the City Council’s *second reading* of Ordinance #816.

ATTACHMENTS

1. Yutan Community’s Zoning Code (11/13/2025 draft) - SENT BY SEPARATE E-MAIL
2. Official Zoning Map
3. Written Public Comment (*none received*)

STAFF DISCUSSION

- ETJ Boundary: A second letter was submitted to landowners being brought into the proposed ETJ expansion. *Subsequent comment was not submitted.*
- Zoning Map Changes: After the second reading, staff will be reaching out to JEO to create mapping data for the new ETJ boundary and zoning districts. If any changes need to be made to the proposed map, please mention this at or before the second reading.
- Floodplain Management Provisions: The floodplain management requirements remain proposed to be a separate document, however, the Council has options as to how they are addressed.
- Second Reading Changes: Based on discussion during the ordinance’s first reading, changes were made to the home occupation standards, parking space requirements, self-storage screening, dog kennels in Transitional Ag, and the rear setbacks for business districts.
- Suggested Definition Changes: The definitions still need to be modified based off edits suggested individually; staff’s intention is to have those completed and sent with the third draft for final reading as soon as possible after the Council’s November meeting.
- Highlighted Portions: The following items remain highlighted in the code and require discussion/resolution (*staff may have suggestions after the date of this report*):
 - Prohibit repairs of non-conforming structures/uses more than 60%? (pg 2)
 - Abandoned conditional use timeframe (pg 6)
 - Exemption of projections (pg 13)
 - Wireless Communication: **\$100k bond** and abandonment (pgs 25-26)
 - Screening of auto-body repair shops (pg 26)
 - Noise-producing tools excluded in I-LTE & I-HVY (pg 38)

- Exhaust fumes meet state/federal requirements (pg 39)
- Specifically prohibit ethanol and poison manufacture (pg 39)

NOTICE PROCEDURE

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

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

APPLICABLE LAW & PROCEDURE

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

**DRAFT ORDINANCE
YUTAN COMMUNITY’S ZONING CODE
FIRST READING – OCTOBER 21, 2025**

ORDINANCE #816

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

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

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

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

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

WHEREAS, the City Council of Yutan, Nebraska, held a public hearing on October 21, November 18, & December 16, 2025, to consider the Planning Commission’s recommendation and all public comment, and then review the request according to the purpose and requirements for zoning pursuant to Section 19-903 of the Nebraska Revised Statutes and hereby makes the following findings:

1. The requested amendment reasonably considers the character of the district and its suitability for particular uses.

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

2. The requested amendment conserves the value of buildings and encourages the most appropriate use of land.

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

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

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

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

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

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

[SEE ATTACHED TEXT AND MAP]

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

For the purpose of setting minimum standards to promote the public's health, safety, morals, convenience, order, prosperity, and general welfare of the community, and to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, the Yutan Community's Zoning Code and Official Zoning Map was adopted by Ordinance #816 on December XX, 2025. One copy of the adopted zoning code shall be kept on file and available for inspection at the City Offices.

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

PASSED AND APPROVED THIS _____ DAY OF _____, 2025.

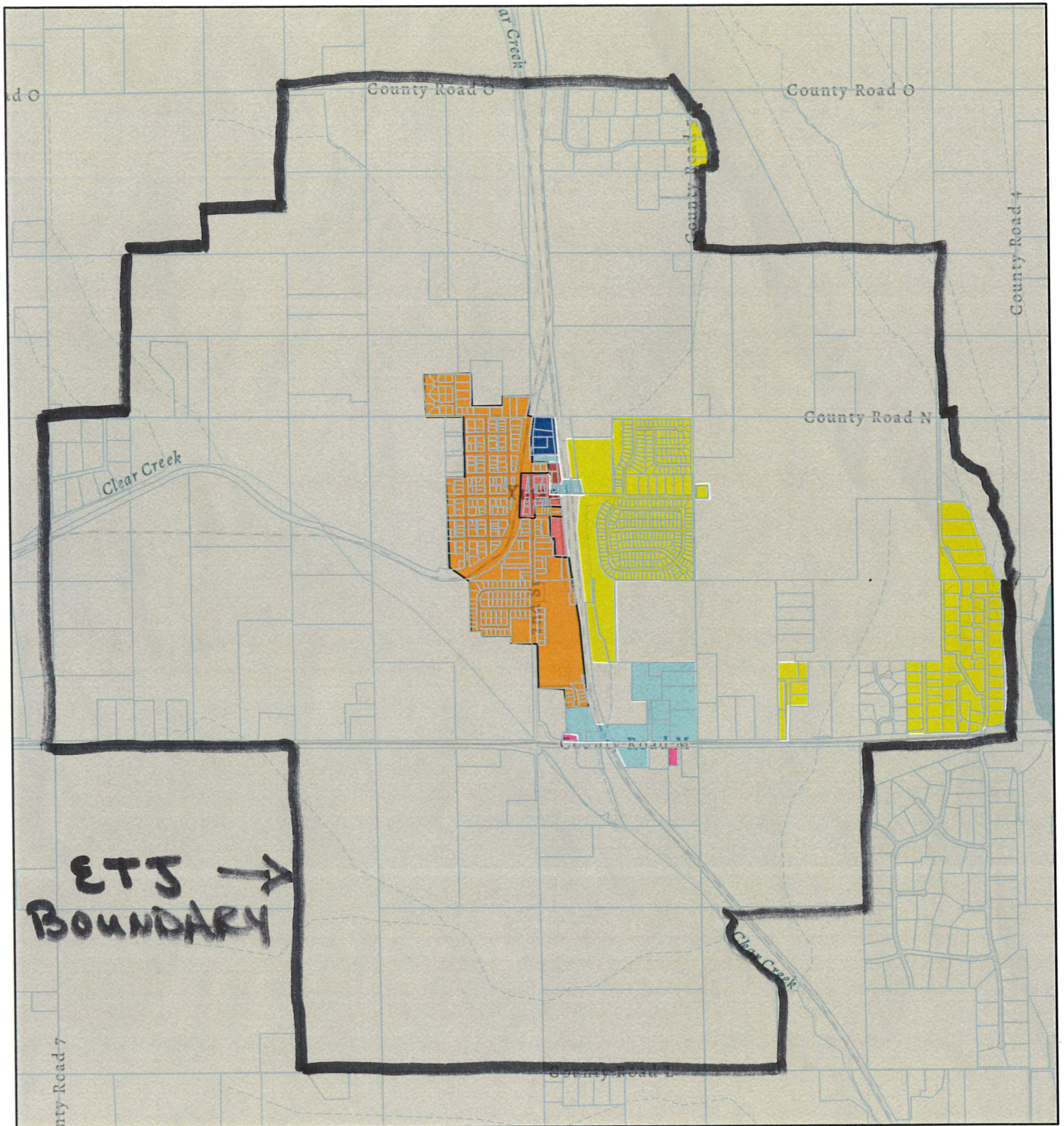
CITY OF YUTAN, NEBRASKA

(seal)

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

OFFICIAL ZONING MAP (PROPOSED)

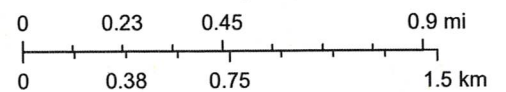


11/13/2025

 TaxParcels2024 - Statewide Parcels 2024

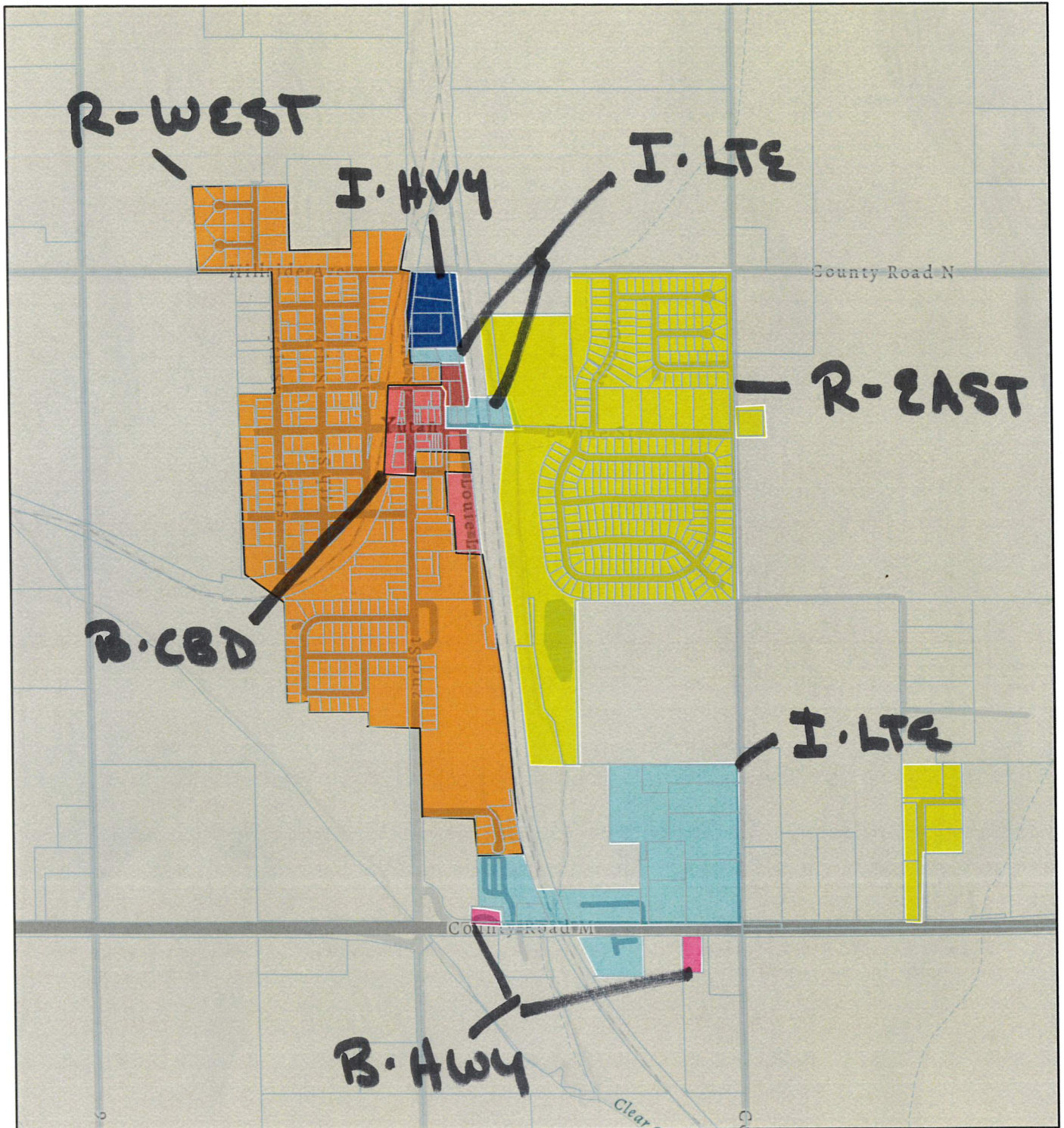
World_Hillshade

1:36,183



Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

OFFICIAL ZONING MAP (PROPOSED) - CITY CLOSEUP

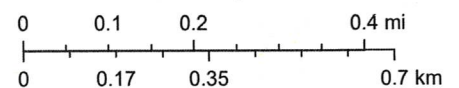


11/13/2025

TaxParcels2024 - Statewide Parcels 2024

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Esri, NASA, NGA, USGS, FEMA, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

1. AUTHORITY, SCOPE, & ADMINISTRATIVE PROCEDURE

a. Authority & Applicability

i. Title

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

ii. Adoption

Originally adopted **Month Day, Year**, under Ordinance #816.

iii. Official Zoning Map, ~~Adopted by Reference~~

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

iv. Amendments

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

- AMENDMENTS: None

v. Authority

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

vi. Jurisdiction

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

vii. Purpose

The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection, and general welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within this jurisdiction.

viii. Scope

The provisions of this code shall apply to the construction, addition, alteration, moving, repair, and use of any building, structure, land/property, wireless communication facility, and sign within this jurisdiction, except municipal buildings and/or uses, public works, and public utility infrastructure located primarily in a public way and/or public land, including stations, towers, poles,

and water/sewer facilities, unless specifically mentioned in this code. Specific permitting requirements are discussed in Section XXX.

ix. **Invalidity Provision**

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

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

i. **General**

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

ii. **Lawfully-established Buildings**

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

iii. **Non-Conforming Uses**

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

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

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

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

Less than 60% damage provision?

v. **Maintenance**

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

vi. **Moved Buildings/Structures**

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

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

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

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

viii. **Illegal uses**

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

ix. **Violations**

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

x. **Penalties**

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

xi. **Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this code, the City may institute any appropriate action or proceedings to: prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; restrain, correct, or abate such violation; prevent the occupancy of such building, structure, or land; and/or prevent any illegal act, conduct, business, or use in or about such premises.

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

i. **General**

City officials charged with authority to review permit applications and/or issue approvals under this code shall issue no approval for uses or purposes in conflict

with this code. Any permit or approval, if issued in conflict with this code, may be rendered null and void.

ii. **Burden of Proof**

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

iii. **Permitting Requirements**

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

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

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

iv. **Conditions & Terms**

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

v. **Timeframe & Expiration**

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

vi. **Cancellations**

Failure to fully comply with the conditions and terms of any permit and/or approval may be grounds for cancellation or revocation. Action to cancel any license, permit, or approval shall be taken on proper grounds by the Zoning

Administrator. Cancellation of a permit and/or approval issued under the authority of this code may be appealed to the Board of Adjustment pursuant to the procedure of **Section X**.

d. Conditional Uses

i. General

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

ii. Application Submittal

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

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

iii. Review Criteria

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

1. The proposal constitutes a qualified conditional use established within this code, as cited by chapter and section.
2. The request shall not adversely affect adjacent properties due to the production of glare, noise, malodorous gas, ash, dust, and/or other nuisances.
3. The request is compatible with the existing or allowable uses of adjacent properties.

4. The request can demonstrate that adequate public facilities (including roads, drainage, potable water, sanitary sewer, and police/fire protection) exist or will exist to serve the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provision for operation and maintenance of the use and associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.
7. The request will not create undue traffic congestion.
8. The request will not adversely affect the public's health, safety, or general welfare.
9. The request conforms with all applicable provisions of the comprehensive plan and this code.

iv. **Public Hearing Procedure & Appeals**

Conditional use review shall occur as follows:

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

v. **Expiration & Revocation**

A conditional use shall be considered to be exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When the permit, construction, and/or use is abandoned or discontinued for a period of one year [**or six months?**], the approval shall be considered expired and shall not be re-established without additional review and recommendation from the Planning Commission and approval from the City Council pursuant to **Section X** of this code.

In cases where the applicant fails to comply with the required conditions of any approved conditional use, the Zoning Administrator – in consultation with the City Mayor – is authorized to issue a temporary injunction on all activity associated with the conditional use. After conducting public hearing procedures

pursuant to Section X (conditional use public hearing procedure), the City Council shall either revoke the conditional use approval or reverse the temporary injunction and re-instate conditional use approval.

vi. **Amendments to Approved Conditional Uses**

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

e. **Planning Commission**

i. **Planning Commission Established**

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

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

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

iii. **Conditional Use Permits**

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

iv. **Official Zoning Map**

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

f. **Zoning Administrator**

i. **General**

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

ii. **Deputies**

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

iii. **Reviews and Approvals**

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

iv. **Code Development**

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

v. **Fees**

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

vi. **Administration & Permit Review**

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

- **Review of Building Permit Applications**

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

- **Conditional Use Permits & Variances**

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

- **Amendments**

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

vii. **Interpretations**

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

Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern.

Uses are permitted within the various zones as described in this code and as otherwise provided herein. The City of Yutan recognizes that all possible uses and variations of uses that might arise cannot be reasonably listed or categorized. Mixed uses and/or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zoning districts. If the proposed use resembles identified uses in terms of intensity and character and is consistent with the purpose of this code and the individual zone’s classification, the Zoning Administrator is authorized to

consider such use as a permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within a zone, it shall be considered prohibited or non-permitted and could be considered through review and approval of a request for text amendment request to this code pursuant to **Section x**. An appeal from a decision made under this section can be reviewed by the Board of Adjustment pursuant to **Section X**. ~~[ADD THIS REFERENCE TO EACH DISTRICT?]~~

viii. **Liability**

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

ix. **Legal Defense**

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

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

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

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

g. **Board of Adjustment**

i. **General**

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

ii. **Decisions**

The board shall be permitted to make decisions based on the facts and circumstances of each individual case according to the framework criteria enumerated by state law and this code. The actions of the board shall have no authority to alter this code or the official zoning map, nor allow any use inconsistent with the requirements of this code, provided, however, that in

interpreting and applying the provisions of this code, the requirements shall be deemed to be the spirit and intent of the code and do not constitute the granting of a special privilege.

iii. **Duties and powers**

After following the public hearing procedure of **Section X**, the board shall have the power to hear and decide the following matters:

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

iv. **Variance Review Criteria**

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

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

v. **Appeals**

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

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

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

h. Notice Requirements

i. Notice of Hearings

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

ii. Notice of Decision

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

2. GENERAL PROVISIONS

a. Lot of Record

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

b. Legal & Physical Access Required

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

c. Non-conforming Modifications Prohibited

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

d. Division

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

e. Floodplain Development

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

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

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

g. **Availability of Essential Services**

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

h. **Bulk Requirements**

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

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

- The Zoning Administrator may permit a variation in street-based setbacks to allow an exception when more than 30% of the frontage on one side of a street between intersecting streets is occupied by structures and/or a minority of those structures have observed or conform to an average setback line.
- On lots less than 60 feet in width, the setback from adjacent property may be reduced to six feet.
- In any residential district, the required rear yard setback shall be reduced to 20% of the lot's depth when the setback is greater than 20% of the lot's depth, however, no structure shall be located closer than six feet.
- On lots with street double-frontage, the required front yard setback shall be provided on each street.
- A group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

- Any side or rear yard setback in an industrial or commercial district which is adjacent to any existing residential use or district shall be no less than 25 feet and shall contain landscaping, planting, or fencing suitable to provide effective screening. The owner or owners of the commercial or industrial property are responsible for maintaining said screening in good condition.
- **Projections:**
 - Eaves, cornices, windows, and other similar architectural features shall be permitted to project from the exterior wall into a required setback not more than eighteen (18) inches.
 - Chimneys and stove pipes proposed on structures existing prior to January 1, 2026 shall be permitted to project no more than two (2) feet, provided that the width of any setback from adjacent property is not reduced to 30 inches or less. Structures built on or after January 1, 2026, will be required to contain the chimney/pipe in compliance with all applicable setbacks.
- Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than six (6) feet toward a street/road right-of-way from a structure's outer wall, regardless of the construction's location within any yard, provided that such construction does not extend above the ground level and is not more than six (6) feet above grade at any point.

ii. **Maximum Building Height:** For the purposes of determining the allowable building heights, the definition for "building height" provided in Section X will apply.

iii. **Height Requirements & Exceptions:** The height limitations of this code shall not apply to the following, provided that the applicable yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the applicable zoning district:

- Church steeples, public monuments, chimneys, ornamental towers and spires, church spires, silos, cooling towers, smoke stacks, elevator bulkheads, necessary mechanical equipment, fire towers, water towers and standpipes, and air-pollution prevention devices.
- When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding sixty feet, provided, each required yard line shall be increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

i. **Accessory Structures & Uses**

- i. Detached accessory structures in residential zones shall maintain a 10-foot setback from all structures on adjacent lots, however, the 10-foot setback shall not apply to other structures located on the same/subject lot.
- ii. No accessory structure shall be used as a dwelling without appropriate review and approval from the City and a certificate of occupancy issued for such use.

iii. Within municipal boundaries:

- No accessory structure shall be constructed upon a lot for more than six months prior to beginning construction of the principal building.
- No accessory structure shall be used for more than six months prior to beginning construction of the principal building.
- No accessory structure shall be used for more than six months unless the main building on the lot is also being used or unless the main building is under construction.

j. **Occupancy of Basements and Cellars**

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

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

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

l. **Stormwater Runoff**

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

m. **Outdoor Lighting**

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

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

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

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

o. **Landscaping**

i. *General Requirements:*

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

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

ii. *Residential Landscaping:*

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

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

iii. *Non-residential Landscaping:*

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

Non-residential landscaping shall consist of the following:

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

iv. *Maintenance*

Proper maintenance and upkeep of all landscaping required and/or encouraged by this code shall be the responsibility of the developer and/or landowner. All

vegetation, including grass/sodded areas shall be maintained on a regular basis pursuant to the requirements of Municipal Code.

3. SIGNS

a. General Requirements

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

4. HOME OCCUPATIONS

a. General Requirements

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

b. Conditions of Approval

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

i. The applicant shall submit proof of business (or LLC) registration with the State of Nebraska and/or all professional licensing required for the proposed use.

ii. All noise, vibration, smoke, odor, heat, glare, or other nuisance that occurs in association with the home occupation shall be completely mitigated and prevented from occurring beyond the site. Observable occurrences of any nuisance may be grounds for revoking approval of the home occupation.

iii. One unlit nameplate attached flat against the building's exterior wall shall be allowed to indicate the home occupation's location. The nameplate shall follow these limitations:

- Within city limits:
 - When located on a local or collector street, not more than two square feet in area.
 - When located on an arterial street, not more than four square feet in area.
- Outside municipal boundaries, not more than four square feet in area.

iv. Within city limits, additional signage or advertising in any form shall not be permitted on or adjacent to the home occupation site, including in windows, on yards/grass, etc.

v. The home occupation shall not exceed ~~15% (or 50% per current code)~~ of the primary structure's floor area or 100% of a detached accessory structure's floor area.

vi. No more than one employee, other than the resident(s), shall work from the subject home occupation site. For the purposes of this provision, the residents' family by blood, marriage, or adoption shall be considered in association with the resident and not an additional employee.

- ~~vi~~.vii. Inventory and supplies shall not occupy more than 50% of the area proposed for use as a home occupation.
- ~~vii~~.viii. No exterior storage display nor storage of goods shall occur on the premises.
- ~~viii~~.ix. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
- ~~ix~~.x. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the off-street parking requirements of this code.
- ~~x~~.xi. Family child care home requirements will be required to meet all applicable local and state law.

5. FENCES

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

6. ACCESSORY DWELLING UNITS

a. **Conditions for Approval**

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

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

- The setbacks for accessory structures shall apply to all ADUs.
- viii. The ADU shall be provided with adequate provisions for electricity, water supply, and sewage disposal.

7. OFF-STREET PARKING

a. General Requirements

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

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

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

b. Parking Surface

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

c. Fractional Spaces

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

d. Combined Uses

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

e. Alternative Parking Locations

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

f. **Handicap Accessibility Requirements**

Accessible parking spaces and passenger loading zones shall be provided in accordance with the applicable building code, ICC A117.1, and/or ADA requirements.

g. **Parking Requirements Along Vine Street and Second (2nd) Street**

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

h. **Parking Space Requirements**

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

- i. **Agricultural Sales/Service:** One space per 500 sq.ft. of gross floor area.
- ii. **Assisted Living Facility:** One space per dwelling unit plus one space per employee on the largest shift.
- iii. **Automotive Rental & Sales:** One space per 500 sq.ft. of gross floor area.
- iv. **Automotive Service:** Three spaces per repair stall.
- v. **Bar/Tavern/Nightclub:** Parking equal to 30% of licensed capacity.
- vi. **Boarding House or Bed & Breakfasts Establishment:** One space per rental unit.
- vii. **Bowling Alley:** Four spaces per lane. ~~2-OR-GO-WITH-FACILITY-CAPACITY?~~
- viii. **Campground:** One space per camping unit.
- ix. **Church or Place of Worship:** One space per four seats in main worship area.
- x. **Civic, Social, & Fraternal Organizations:** One space per 500 sq.ft. of gross floor area.
- xi. **College/University:** Eight spaces per classroom plus one space per employee.
- xii. **Commercial Recreation:** One space per four persons of licensed capacity.
- xiii. **Communication Services:** One space per 500 sq.ft. of gross floor area.
- xiv. **Construction Sales & Service:** One space per 500 sq.ft. of gross floor area.
- xv. **Convalescent & Nursing Home:** One space per three beds plus one per employee on the largest shift.
- xvi. **Day Care:** One space per employee plus one space or loading stall per each ten persons of licensed capacity.
- xvii. **Duplex:** Two spaces per dwelling unit.

- xviii. **Equipment Rental & Sales:** Same as Construction Sales & Service
- xix. **Food Sales (occupying 10,000 square feet or more):** One space per 200 sq.ft. of gross floor area.
- xx. **Food Sales (occupying less than 10,00 square feet):** One space per 300 sq.ft. of gross floor area.
- xxi. **Funeral Home/Chapel:** Eight spaces per reposing room.
- xxii. **General Retail Sales:** One space per 200 sq.ft. of licensed capacity.
- xxiii. **Group Home and/or Care Facility:** One space per four persons of licensed capacity.
- xxiv. **Guidance Services:** One space per 300 sq.ft. of gross floor area.
- xxv. **Hospitals:** One space per two licensed beds.
- xxvi. **Hotel/Motel:** One space per rental unit plus one space per employee during largest shift.
- xxvii. **Industrial Use:** 75% of the maximum number of employees during largest shift.
- xxviii. **Laundry Services:** One space per 200 sq.ft. of gross floor area.
- xxix. **Library:** One space per 500 sq.ft. of gross floor area.
- xxx. **Medical Clinic:** Five spaces per staff doctor, dentist, or chiropractor.
- xxxi. **Multi-Family Apartments:** One space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located.
- xxxii. **Offices & Office Building:** One space per 200 square feet of usable floor area
- xxxiii. **Residential, single-family/duplex/triplex:** Two spaces per dwelling unit.
- xxxiv. **Residential, accessory dwelling unit (ADU):** One space per bedroom.
- xxxv. **Restaurants:** Parking equal to 30% of licensed capacity.
- xxxvi. **Restaurants, drive-thru:** Whichever is greater: 1) One space per 40 sq.ft. of dining area, or 2) One space per 150 sq.ft. of gross floor area.
- xxxvii. **Roadside Stand(s) and/or Food Trucks:** Four spaces per establishment
- xxxviii. **School:** For high schools: One space per 3.5 seats in classrooms and one space per estimated faculty/staff member; for elementary, middle, and all other non-high schools: two spaces per classroom. Additional space may be applicable for associated assembly facilities (stadiums, bleachers, theater stages, etc.).
Alternatively, if the school district has uniform parking schedules that differ from these numbers, the off-street parking is allowed to be designed and constructed according to those policies.
- xxxix. **Service-Oriented Establishment:** One space per 200 sq.ft. of gross floor area.
- xl. **Theater, Auditorium, & Assembly Place(s):** One space per two persons of licensed capacity.
- xli. **Veterinary Services:** Three spaces per staff doctor.
- xlii. **Wholesale & Distribution Operations:** One space per two employees during largest shift.

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

a. **General**

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

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

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

c. **Physical Appearance**

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

d. **Fire Hazards**

No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gases when handled in accordance with other federal, state, and/or municipal requirements.

e. **Noise**

Noise in excess of normal peak traffic noise of the adjacent street at the time of the daily peak hour of traffic volume shall be prohibited. Noise shall be measured at the property boundary and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

f. **Sewage & Liquid Waste**

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

g. **Air Contaminants**

Uses which produce air contaminants, including smoke, gas, dust, odors, particulate matter, and other emissions, shall be prohibited for consideration within the R-WEST conditional use allowance. Unless adequate mitigation measures are proposed and followed to prevent the emission of air contaminants within vicinity of the subject lot, such uses are more appropriate to be located within the industrial zoning districts designated by the City on the official zoning map.

h. **Vibration**

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

i. **Glare/Heat**

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

9. **WIND ENERGY SYSTEMS**

a. **General Requirements**

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

b. Bulk Requirements

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

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

c. Conditions of Approval

All wind energy systems shall follow these requirements:

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

10. SELF STORAGE UNITS

a. Conditions of Approval

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

- i. Minimum lot size of a self storage facility shall be two acres.
- ii. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
- iii. All driveways, parking, loading, and vehicle circulation areas shall be paved with concrete, asphalt, or asphaltic concrete. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
- iv. All storage shall be within an enclosed space and shall not include the storage of hazardous materials.
- v. Unless screened, no storage shall open into front yards

~~vi. Landscaping screening shall be installed as follows:~~

- ~~• 50-foot buffers adjacent to public rights-of-way, and~~
- ~~• 20-foot buffers adjacent to property lines.~~

~~vii.vi.~~ No structure within the facility shall exceed 20 feet in height.

~~viii.vii.~~ The perimeter of each facility shall be fully enclosed by fencing or screen walls and installed/erected in compliance with Section X of this code.

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

a. **Conditions of Approval**

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

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

12. ADULT-ORIENTED USES & CANNABIS/HEMP BUSINESSES

a. **General Requirements**

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

- i. The use shall only be established on industrial- or commercially-zoned property with direct legal and physical access from Highway 92.
- ii. With exception to the provisions of Section X, a lot proposed for new adult-oriented uses and cannabis/hemp-derived businesses shall not be located within:
 - 500 feet of any other adult-oriented or cannabis/hemp-derived business or a residential zoning district (not including agricultural zoning); and
 - 1,000 feet of any lot used as a park, school, day care center, church or religious facility, medical facility, or library (public trails and sidewalks are not deemed to be "parks" for the purposes of this requirement).
- iii. Material depicting uncovered anatomy, and/or specific sexual activities shall be screened or obscured from the view of adjacent property and the general public.
- iv. Such business shall not be permitted as a home occupation.

b. **Legal Activities Disclosure**

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

c. **Business Owner Liability**

Adult-oriented uses and cannabis/hemp-derived businesses shall follow all aspects of the Yutan Community's Zoning Code and the applicable provisions of federal, state, and local law. Compliance with federal/state law regulating such business is the sole and

exclusive domain of the business owner. The City of Yutan shall not be held liable if the business entity is found to be conducting activities contrary to federal and/or state law.

d. **Rights to Continue Operation**

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

13. WIRELESS COMMUNICATION TOWERS/FACILITIES

a. **Intent**

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

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

b. **Review Procedure & Application Requirements**

Small satellite dishes and/or antennae for residential purposes shall be exempt from these requirements, provided that the satellite dishes do not exceed a diameter of 10 feet. Satellite dishes and antennae are encouraged to be a neutral color (black, gray, sky blue, brown, etc.) or match the color of siding/roofing materials in order to blend in with the environment and generally camouflage the infrastructure.

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

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

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.

2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or co-located on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by local ordinance and state, federal, and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. Proof of the ability to engage in a **\$5100,000 performance bond** for the expenses of removal and disposal of the tower. Prior to issuance of formal approval, documentation of the **\$5100,000** performance bond's execution shall be submitted to the City.

c. Standards for Construction & Facility Location

- i. Towers shall be allowed only in those districts where they are listed as a conditional use.
- ii. Towers shall meet the following setbacks from other towers:
 - Monopole tower structures shall be a minimum of 750 feet from all other towers, (regardless of type: monopole, self-supporting lattice, guyed, etc.).
 - Self-supporting lattice or guyed-wire towers shall be a minimum of 1,500 feet from all other self-supporting lattice or guyed-wire towers.
- iii. In addition to any necessary review under the Adopted Building Codes of Yutan, wireless communication facilities shall conform to the construction standards set forth by state and federal laws and the applicable requirements of the American National Standards Institute. Upon completion of tower and/or facility construction, including modifications and additions, an engineer's certification that the facility is structurally sound and in compliance with the necessary regulatory standards shall be filed with the Zoning Administrator.

d. Illumination & Security

- i. Towers shall not be artificially lit except as required by the Federal Aviation Administration. In cases where there are residential uses within a distance of 300% of the tower's height, the tower shall be equipped with dual mode lighting.
 - ii. All facilities shall be designed and constructed to prevent unauthorized access. Self-supporting lattice and guyed-line towers are encouraged to be enclosed within a security fence.
- e. **Exterior Finish**

All towers not requiring FAA paint/markings shall have an exterior finish which enhances compatibility with adjacent land uses; neutral colors such as sky blue or grey are encouraged. ~~All towers shall utilize stealth design unless stealth features are impractical or the cost of such features creates an undue burden on the applicant.~~
- f. **Landscaping**

Property on which telecommunication facilities are proposed to be located shall be subject to the landscaping requirements of Section X.
- g. **Inspections**

The City reserves the right to conduct inspection of towers, antennae, support structures, and all applicable buildings upon reasonable notice to the tower owner or operator to determine compliance with this code and to prevent structural and equipment failures and accidents which may cause damage, injuries, or public nuisance.
- h. **Maintenance**

Proper maintenance of all infrastructure related to wireless communication facilities, including towers, support infrastructure, utility buildings, and antennae, shall be the responsibility of the facility owners and their lessees.
- i. **Abandonment**

REVIEW: If any tower appears to be abandoned for a period of one year, the City may notify the tower owner that the site could be determined abandoned. Upon receipt of written notice by certified mail, the tower owner shall have thirty (30) days to show evidence that the tower has been in use or under repair during the period of apparent abandonment. If the tower owner fails to demonstrate active use or repair, then the City shall issue determination of abandonment of the site and the tower owner shall have 75 days to dismantle and remove the tower. In the event that such removal does not occur, the facility shall be declared a public nuisance by the City and the City Attorney shall proceed necessary action to abate the nuisance pursuant to all applicable law. The costs thereof for all remedial actions shall be against the real estate on which the tower is located and/or the property's owner.

14. USE DISTRICTS

- a. **District Classifications**

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

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

c. Rules for Interpretation of District Boundaries

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

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

15. (TA) TRANSITIONAL AGRICULTURE ZONING DISTRICT

a. Intent

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

b. Uses

i. Permitted Uses:

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

- Farms for breeding, raising, and selling wild game, fish, and livestock, subject to all provided that no livestock feedlot or yard for more than 20 animal units shall be established, provided that any building for the enclosure or shelter of animals shall be setback at least 50 feet from all street and lot lines;
- Churches
- Public parks and recreation areas, playgrounds and conservation areas including flood control facilities;
- Family Child Care Home II;
- Public and private schools;
- Public uses, including but not limited to recreational uses, fire stations, utilities, and utility distribution systems, community centers, auditoriums, libraries, or museums;
- Farm/agricultural equipment and building material (including pre-fab shed) sales, on lots with direct legal and physical access to Highway 92;
- Roadside stands and truck gardens offering for-sale agricultural products produced on the premises;
- Civic, social, and fraternal organizations;
- Buildings and facilities for the raising and care of animals for 4-H, Future Farmers of America, and other rural school organizations;
- Cemetery(-ies) and/or mausoleums, provided all structures are located at least 50 feet from all property lines;
- Commercial recreation areas and facilities, such as swimming pools, fishing lakes, and hunting/gun clubs;
- Private stables and facilities for housing animals and fowl for non-commercial purposes on at least five acres, provided that no stable, building, or structure in which horses or other animals are housed may be closer than 300 feet to any residential district within city limits;
- Public and private riding academies on at least five acres provided that no stable, building, or structure in which horses or other animals are housed be closer than 300 feet to a residential district within city limits;
- Private or commercial kennels and facilities for the raising, breeding, or boarding of dogs and other small animals, handling six dogs/animals or less, provided that such facility is located a minimum of 100 feet from property lines and a minimum of 31,000 feet away from any residential zoning district within city limits, and located on a minimum of five acres;
- Public overhead/underground local distribution facilities.

ii. **Conditional Uses:**

- Hospitals, clinics, and medical institutions, including educational, religious, and philanthropic institutions and convalescent homes;
- Colleges and universities;
- Legal Offices;

- Private or commercial kennels and facilities for the raising, breeding, or boarding of dogs and other small animals, handling seven dogs/animals or more, provided that such facility is located a minimum of 100 feet from property lines and a minimum of 31,000 feet away from any residential zoning district within city limits, located on a minimum of five acres;
- Resource extraction and sales, including dirt sales;
- Veterinarians' offices and animal hospitals;
- Wind energy systems, pursuant to Section **X**;
- Wireless communication facilities, pursuant to Section **X**.

iii. **Temporary Uses:**

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

iv. **Permitted Accessory Uses:**

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

c. **Bulk Regs**

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

16. (R-WEST) WESTERN RESIDENTIAL ZONING DISTRICT

a. **Intent**

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

b. **Uses**

i. **Permitted Uses:**

- Single-family residence, detached;
- Single-family residences, attached: including duplexes, triplexes, or townhouses, in conformance with density requirements;

- Churches, temples, seminaries, and convents, including residences;
 - Public and private schools;
 - Public uses, including but not limited to parks, recreational areas, conservation areas, fire stations, community centers, auditoriums, libraries, museums, utilities (including overhead/underground local distribution equipment), and/or flood control facilities.
- ii. **Conditional Uses:**
- One accessory dwelling unit per lot;
 - Multiple-family dwellings, in conformance with density requirements;
 - Light Industrial and/or Light Commercial Uses, under limited operation and the conditions of **Section X (See “Commercial/Industrial Uses within R-West”)**, on a lot located within 150 feet of the right-of-way for 2nd Street;
 - Bed and breakfast;
 - Funeral home and mortuary;
 - Civic, social, and fraternal organizations;
 - Family Child Care Home II
- iii. **Temporary Uses:**
- Buildings and uses incidental to construction activities which shall be removed upon completion or abandonment of the construction;
 - Temporary structures for festivals or commercial events.
- iv. **Accessory Uses:**
- Buildings and uses customary to the permitted and conditional uses, including facilities in conjunction with residential use (private swimming pools, tennis courts, etc.);
 - Home occupation.
 - Decks, gazebos, and elevated patios – either attached or detached.
 - Family Child Care Home I.
- c. **Bulk Regs**
- i. **Minimum Lot Density:** 3,000 square feet per dwelling unit
- ii. **Lot Width:** NONE
- iii. **Maximum Building Height:** 35
- iv. **Maximum Lot Coverage:**
- For detached single-family development and non-residential development: 45%;
 - For attached, two-family, and multi-family residential development: 59%
- v. **Setbacks:**
- **Structures on Adjacent Property:** 10 feet (Applies to structures on adjacent property, NOT structures located on the subject lot.)
 - **Front Yard:** 15 feet
 - **Side Yard:**
 - Adjacent Property: 6 feet
 - Adjacent Street/Road: 15 feet

- **Rear Yard:**

- Primary Structures: 20 feet, which may be reduced to 20% of the lot's depth when the required rear setback is greater than 20% of the lot's depth.
- Accessory Structures: 6 feet; for private garages proposed to be located near a legally-recognized alley, the rear yard setback shall be reduced to one (1) foot, provided that the proposed garage, including all eaves and other structural attachments, is wholly located within the subject property's boundaries.

17. (R-EAST) EASTERN RESIDENTIAL ZONING DISTRICT

a. **Intent**

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

b. **Uses**

i. **Permitted Uses:**

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

ii. **Conditional Uses:**

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

iii. **Temporary Uses:**

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

iv. **Accessory Uses:**

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

c. **Bulk Regs**

i. **Minimum Lot Density:**

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

- Attached Single-Family Dwelling: 4,250 square feet per unit
- ii. **Lot Width:**
 - Detached Single-Family Dwelling: 60 feet
 - Attached Single-Family Dwelling: 30 feet per unit
- iii. **Maximum Building Height**: 35 feet
- iv. **Maximum Lot Coverage**: 45%
- v. **Setbacks:**
 - **Structures on Adjacent Property**: 10 feet (Applies to structures on adjacent property, NOT structures located on the subject lot.)
 - **Front Yard**: 30 feet
 - **Side Yard:**
 - Adjacent Property: 6 feet
 - Adjacent Street/Road: 30 feet
 - **Rear Yard:**
 - Primary Structures: 25 feet, which may be reduced to 20% of the lot's depth when the required rear setback is greater than 20% of the lot's depth.
 - Accessory Structures: 6 feet

18. (B-CBD) COMMUNITY BUSINESS ZONING DISTRICT

a. **Intent**

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

b. **Use Limitations**

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

c. **Uses**

i. **Permitted Uses:**

- Business services, including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, banking/finance/investment services, dance studio, antique stores, auto parts and supplies, barber/beauty shop, bicycle shop, car washes, communication services, computer store, laundry and dry cleaning, exercise/fitness/tanning facility, flower shop, funeral homes and mortuaries, gift shop, hobby/craft/toy store, jeweler, locksmith, photographer, framing shop, printing and/or publishing, restaurant/café/fast food, second-hand/thrift store, tire store, meeting hall for social clubs and fraternal/sorority organizations, telephone/utility office, commercial greenhouse and/or garden center, veterinary office or animal hospital (must be located 100 feet from a residential district), etc.

- Residences in conjunction with the principle use when located above the ground floor;
 - Bar/tavern/lounge and/or liquor store;
 - Convenience store with limited fuel sales;
 - Child Care Center;
 - Public uses, including parks and recreation areas, emergency service provider facilities, libraries, schools and educational facilities, community centers and auditoriums, playgrounds and conservation areas including flood control facilities;
- ii. **Conditional Uses:**
- Outdoor Entertainment.
 - Churches, temples, seminaries, and convents including residences for teachers and pastors. (NOTE: Places of worship may be considered as a conditional use in B-CBD, however, these uses are permitted within the City's residential zones and therefore encouraged to be located within residential neighborhoods.)
 - Retail motor vehicle sales and service.
 - Hospitals, clinics, and medical institutions, including educational, religious, and philanthropic institutions and convalescent homes;
 - Multi-family dwelling units
 - Service station and minor automobile repair services.
 - Motels, hotels and trailer campgrounds.
- iii. **Temporary Uses:**
- Buildings and uses customarily incidental to construction work which shall be removed upon completion or abandonment of the construction work.
 - Temporary structures for festivals or commercial events.
 - Fireworks stands, provided all criteria established by law are met.
- iv. **Accessory Uses:**
- Buildings and uses customarily incidental to the permitted uses.
 - Parking
 - Signs
 - Fences
- d. **Bulk Regs *SEE USE LIMITATIONS**
- i. **Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- ii. **Multi-Family Dwelling Density:** 1,500 square feet per unit
- iii. **Lot Width:** NONE
- iv. **Setbacks:**
- **Front Yard:** None, except when adjacent to any residential district, the setback shall be 25 feet.
 - **Side Yard:** None, except that when adjacent to any residential district, the setback shall be 25 feet.

- **Rear Yard:** None → ~~5 feet?~~, except: when adjacent to any residential district, the setback shall be 25 feet. If an alley exists between the two, the setback from the subject property's rear boundary shall be five feet.

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

vi. **Maximum Lot Coverage:** 40%

19. (B-HWY) HIGHWAY BUSINESS DISTRICT

a. **Intent**

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

b. **Use Limitations**

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

c. **Uses**

i. **Permitted Uses:**

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

ii. **Conditional Uses:**

- Multi-family dwelling units;
- Living quarters used by caretakers of any commercially-used property;
- Self-storage garages, according to the standards of Section X;
- Wireless communication facilities, pursuant to Section X;

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

iii. **Temporary Uses:**

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

iv. **Accessory Uses:**

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

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

- i. **Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
- ii. **Lot Width:** NONE
- iii. **Setbacks:**
 - **Front Yard:** 25 feet
 - **Side Yard:** None, except that when adjacent to any residential district, the setback shall be 25 feet.
 - **Rear Yard:** None ~~→ 5 feet?~~, except that when adjacent to any residential district, the setback shall be 25 feet. If an alley exists between

the two, the setback from the subject property's rear boundary shall be five feet.

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

v. **Maximum Lot Coverage:** 40%

20. (I-LTE) LIGHT INDUSTRIAL DISTRICT

a. **Intent**

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

b. **Use Limitations**

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

c. **Uses**

i. **Permitted Uses:**

- Assembly, fabrication, and processing of products inside an enclosed building, except hazardous or combustible materials; automobile storage yard, provided all vehicles are kept in an enclosed and screened area; bottling work; building material sales yard with enclosed and screened storage areas; carting, express, or storage yard; construction and heavy equipment sales/service; dying and cleaning establishments; farm and industrial equipment sales; highway maintenance yards or buildings; laboratories; machine shop or metal working excluding drop hammers and other noise producing tools; lumber yards; manufacture and assembly of electrical and electronic appliances; manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously-prepared materials; printing and publishing business; self-storage units (per Section X); stone and monument works; utility substations, pumping stations, and water reservoirs; and warehouse and/or wholesale businesses.

ii. **Conditional Uses:**

- Concrete or cement product manufacturing;
- Grain storage bins and elevators;
- **[JUST SCREEN EVERYTHING?]** Auto body repair shops, provided the following minimum standards are met:
 - All vehicles waiting for repair shall be screened from view;
 - All exhaust fumes from painting shall comply with federal and state requirements;

- All parts shall be screened;
 - Parts shall not be stacked taller than the fence or wall;
 - Parts are not intended to be inventoried for more than a one-year period;
 - The subject property is not to be used as an Automobile Wrecking Yard or Junk Yard;
 - Screened-in areas shall be opaque fence or solid wall at least eight feet in height.
 - Live-in quarters used by live-in watchmen or custodians during periods of construction or when necessary as an accessory to permitted uses;
 - Overhead and underground utility main transmission lines, including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs;
 - Telecommunication and wireless communication facilities, pursuant to Section X;
 - Research facilities;
 - Adult-oriented uses and cannabis/hemp-derived businesses on properties with direct legal and physical access to Highway 92;
 - Automobile junk yard or wrecking yard, per Section X;
 - Truck terminal and dock facilities to include truck washing;
- iii. **Temporary Uses:**
- Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
 - Temporary structures for festivals or commercial events.
 - Fireworks stands, provided all criteria established by law are met.
- iv. **Accessory Uses:**
- Buildings and uses customarily incidental to the permitted uses.
 - Signs
 - Parking
 - Fences
- d. **Performance Standards**
- All permitted development shall comply with the standards of Section X (Industrial Uses).
- e. **Bulk Regs *SEE USE LIMITATIONS**
- i. **Minimum Lot Size/Density:** Shall be calculated based on maximum lot coverage, building footprint, and the requirements of this code, such as parking, landscaping, etc.
 - ii. **Lot Width:** NONE
 - iii. **Setbacks:**
 - **Front Yard:** 25 feet
 - **Side Yard:** NONE, except when adjacent to any residential district, the side yard setback shall be 25 feet.

- **Rear Yard:** NONE, except when adjacent to any residential district, the rear yard setback shall be 25 feet.

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

v. **Lot Coverage:** NONE

21. (I-HVY) HEAVY INDUSTRIAL DISTRICT

a. Intent

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

b. Use Limitations

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

c. Uses

i. Permitted Uses:

- Assembly, fabrication, and processing of products inside an enclosed building, except hazardous or combustible materials;
- Automobile storage yard, provided all vehicles are kept in an enclosed and screened area;
- Bottling work;
- Building materials yard with enclosed and screened storage areas;
- Carting, express, or storage yard;
- Construction and heavy equipment sales and service;
- Dying and cleaning establishments;
- Farm and industrial equipment sales;
- Highway maintenance yards or buildings;
- Laboratories;
- Lumber yard;
- Machine shop or metal working excluding drop hammers and other noise-producing tools;
- Manufacture and assembly of electrical and electronic appliances;
- Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials;
- Printing and publishing business;
- Self-storage units, per Section XXX;
- Stone and monument works;
- Utility substations, pumping stations, and water reservoirs;
- Warehouses and wholesale businesses;

- Contractors' yard;
- Grain storage bins and elevators;
- Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use;
- Livestock auction or sales barn.
- Research facilities.
- Truck terminal and dock facilities.

ii. **Conditional Uses:**

- Alfalfa dehydrating plant;
- Asphalt mixing, manufacture, or refining;
- Auto body repair shops, subject to the following standards:
 - All activities associated with the use, including vehicles, parts, and storage areas, shall be screened from view by a privacy fence or solid wall at least eight feet in height
 - ~~All exhaust fumes from painting areas meet federal/state requirements~~
 - Parts are not intended to be inventoried for more than a one-year period
 - The activities involved are not to be used in a manner that would be defined as an automobile wrecking or junk yard
- Automobile junk yard or wrecking yard provided the standards of Section 7.15 are met;
- Boiler works;
- Concrete/cement product manufacturing;
- Disinfectant manufacture;
- **[PROHIBIT?]** Ethanol plant;
- **[PROHIBIT?]** Poison/extermination manufacture;
- Grain storage bins and elevators;
- Adult-oriented uses and cannabis/hemp-derived businesses on properties with direct legal and physical access to Highway 92.
- Wireless communication facilities, per Section **X**.

iii. **Temporary Uses:**

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

iv. **Accessory Uses:**

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

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

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

22. DEFINITIONS

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

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

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

b. **Terms**

- i. **ABANDONMENT:** to cease or discontinue a use or activity without intent to resume as distinguished from short-term interruptions such as periods of remodeling, maintenance, or normal periods of seasonal closure or vacation.
- ii. **ACCESSORY DWELLING UNIT:** an additional, subordinate dwelling unit on the same lot as a primary single-family residence/dwelling, either attached to the primary dwelling or detached.
- iii. **ACCESS, LEGAL AND PHYSICAL:** the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use.
- iv. **ACCESSORY STRUCTURE:** a detached structure, the use of which is incidental and accessory to the principle structure located on the same lot.
- v. **ACCESSORY USE:** a use that is incidental, related, clearly subordinate, and complimentary to the main use of the subject lot, which does not alter the principal use of said lot or affect other lots within the district.
- vi. **ADJACENT:** to abut, to border on, to be contiguous with, or to have property or district lines in common, including property separated by an alley.
- vii. **ADULT-ORIENTED USE:** any business which offers its patrons specific services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to ‘specified sexual activities’ or ‘specified anatomical areas,’ including, without limitation, adult bookstores, adult

motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, and adult body painting studios.

- viii. **AGRICULTURAL/FARM BUILDINGS AND STRUCTURES:** any building or structure which is necessary or incidental to the normal conduct of a farm, including but not limited to residence of the operator, residence of hired help, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops; silos; windmills; and water storage tanks.
- ix. **AGRICULTURE:** the use of land for agricultural purposes (i.e., for obtaining a profit by raising, harvesting, and selling crops; for the feeding, breeding, management, and sale of livestock, poultry, fur-bearing animals, or honeybees; for dairy production and the sale of dairy products; or any other agricultural or horticultural use. **Agricultural use shall not be construed to include any include any lot less than twenty acres or any non-agricultural commercial or industrial development.**
- x. **ALLEY:** a minor public service street or public thoroughfare measuring 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another public roadway. **Buildings facing an alley shall not be construed as satisfying the requirements of this definition related to frontage on a dedicated street.**
- xi. **ALTERATION:** any change, addition, or modification in construction or occupancy of an existing structure.
- xii. **ALTERATION, STRUCTURAL:** see “Structural Alteration”
- xiii. **AMENDMENT:** a change in the wording, context, or substance of this code; a change, addition, or deletion in any zoning district boundary or classification upon the zoning map.
- xiv. **ANIMAL UNIT: NEEDS HELP**
- xv. **ANIMALS, FARM:** livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation, including but not limited to horses, cattly, sheep, swine, goats, chickens, and turkeys
- xvi. **ANTENNA:** a device designed and intended for transmitting or receiving communication signals.
- xvii. **AUTOMOBILE WRECKING YARD:** any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles; includes the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- xviii. **BAR:** any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises.
- xix. **BASEMENT:** the portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to floor below is more than the vertical distance from grade to ceiling.
- xx. **BEACON ???**

- xxi. **BED AND BREAKFAST:** a house, or portion thereof, where short-term lodging rooms and meals are provided; the operator shall live on the premises.
- xxii. **BEDROOM:** a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door or doorway.
- xxiii. **BERM:** a raised form of earth to provide screening or to improve the aesthetic character.
- xxiv. **BOARD OF ADJUSTMENT:** the board created by the city which has the statutory authority to hear and determine appeals, specific interpretations, and variances from this code.
- xxv. **BROADCASTING TOWER** see “TOWER” ???
- xxvi. **BUFFER:** a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private/public road. (Also see “screenings.”)
- xxvii. **BUILDING:** Any structure built and maintained for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in “Structure, Temporary.” Operable and licensed trailers, with wheels, shall not be considered as buildings.
- xxviii. **BUILDING, ACCESSORY:** any detached, subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory structures includes farm buildings, garages, carports, and small storage sheds.
- xxix. **BUILDING, AREA OF:** the sum in square feet of the ground area(s) occupied by all buildings and structures on a lot.
- xxx. **BUILDING CODE:** the laws that regulate construction and require permits to do work identified as the Adopted Building Codes of Yutan.
- xxxi. **BUILDING HEIGHT:** the vertical distance above grade to the highest point of the roof, measured from the highest adjoining sidewalk or ground surface within a five-foot horizontal distance at the exterior wall of the building. (Also see “Height of Building.”)
- xxxii. **BUILDING INSPECTOR:** the staff member appointed by the City of Yutan to conduct activities related to administration and implementation of the building code.
- xxxiii. **BUILDING, PRINCIPAL:** a building where the main or primary use of the lot or premises is located. (Also see “USE, PRINCIPAL.”)
- xxxiv. **BUILDING SETBACK LINE:** the minimum distance prescribed by this code between any property line and the closed point of the building line or face of any building or structure related thereto.
- xxxv. **CAMPGROUND:** a lot intended for the temporary occupancy of tents, campers, and major recreational vehicles with primary purposes of recreation; having open areas that are natural in character.
- xxxvi. **CAR WASH:** a building or structure or an area of land with machine or hand-operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.
- xxxvii. **CARE FACILITY:** NEEDS HELP

- xxxviii. **CARPORT:** an open-sided shelter for automobiles.
- xxxix. **CELLAR:** a building space having more than one-half of its height below the average adjoining grade lines.
 - xl. **CEMETERY:** land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
 - xli. **CENTERLINE (OF STREET):** the direct center of the width of a street's right-of-way or easement.
 - xl.ii. **CHANNEL:** the geographical area within either the natural or artificial banks of a watercourse or drainage way.
 - xl.iii. **CHILD CARE** See Family Child Care Home I + II
 - xl.iv. **CLUB:** an association of persons collected for a common purpose; not including groups organized primarily to render for-profit business services.
 - xl.v. **COMMUNITY CENTER:** a place, structure, or other facility used for religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
 - xl.vi. **COMPATIBILITY:** harmony in the appearance of two or more external design features in the same vicinity.
 - xl.vii. **COMPATIBLE USES:** a land use which is congruous with, tolerant of, and/or has no adverse effects on existing neighborhood uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled, and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris, contamination of surface/ground water, aesthetics, vibration, electrical interference, and radiation.
 - xl.viii. **CONDITIONAL USE:** a use that would not be detrimental to public health, safety, and general welfare if controlled as to number, size, area, location, relationship to the general vicinity, and/or through other minimal protective characteristics.
 - xl.ix. **CONSERVATION AREA:** environmentally sensitive and valuable lands protected from any activity that would significantly alter the ecological integrity, balance or character, except in over
 - 1. **CONVENIENCE STORE:** a retail store containing less than 5,000 square feet of gross floor area that is designed and stocked to primarily sell food, beverages, and household supplies. It is designed to attract and accommodate large volumes of stop-and-go traffic.
 - li. **DENSITY:** the number of dwelling units per acre of land allowable on a given lot.
 - lii. **DEVELOPER:** any person, partnership, or entity that is responsible for any undertaking that requires review and approval from the City.
 - liii. **DEVELOPMENT:** any man-made change to real estate, including but not limited to buildings or other structures, mining, dredging, filing, grading, paving, excavation, or drilling operations for which necessary permits may be required.
 - liv. **DRIVE-IN:** an establishment where customers can be served without leaving a vehicle.

- lv. **DRIVEWAY:** any vehicular access to an off-street parking or loading facility.
- lvi. **DUPLEX:** a building designed or used for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- lvii. **DWELLING:** any building or portion thereof which is designed and used exclusively for single-family residential purposes, including manufactured homes but excluding mobile homes.
- lviii. **DWELLING, MANUFACTURED HOME:** a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the U.S. Department of Housing & Urban Development.
- lix. **DWELLING, MOBILE HOME:** see “MOBILE HOME.”
- lx. **DWELLING, MODULAR:** any pre-fabricated structure used for dwelling purposes and moved onto a site in an essentially-complete and constructed condition in one or more parts to establish a single-family residence on a permanently established and attached foundation. Shall meet or be equivalent to the construction criteria defined by the Nebraska State Department of Health & Human Services; modular dwellings not meeting these standards shall be deemed a mobile home and subject to the requirements of mobile homes.
- lxi. **DWELLING, MULTIPLE-FAMILY:** a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
- lxii. **DWELLING, SINGLE-FAMILY:** a detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.
- lxiii. **DWELLING, SINGLE-FAMILY (ATTACHED):** a one-family dwelling unit attached to one additional single-family dwelling, separated by an unpierced common wall through the structure; the common wall shall sit along the property line separating ownership of the structure.
- lxiv. **DWELLING UNIT:** one space constituting a separate, independent residence containing cooking, toilet, and sleeping facilities, and physically separate from any other residences which may be in the same structure. **NOT CONNECTED (DOORWAYS, ETC.)**
- lxv. **EASEMENT:** authorization by a property owner for the use by another, for a specified purpose and for a designated portion of the subject property **OR** an interest in land owned by another that entitles its holder to a specific limited use or enjoyment.
- lxvi. **EDUCATIONAL INSTITUTION:** a public or non-profit institution or facility which conducts regular academic instruction at pre-school, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, non-profit research institutions, and

religious institutions. Such institutions must either: 1) Offer general academic instruction equivalent to the ...

- lxvii. **ENLARGEMENT:** the expansion of a building, structure, or use in terms of volume, size, area, height, length, width, depth, capacity, lot coverage, or in number.
- lxviii. **ERECTED:** constructed upon or moved onto a site.
- lxix. **EXISTING AND LAWFUL:** the use of a building, structure, or land that was permitted, authorized, or allowed by law and existed in operation and use, prior to the enactment of a zoning regulation when first adopted or permitted.
- lxx. **EXTRA-TERRITORIAL JURISDICTION:** the area beyond corporate limits that the City has been granted powers to exercise zoning and building regulations under state law.
- lxxi. **FAMILY:** a household head and one or more persons related to the head by blood, marriage, or adoptions living together in a single dwelling unit
- lxxii. **FAMILY CHILD CARE HOME I:** a child care operation serving between four and eight children, subject to the review and approval of the State of Nebraska's requirements.
- lxxiii. **FAMILY CHILD CARE HOME II:** a child care operation serving eight or more children, subject to the review and approval of the State of Nebraska's requirements.
- lxxiv. **FARM:**
- lxxv. **FARMING:** the planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of swine or other animals.
- lxxvi. **FENCE:** a structure serving as an enclosure, barrier, or boundary.
- lxxvii. **FIREWORKS STAND:** any portable building and/or structure used for the retail sale of fireworks, usually on a temporary basis.
- lxxviii. **FLOOD:** a rising and overflowing of a waterbody onto normally dry land.
- lxxix. **FLOODPLAIN:** level land that may be submerged by flood.
- lxxx. **FLOOR AREA:** the sum of the horizontal areas of floor of a building or unit measured from wall-to-wall of the space involved.
- lxxxi. **FRONTAGE:** that portion of a lot which abuts a dedicated public street or highway.
- lxxxii. **GARAGE, PRIVATE:** a detached accessory structure or a portion of a main building on the same lot as a dwelling for the housing of vehicles, including carports.
- lxxxiii. **GARAGE, PUBLIC:** any garage other than a private garage.
- lxxxiv. **GRADE:** the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- lxxxv. **HAZARDOUS MATERIALS:** products of industrial or chemical process including finished surplus, used/contaminated/unwanted fertilizer, herbicide, petroleum products, and other such processed waste material.

- lxxxvi. **HEDGE:** a series of plants, shrubs, or other landscaping arranged in a manner to create a physical enclosure.
- lxxxvii. **HEIGHT (OF BUILDING):** the vertical distance above grade to the highest point of the coping of a flat roof, the peak of a gable roof, or any other type of pitched, hipped, or mansard roof; not including those elements exempt from height requirements per Section X. The grade may mean the highest adjoining sidewalk or ground surface within a t-foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.
- lxxxviii. **HOME OCCUPATION:** an in-home or home-based entrepreneurial business operating from a residential dwelling.
- lxxxix. **HOTEL:** a building offering lodging accommodations to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities.
 - xc. **IMPERVIOUS SURFACE:** any portion of a lot covered with man-made improvements, including buildings, decks, and hard-surfaced driveways or parking areas.
 - xci. **INDUSTRIAL:** a company, building, or use involved in manufacturing, fabrication, processing, creation, and/or destruction, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
 - xcii. **JUNK YARD:** any lot used for storage, collection, purchase, sale, salvage, or disposal of otherwise discarded materials.
 - xciii. **JURISDICTION:** the power, right, or authority to interpret and apply the law.
 - xciv. **KENNEL:** an establishment for the grooming, breeding, boarding, and/or training of dogs, cats, and/or other common pets.
 - xcv. **LANDSCAPING:** the planting of suitable vegetation and the continued maintenance thereof.
 - ~~xcvi.~~ **LAUNDRY:** an establishment that provides washing, drying, and/or pressed-ironing services for customers.
 - xcvii. **LIVESTOCK:** see “ANIMALS, FARM.”
 - xcviii. **LOADING AREA/ZONE/STALL:** an off-street space for the parking of vehicles while loading or unloading, and which may abut a street, alley, right-of-way, or other ingress/egress infrastructure.
 - xcix. **LOT:** a parcel or tract of land recognized by the Saunders County Register of Deeds.
 - c. **LOT AREA:** the total area within a given lot’s boundaries.
 - ci. **LOT, CORNER:** a lot located at the intersection of two roads or a bend in the road so that it is abutted on at least two sides by the road.
 - cii. **LOT COVERAGE:** the portion of a lot or building site which is occupied by any building or structure.
 - ciii. **LOT DEPTH:** the horizontal distance between the front and rear lot lines.

- civ. **LOT, DOUBLE FRONTAGE:** a lot whose front and rear lines both abut on streets.
- cv. **LOT LINE:** the property boundary of a lot, including:
- **FRONT LOT LINE:** the property boundary abutting a street upon which development faces and/or is accessed from.
 - **SIDE LOT LINE:** any property boundary that is not the front or rear lot lines.
 - **REAR LOT LINE:** a property boundary which is opposite and most distant from the front lot line.
- cvi. **LOT WIDTH:** the average horizontal distance between the site lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- cvi. **MANUFACTURING:** uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. **ADD MORE?**
- cvi. **MECHANICAL EQUIPMENT:** the tools, devices, and accessories related to water supply, drainage, heating, ventilation, air conditioning, etc.
- cix. **MOBILE HOME:** any pre-fabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in a complete condition and mounted on wheels, skids, jacks, blocks, horses, skirting, or a foundation, including any pre-fabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “mobile home” shall include trailer home and camp cars, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
- cx. **NON-CONFORMING STRUCTURE:** a building which was lawful when established but which does not conform to the effective regulations.
- cx. **NON-CONFORMING USE:** a use that was lawful when established but does not conform to effective regulations.
- cxii. **NUISANCE:** anything that interferes with the use or enjoyment of property, endangers health or safety, or is offensive to the human senses (such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter).
- cxiii. **NURSING HOME:** a residential facility for four or more persons that provides living and sleeping facilities, including meal prep, dining areas, laundry services, and common recreational, social, and service facilities for the exclusive use of all residents including residential staff personnel who occupy a room or unit in the residential facility.
- cxiv. **OFFICE:** a building, or portion thereof, where administrative, professional, or clerical operations occur.
- cxv. **OFF-STREET PARKING:** those areas and spaces designed, used, or intended for parking, including driveways and throughways providing access to those areas, and located on a lot of record and not within established easements or rights-of-way.
- cxvi. **OPEN SPACE:** a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land

areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

- cxvii. **OWNER:** the person(s) who have title to a subject lot or building/structure.
- cxviii. **PARK:** any public or private land available for recreational, educational, cultural, or aesthetic use.
- cxix. **PERMITTED USE:** any land use allowed by-right within a zoning district.
- cxx. **PREMISES:** a building or part of a building where activities occur, including the undeveloped land where those activities may occur and all appurtenances.
- cxxi. **PUBLIC UTILITY:** any building which furnishes the general public or any business so affecting the public interest as to be subject to the supervision or regulation by an agency of local/state/federal government.
- cxxii. **RAILROAD:** the land use abutting railroad rights-of-way properties
- cxxiii. **RECREATIONAL VEHICLE (RV):** a vehicle designed for recreational use, including motor homes, truck campers, travel trailers, camping trailers, and fifth wheels. Mobile homes are not considered a recreational vehicle.
- cxxiv. **RESIDENCE:** a building used, designed, or intended to be used as a home or dwelling place for one or more families.
- cxxv. **RESTAURANT:** a business establishment where meals may be purchased.
- cxxvi. **RIGHT-OF-WAY:** the legal right of passage over which a passage/thoroughfare is built
- cxxvii. **ROAD:** shall mean the same as “STREET.”
- cxxviii. **ROAD, PRIVATE:** see “STREET, PRIVATE.”
- cxxix. **ROAD, PUBLIC:** see “STREET, PUBLIC.”
- cxix. **SCHOOL, DAY- OR PRE:** a school or center for children under school age.
- cxxx. **SCREENING:** a structure or planting that shields an area from view and/or negative impacts.
- cxxxii. **SERVICE STATION:** location where the primary use is the supply of motor fuels and other motor vehicle goods/accessories, and where maintenance services (tune-up, lubrication change, washing, etc.) may be offered, not including heavy maintenance/repair such as engine overhauls, painting, and body repair.
- cxxxiii. **SETBACK LINE, FRONT YARD:** the line which defines the depth of the required front yard, parallel with the right-of-way or highway-setback line (if established). The setback shall be measured from the property line, easement, or road right-of-way, whichever distance is more stringent.
- cxxxiv. **SETBACK LINE, REAR YARD OR SIDE YARD:** the line which defines the width or depth of the required rear or side yard, parallel with the property line, removed wherefrom by the perpendicular distance prescribed for the yard in the applicable zoning district.
- cxxxv. **SETBACK LINE, STREET SIDE YARD:** the line which defines the depth of the designated street side yard on a corner lot, parallel with the street/road right-of-way line. The setback shall be measured from the property line, easement, or road right-of-way, whichever distance is more stringent.
- cxxxvi. **SHOPPING CENTER:** a group of commercial establishments planned, constructed, and managed as a total entity including: customer and employee

- parking provided on-site, provisions for goods delivery that is separated from customer access, and protection from the elements.
- xxxxvii. **SIGN:** a display, such as a lettered board or a configuration of neon tubing, used to identify or advertise a place of business or product.
- xxxxviii. **SITE PLAN:** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specified parcel of land.
- xxxix. **STORAGE:** the keeping of any goods, junk, material, merchandise, or vehicles on the same lot or premises for more than thirty days.
- cxl. **STORMWATER MANAGEMENT:** the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface or ground water and/or runoff, together with applicable managerial measures.
- cxli. **STORMWATER RUNOFF:** surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- cxlii. **STREET:** a public thoroughfare or right-of-way dedicated for such use and providing means of access to abutting property, including county roadways
- cxliii. **STREET, ARTERIAL:** a road or street having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land; typically carrying relatively large volumes of traffic.
- cxliv. **STREET, COLLECTOR:** a road or street having the equally important functions of moving traffic and providing access to adjacent land.
- cxlv. **STREET CENTERLINE:** see “CENTERLINE (OF STREET).”
- cxlvi. **STRUCTURE:**
- cxlvii. **STRUCTURAL ALTERATION:** any change in the support members of a building, such as in a bearing wall, column, beam, or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, pilons, retaining walls, or similar components. [MAYBE USE THE DEFINITION OF “STRUCTURAL ASPECT” IN LOCAL IRC AMENDMENTS]
- cxlviii. **TAVERN:** see “BAR.”
- cxlix. **TEMPORARY USE:** a use intended for limited duration to be located in a zoning district not permitting such use.
- cl. **TOWER:** [delete?] a structure intended for transmitting or receiving telecommunications.
- cli. **TOWNHOUSE:** a building containing three or more one-family dwelling units that extend from foundation to roof and have a yard or public way on not less than two sides.
- clii. **TRAILER, AUTOMOBILE:** a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or carrying property; includes the common definition of a trailer coach.

- cliii. **USE:** the purpose or activity for which land or buildings are designed, arranged, or intended.
- cliv. **USE, PRINCIPAL:** the main use of land or structure, a distinguished from an accessory use.”
- clv. **UTILITY SERVICE:** any device which carries gas, water, electricity, oil, wastewater, telecommunications, and similar utilities into a building or development.
- clvi. **VARIANCE:** a deviance from the requirements established by this code.
- clvii. **VEHICLE:** every device upon by which a person or property is transported.
- clviii. **WAREHOUSE:** a building or premises in which goods, merchandise, or equipment is stored for eventual distribution.
- clix. **WIRELESS COMMUNICATION FACILITY:** a facility for the transmission and/or reception of radio frequency, microwave, or other signals for communication purposes, typically consisting of an equipment encloser, antenna support structure, foundation, and one or more antennae. Amateur radio and land-mobile radio are excluded from this definition.
- clx. **YARD:** any open space on the same lot with a building or dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings/structures permitted by this code.
- clxi. **YARD, FRONT:** the space between the front yard setback line and the front lot boundary, extending the lot’s full width. **THE FRONT YARD SHALL ALWAYS BE ON THE NARROW SIDE OF THE LOT.**
- clxii. **YARD, REAR:** the space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- clxiii. **YARD, SIDE:** the space extending from the front yard to the rear yard or, where no front yard is required by this code, from the front lot line to the rear lot line between side lot lines or side yards.
- clxiv. **ZONING, PIECEMEAL:** the zoning classification of individual lots and/or portions of an individual lot that results in uncertainty of the future development of the whole lot and compatibility of uses within both the subject lot *and* its vicinity.

MEMORANDUM

FROM: Robert Costa, Community Planner
TO: City Council & Mayor of Yutan
DATE: November 13, 2025
SUBJECT: Ordinance #817: Designating City Council as the Zoning Board of Adjustment

Proper administration of zoning laws includes the formation of an appeals board known as the Zoning Board of Adjustment. This group reviews and potentially appeals decisions made by the Zoning Administrator, provides for interpretation of otherwise unclear regulations, and can grant variances - or “waivers” - from certain zoning requirements (if circumstances exist whereby strict application of zoning law results in undue hardship). Typically, this board is made up of citizen volunteers.

Section 19-911 of state law allows an exemption whereby second-class city councils can act as the Zoning Board of Adjustment. Mayor Thompson has proposed using this exemption, which would require amendment of Article 2, Section 3, of Municipal Code.

ATTACHMENTS:

- Ordinance #817 (DRAFT)
- Proposed municipal code language, showing changes.

MAJOR CHANGES:

- The amendment to state law did not include discussion of a city mayor’s involvement in these decisions; the ordinance language has been drafted to reflect this.
- Proposed ordinance language mainly ties into state law and/or municipal code, including ordinary City Council procedures and meeting requirements.
 - The City Council President is designated as chairperson of the board; the Council’s acting chair procedure in case of unavailability will be followed.

ORDINANCE #817 – AMENDING CHAPTER 2, ARTICLE 3, OF MUNICIPAL CODE TO DESIGNATE THE CITY COUNCIL AS THE ZONING BOARD OF ADJUSTMENT

AN ORDINANCE OF THE CITY OF YUTAN, IN SAUNDERS COUNTY, NEBRASKA, TO FORMALLY AMEND CHAPTER 2, ARTICLE 3, OF MUNICIPAL CODE, TITLED “ZONING BOARD OF ADJUSTMENT;” TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, OR PROVISION OR PORTION OF THIS ORDINANCE FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE THAT THIS ORDINANCE SHALL BE PUBLISHED WITHIN THE FIRST FIFTEEN (15) DAYS AFTER ITS PASSAGE AND APPROVAL IN PAMPHLET FORM, AND SHALL BE IN FULL FORCE AND TAKE EFFECT FROM AND AFTER ITS PASSAGE AND APPROVAL, AS PROVIDED BY LAW, AND AS PROVIDED HEREIN; AND THAT IT IS THE INTENTION OF THE MAYOR AND COUNCIL OF THE CITY OF YUTAN, NEBRASKA, AND IT IS HEREBY ORDAINED THAT THE PROVISIONS OF THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE MUNICIPAL CODE OF THE CITY OF YUTAN.

WHEREAS, Chapter 2, Article 3, of Municipal Code currently provides for a zoning board of adjustment consisting of citizen volunteers pursuant to state law;

WHEREAS, Section 19-911 of the Nebraska Revised Statutes allows for an exception for Cities of the Second Class to designate its City Council as said board;

WHEREAS, the Mayor has determined it is in the best interest of the City to utilize that exception and designate the City Council to act as its zoning board of adjustment;

WHEREAS, the City has proposed amendments to Chapter 2, Article 3, of the Municipal Code to empower the City Council as its zoning board of adjustment and included other amendments that modernize and improve the board’s procedures;

WHEREAS, the City Council held a public hearing on November 18, 2025, to publicly consider the proposed amendments and receive public comment;

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

1) That the findings herein made above should be and are hereby made a part of this ordinance as fully as if set out at length herein.

2) That Chapter 2, Article 3, of the City of Yutan's Municipal Code shall be amended and certain provisions recodified and renumbered as follows:

[AGREED-UPON LANGUAGE WILL GO HERE]

3) That the Mayor and City Council of Yutan, Nebraska, are hereby authorized and directed to implement this Ordinance.

4) That should any section, paragraph, sentence, or word of this ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the Mayor & City Council of Yutan, Nebraska, that it would have passed all other portions of this ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

5) That all ordinances or parts of ordinances passed and approved prior to the passage, approval, and publication of this ordinance and in conflict herewith, are hereby repealed.

6) That this ordinance shall be published within the first fifteen days after its passage and approval, in pamphlet form, and shall be in full force and take effect on that date.

PASSED AND APPROVED THIS _____ DAY OF _____, 2025.

CITY OF YUTAN, NEBRASKA

(seal)

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

Article 3 – Zoning Board of Adjustment

SECTION 2-301: MEMBERS

In accordance with Section 19-911, N.R.S., the City Council shall constitute the City's Zoning Board of Adjustment. The City's Mayor shall not be considered a member of the Zoning Board of Adjustment unless state law is modified to permit the City Mayor's involvement. (Am. by Ord. 817, 11-18-2025)

~~The mayor shall appoint, with the consent of the City Council, a Board of Adjustment, which shall consist of five regular members plus one additional member designated as an alternate, who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member shall be appointed for a term of three years and shall be removable for cause by the mayor upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in his/her immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the Board of Adjustment. If the Board does not include a member who resides in the extraterritorial zoning jurisdiction of the City, the first vacancy occurring on the Board of Adjustment after the effective date of this section shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than 200 persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside the corporate boundaries of the city but within its extraterritorial zoning jurisdiction. (Am. by Ord. 666, 4-22-08)~~

~~SECTION 2-302: COMPENSATION; BOND~~

~~The members of the Board shall serve without compensation and may be required, in the discretion of the City Council, to give a bond in a sum set by resolution and conditioned upon the faithful performance of their duties.~~

SECTION 2-30~~2~~²³: MEETINGS; OFFICERS

The City Council President shall act as the Board's chairperson. If the Council President is not present or is unable to perform these functions, the succession described in Section 1-209 of Municipal Code shall be followed: i.e., the next most senior elected official shall act as chairperson.

~~Meetings of the Board~~ All business of the Zoning Board of Adjustment shall be held during regular meetings of the City Council. Special meetings may also be held at the call of the chairperson and at such other times as the Board may determine. Special meetings may be also held upon the call of any three members of the Board. A majority of the Board shall constitute a quorum for the purpose of doing business. The chairperson, or in his/her absence the acting chairperson in his/her absence, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.

~~The Board shall organize at its first meeting each year after the City Council meeting when appointments are regularly made and shall elect from its membership a chairperson and secretary. No member of the Board of Adjustment shall serve in the capacity of both chairperson and secretary. It shall be the duty of the secretary City Staff to perform the duties of secretary: to keep complete and accurate minutes of the Board's proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and to keep records of the Board's examinations and other official actions, all of which shall be immediately kept as public record within the City Council's ordinary minutes and filed in the City Offices for public review office of the Board and shall be public record. The Board shall adopt rules in accordance with the provisions of this section and Neb. Rev. Stat. §19-901 to §19-914. The chairperson, or in his/her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. (Am. by Ord. 817, 11-18-2025)~~

SECTION 2-30~~34~~: POWERS, DUTIES, & PROCEDURES APPEALS TO BOARD

The responsibilities of the City of Yutan's Zoning Board of Adjustment shall be those described in state law and the Yutan Community's Zoning Code. All hearings conducted by the Board and subsequent decisions made by the Board shall follow the procedures described in state law and the Yutan Community's Zoning Code. (Am. by Ord. 817, 11-18-2025)

~~Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action~~

~~appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (Neb. Rev. Stat. §19-909)~~

~~SECTION 2-305: POWERS AND DUTIES~~

~~A. The Board shall be responsible for making such reports and performing such other duties as the mayor and City Council may designate.~~

~~B. The Board shall have only the following powers:~~

- ~~1. To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made by the City Council or Planning Commission regarding a conditional use or special exception;~~
- ~~2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and~~
- ~~3. When by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.~~

~~C. No such variance shall be authorized by the Board unless it finds that:~~

- ~~1. The strict application of the zoning regulation would produce undue hardship;~~
- ~~2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;~~
- ~~3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and~~
- ~~4. The granting of such variance is based upon demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.~~

~~D. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.~~

~~E. In exercising the powers granted in this section, the Board may, in conformity with Neb. Rev. Stat. §19-901 to §19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. (Neb. Rev. Stat. §19-910)~~

~~F. Appeals from a decision by the Board may be taken as provided in Neb. Rev. Stat. §19-912. (Am. by Ord. 620, 2-15-05)~~

SECTION 2-304: APPEALS OF BOARD DECISIONS

Appeals from a decision made by the Board may be taken as provided in Neb. Rev. Stat. §19-912. (Am. by Ord. 817, 11-18-2025)

Memorandum

To: Mayor and City Council
From: Brandy Bolter
Date: 11/13/25
Re: Year-end certification of street superintendent/Appointment of street superintendent.

In order to be eligible for highway allocation funds we are required to certify that we had a street superintendent for the entire year of 2025. We also need to show that we have appointed a street superintendent for the next year. As in the past, we have worked with Steve Parr at JEO to help us with the legal requirements to be eligible for state funds. This year City Administrator Bob Oliva is certified to be a street superintendent. Typically we have appointed this position during the December meeting, but due to deadlines with paperwork, we would like to get it done now.

Action Item - Seeking a motion to approve Resolution 2025-8 certification of street superintendent.

Action Item - Seeking a motion to appoint City Administrator Bob Oliva as the Street Superintendent for the City of Yutan.



Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

October 16, 2025

Notice to file the Year-End Certification of City Street Superintendent, Signing Resolution, and Documentation of the Appointment(s) of City Street Superintendent(s) for Calendar Year 2025 with the Nebraska Department of Transportation (NDOT) by December 31, 2025.

Please make this an agenda item for your next City Council / Village Board meeting and return to the NDOT by December 31, 2025. **RECORD KEEPING:** NDOT recommends that the municipality keep a copy of everything you send to NDOT (*the forms and meeting minutes*) in a separate file for future reference.

The attached **YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT** and **SIGNING RESOLUTION**, together with a copy of the **DOCUMENTATION OF THE CITY STREET SUPERINTENDENT(S) APPOINTMENT(S) for CALENDAR YEAR 2025**, is the basis for determining the calendar year 2025 Incentive Payment. **Please complete and return the following to the NDOT by December 31, 2025:**

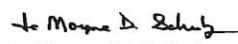
- **Signing Resolution** (Page 1): The original Signing Resolution, authorizing the signing of the Year-End Certification(s) by the Mayor or the Village Board Chairperson.
- **Year-End Certification of City Street Superintendent** (Page 2): If more than one individual provided street superintending services **during Calendar Year 2025**, or if the municipality did **not** have an appointed street superintendent, document each successive appointed city street superintendent and/or period without an appointed city street superintendent using a separate Year-End Certification form. **Copy the form as needed.**
- **Documentation of the City Street Superintendent(s) Appointment(s)** (Page 3): Attach to page 3 a copy of the City Council or Village Board meeting minutes showing the appointment(s) of the City Street Superintendent(s) **for Calendar Year 2025** by their name as it appears on their License (*if applicable*), their License Number (*if applicable*), and Class of License (*if applicable*), and the type of appointment, i.e., employed, contract (consultant or interlocal agreement with another county and/or incorporated municipality), and the **beginning date of the appointment**. **For most municipalities this information may be found in the November or December 2025 or the January 2025 meetings minutes.**

Failure to complete and return: If a municipality had an appointed and Licensed City Street Superintendent for all or part of Calendar Year 2025 and the municipality does not complete and return the above documentation to the NDOT **by December 31, 2025, the municipality will not receive an Incentive Payment for Calendar Year 2025.**

Payment: If your municipality qualifies, payment will be scheduled for February 2026. Reference Neb. Rev. Stat. §39-2515. **Additional information** on Incentive Payments is available on the NDOT Boards - Liaison Service Website: <https://dot.nebraska.gov/business-center/lpa/boards-liaison/>

Please let me know if you have any questions. Email: ndot.blshelp@Nebraska.gov
Phone: (402) 479-4436

Sincerely,


LeMoyne D. Schulz
Highway Local Liaison Coordinator
Boards-Liaison Services Section
Local Assistance Division
Nebraska Department of Transportation
LDS/2025
Attachments (3)

Vicki Kramer, Director
Department of Transportation

MAILING ADDRESS	PHYSICAL ADDRESS
PO Box 94759	1500 Nebraska Parkway
Lincoln, NE 68509-4759	Lincoln, NE 68502
dot.nebraska.gov	

Do not recreate or revise this document. Revisions and recreations will not be accepted. Failure to complete and return the necessary documents per instructions will result in your municipality not receiving an Incentive Payment for Calendar Year 2025. Documents include the original Signing Resolution, Year-End Certification(s), and a copy of documentation of the appointment(s) of the City Street Superintendent(s). These must be received at the NDOT by December 31, 2025. **RECORD KEEPING:** NDOT recommends that the municipality keep a copy of everything you send to NDOT *(the forms and meeting minutes)* in a separate file for future reference.

RESOLUTION
SIGNING OF THE
YEAR-END CERTIFICATION OF CITY STREET SUPERINTENDENT
2025

Resolution No. _____

Whereas: State of Nebraska Statutes, sections 39-2302, and 39-2511 through 39-2515 details the requirements that must be met in order for a municipality to qualify for an annual Incentive Payment; and

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each incorporated municipality must annually certify (by December 31st of each year) the appointment(s) of the City Street Superintendent(s) to the NDOT using the Year-End Certification of City Street Superintendent form; and

Whereas: The NDOT requires that each certification shall also include a copy of the documentation of the city street superintendent's appointment, i.e., meeting minutes; showing the appointment of the City Street Superintendent by their name as it appears on their License (if applicable), their License Number (if applicable), and Class of License (if applicable), and type of appointment, i.e., employed, contract (consultant, or interlocal agreement with another incorporated municipality and/or county), and the beginning date of the appointment; and

Whereas: The NDOT also requires that such Year-End Certification of City Street Superintendent form shall be signed by the Mayor or Village Board Chairperson and shall include a copy a resolution of the governing body authorizing the signing of the Year-End Certification of City Street Superintendent form by the Mayor or Village Board Chairperson.

Be it resolved that the Mayor ☐ Village Board Chairperson ☐ of _____
(Check one box) (Print Name of Municipality)
is hereby authorized to sign the attached Year-End Certification of City Street Superintendent completed form(s).

Adopted this _____ day of _____, 20____ at _____, Nebraska.
(Date) (Month)

City Council/Village Board Members

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

City Council/Village Board Member _____
Moved the adoption of said resolution
Member _____ Seconded the Motion
Roll Call _____ Yes _____ No _____ Abstained _____ Absent
Resolution adopted, signed, and billed as adopted.

Attest:

(Signature of Clerk)

Do not recreate or revise this document. Revisions and recreations will not be accepted. Copying this form is acceptable; see (3) below. Failure to complete and return the necessary documents per instructions will result in your municipality not receiving an Incentive Payment for Calendar Year 2025. Documents include the original Signing Resolution, Year-End Certification(s), and a copy of documentation of the appointment(s) of the City Street Superintendent(s). These must be received at the NDOT by December 31, 2025. RECORD KEEPING: NDOT recommends that the municipality keep a copy of everything you send to NDOT (the forms and meeting minutes) in a separate file for future reference.

Year-End Certification of City Street Superintendent For Determining Incentive Payment in Calendar Year 2025

Separate forms may be needed to account for the entire year, see (3) below

This Form Covers the Following Period: _____, 2025 to _____, 2025
(Month) (Day) (Month) (Day)

*(1)(a) The municipality of _____ certifies that: _____
(Print name of City or Village) (Print name of Superintendent as it appears on license card if applicable)
was the appointed City Street Superintendent during the above period. IF A NAME IS NOT ENTERED ABOVE (NO APPOINTED CITY STREET SUPERINTENDENT FOR THIS PERIOD), SKIP TO (2) BELOW.

(b) the superintending services of the above listed individual were provided by: (Check one box)

- ☐ Employment with this Municipality ☐ Contract (consultant) with this Municipality ☐ Contract (interlocal agreement) between this Municipality and the following listed Municipality(ies) and/or County(ies) _____

(c) and the above listed individual assisted in the following: Reference Neb. Rev. Stat. §39-2512

1. Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units,
2. Developing an annual program for design, construction, and maintenance,
3. Developing an annual budget based on programmed projects and activities,
4. Submitting such plans, programs, and budgets to the local governing body for approval; and
5. Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets,

(d) the above listed individual also served as (Check all boxes that apply) city engineer ☐ village engineer ☐
public works director ☐ city manager ☐ city administrator ☐ street commissioner ☐

(e) If the above listed individual is a Licensed City Street Superintendent, enter their Superintendent's License Number S- _____ and Class of License _____, and/or
(A or E)

(f) If the above listed individual is a Licensed Engineer in Nebraska, enter their Engineer's License Number E- _____

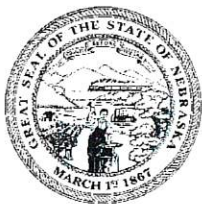
(2) _____

Signature of Mayor ☐ Village Board Chairperson ☐
(Check one box)

*(3) If during the calendar year your municipality (a) did not have an appointed City Street Superintendent for any portion(s) of the year; or (b) had one or more appointed City Street Superintendent(s) that were not licensed for any portion(s) of the year; or (c) had one or more appointed licensed City Street Superintendent(s) for any portion(s) of the year, please complete a separate Year-End Certification form for each period. Copy this form as needed to account for these separate periods.

(4) The payment amount will be computed based on (a) your most recent Federal Census as certified by the Tax Commissioner; (b) the number of full calendar months served by the appointed City Street Superintendent who is licensed or exempted from licensure under the Superintendents Act; (c) class of license, A or B if applicable; and (d) if the appointed City Street Superintendent assisted with the required duties in (1)(c) above. Reference Neb. Rev. Stat. §§39-2302 and 39-2511 through 39-2515.

(5) Failure to return by December 31, 2025, the Year-End Certification(s), Signing Resolution, and a copy of documentation of the appointment(s) of the superintendent(s) per the instructions will result in your municipality not receiving an Incentive Payment.



Return the completed original resolution and certification(s), and a copy of the documentation of appointment(s) by December 31, 2025 to:

Highway Local Liaison Coordinator
Boards-Liaison Services Section
Local Assistance Division
Nebraska Department of Transportation
PO Box 94759
Lincoln NE 68509-4759

SUPERINTENDENT(S) APPOINTMENT DOCUMENTATION

Attach Documentation of the City Street Superintendent(s) Appointment(s) for 2025 to the back of this Page: *For most municipalities this information may be found in the **November or December 2024 or the January 2025 meetings minutes**. Some may involve mayoral appointments, or interlocal agreement (relinquishment of funds).*

Call (402) 479-4436 or email NDOT.BLSHelp@Nebraska.gov if you have any questions about what to attach for documentation.

RECORD KEEPING: NDOT recommends that the municipality keep a copy of everything you send to NDOT *(the forms and meeting minutes)* in a separate file for future reference.

Memorandum

To: Mayor and City Council
From: Brandy Bolter, City Clerk/Treasurer
Date: 11/13/25
Re: Library Resignation

Mary Kay Arp has handed in her resignation from the Library Board. At this time there is an open position on the Library Board and will need to be publicly opened for applications for the next thirty days or until the next City Council meeting.

Recommended Action Item - Seeking a motion and a second to accept the resignation of Mary Kay Arp and the posting of the open Library board position.

October 6, 2025

Dear Library Board Members,

I reluctantly need to resign my seat on the Yutan Public Library Board due to moving out of the area.

I have enjoyed my many years of membership on this board and wish the library nothing but the best.

Sincerely,

A handwritten signature in blue ink that reads "Mary Arp". The script is cursive and fluid.

Mary Arp

Memorandum

To: Mayor and City Council
From: Brandy Bolter, City Clerk/Treasurer
Date: 11/13/25
Re: Maguire Iron

Jake Duggar with Maguire Iron would like to go over the power washing of the water tower that was discussed at last month's meeting. Mr. Duggar would also like to go over the payment plan option that was discussed at the October meeting regarding the painting of the water tower.

Recommended Action Item - Seeking a motion and a second to accept the scheduling and cost of power washing the water tower.

Memorandum

To: Mayor and City Council
From: Brandy Bolter, City Clerk/Treasurer
Date: 11/13/25
Re: Utility Rates

Over the past few months City Administrator Bob Oliva has been going through the current rates for sewer and water. With the help of the City Clerk a cost analysis of other municipalities and what they charge was put together. Along with that analysis City Administrator Oliva also discovered a rate study that was done before the meter project took place. After these discoveries were made it was determined that the city has been undercharging for sewer and water utilities.

Recommended Action Item - At this time no action is needed this is a discussion only.

Yutan Public Library Board Minutes

Monday November 3, 2025 at 6:30 PM Location: Yutan Public Library

Notice of meeting was posted at the Post Office, City Office, and the library by Director Laurie Van Ackeren

1. Call to Order:

a. The meeting was called to order by President Lynn Hapke at 6:44 PM. She advised the Open Meeting Act is posted on the east wall. The front door was left unlocked for visitors to enter.

2. Roll Call:

Lynn Hapke, Alicia Archer, Jane Scott, and Mary Jo Robinson

Absent: none

Also present: Director Laurie Van Ackeren

3. Visitors: Dawn Ford

4. Approval of October Minutes (Minutes were available for inspection)

a. Motion to approve October Minutes was made by Archer, seconded by Scott Yeas – Hapke, Archer, Scott, and Robinson Motion carried 4-0

5. Open Discussion from the public: None

6. Presentation from Guests: None

7. Approval of October Financial Claims

a. Motion to approve October Financial Claims was made by Hapke, seconded by Archer Yeas – Hapke, Archer, Scott, and Robinson Motion carried 4-0

8. Directors Report:

a. Stats for October

Fines \$ 3.25 Country Cards \$ 25.00

b. Circulation Statistics

Check outs – 483 (445)

Member amount saved - \$ 6,475.76 (\$ 6,045.17)

Over Drive / Libby checkouts - 242 (232)

Patron visits – Adults 269 (220) Juv 191 (113) Total 460 (333)

Checked out: Story Time Bage 3 and Experience Kits 2

Home Deliveries: 1

Adult Craft Night – 2 average (1)

Coffee Time – 14 average (11)

Adult Book Club – 6 (7)

After School Program – average 1 (1)

Toddlers – average 18 (16)

Saturday Story Time – average 1 (1)

Soap Workshop - 10

c. Welcome to Yutan letters sent – 21

d. Staff Plan of Work Presented

9. Discussion Items:

- a. Laurie will attend Read Aloud Conference November 7, 8a-4p at Seward. She was advised by the Library Board to use her personal vehicle and charge mileage due to the City vehicle not being reliable.**
- b. Robinson will contact Brett Lawton regarding the bench in front of the Library. It has not been painted and needs to be fixed. It was suggested one of the benches the City Board has agreed to purchase can be used to replace the broken one.**
- c. Dawn Ford is interested in joining the Library Board and will submit her application to the City Board for consideration.**

10. Adjournment:

- a. Motion to Adjourn at 7:45 PM by Archer, seconded by Robinson Yeas - Hapke, Archer, Scott, and Robinson Motion carried 4-0**

The next regular Library Board Meeting will be December 1, 2025 at 6:30 PM

**Respectfully submitted
Mary Jo Robinson, Secretary**

October 2025 Claims

NLA Conference (reimburse Laurie)

10/23	Freddy's	Training #1328	\$11.60
10/21	La Cocina	Training #1328	\$17.73
10/22	Chances R	Training #1328	<u>\$43.38</u>
			\$72.71
		50% Yutan Pays	\$36.36

10/21-10/23	Best Western York, NE	Training #1328	\$339.21
	50% Yutan needs to reimburse Mead		\$169.61

10/16	Read Aloud Conference	Training #1328	\$40.00 ✓
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10/20	Dollar General	Supplies #1326	\$9.50 ✓
10/1	Amazon	Supplies #1326	\$29.97 ✓
10/1	Amazon	Supplies #1326	\$52.78
10/10	Amazon	Supplies #1326	\$20.71 ✓
10/13	Culligan	Supplies #1326	\$18.75

10/22	Canva	Technology #1330	\$119.99 ✓
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10/17	Dollar Tree	Programs #1311	\$43.78 ✓
10/16	Post Office	Programs #1311	\$14.93 ✓
10/27	Amazon	Programs #1311	\$33.54 ✓
10/18	Amazon	Programs #1311	\$9.99 ✓
10/27	Amazon	Programs #1311	\$25.47 ✓

[Handwritten Signature]
11-3-25-

9/17	Wahoo Newspaper Bill	Collection #1310	\$93.60
10/1	Amazon	Collection #1310	\$145.60✓
10/27	Amazon	Collection #1310	\$100.15✓
10/1	Amazon	Collection #1310	\$217.49✓
10/27	Amazon	Collection #1310	\$35.01✓
10/1	Amazon	Collection #1310	\$75.46✓
10/25	Amazon	Collection #1310	\$6.99✓
10/1	Amazon	Collection #1310	\$11.46✓
10/7	Amazon	Collection #1310	\$29.76✓
10/7	Amazon	Collection #1310	\$63.05✓
10/7	Amazon	Collection #1310	\$8.58✓
10/7	Amazon	Collection #1310	\$39.41✓
10/10	Amazon	Collection #1310	\$24.28✓
10/18	Amazon	Collection #1310	\$39.34✓
10/20	Amazon	Collection #1310	\$10.79✓
10/20	Amazon	Collection #1310	\$16.98✓
10/25	Amazon	Collection #1310	\$28.98✓

President: *Russ Hapke* Date: *11-3-25*

Secretary: *Mary Jo Robinson* Date: *11-3-25*

Director: *Janice Van Acker* Date: *11/3/25*

Russ Hapke
11-3-25

The City of Yutan Police Department

P.O. Box 215, 112 Vine Street

Yutan, Nebraska 68073

*(402) 625-2468 * (402) 625-2112 (fax)*

October 2025 Activity November 2025 Meeting

Calls for Service:	3
Stops	4
Warning Tickets	4
Traffic Citations Issued	0
Driver License Pick up	0
Traffic Arrest (DUI etc.)	0
Alcohol Citation	0
Drug Citations	0
Criminal Citation	0
Warrant Attempts	0
Misdemeanor Arrest	0
Felony Arrest	0
Search Warrants	0
Motor Vehicle Accident	0
Investigations	2
HHS Intakes	1
Assist another agency	1
Fire Department Assist	1
<u>Business Checks</u>	
YUTAN	92
MEAD	140
Community Engagement	3
Citizens assist.	0
City Ordinance Violations	0
Red Tags Issued	0
Abatement Notice	0
Nuisance Letters	0
Dog Letters	
Towed Vehicles	0
Animal Neglect	0
Parking Citations	0
Open Doors	0
Parking Warnings	0
Vehicle Searches	
Alarm Calls	0
UTV/ATV Inspections	0

Community Engagement

HALLOWEEN

Handed out around 225 full cans of soda pop to kids in both Yutan and Mead. Was a fun night. Great group of kids out this year.

MEMORANDUM

FROM: Robert Costa, Community Planner
TO: City Council & Mayor of Yutan, Nebraska
DATE: November 13, 2025
SUBJECT: **Community Planner's November 2025 Report**

With some exception, there's not a whole lot to report here considering I unexpectedly missed most of the few weeks since our last meeting.

Certification for CDBG Grant Administration was acquired last month, in addition to completion of the League's legislative agenda work sessions.

A separate floodplain management code is tentatively drafted and will be submitted to the Nebraska Department of Water, Environment, & Energy for their review by the end of this week. I will discuss that with you further at our November Council meeting.

Heading toward the end of the year and upon the new zoning code becoming law, I'll work on revising the "BUILDING PERMITS" page online to make it more informative and user friendly. This will include clear direction regarding the application process, the expectation of all parties involved in construction, and an online list of recently-issued permits.

MEMORANDUM

To: Mayor and City Council

From: Brandy Bolter, City Clerk/Treasurer

Date: November 12, 2025

Subject: Clerks Report and Financial Update

I. Utility Billing System (Power Manager) Update

Significant progress has been made in resolving issues within the **Power Manager** utility billing system, following meetings with Mitch Dahl and our accountant, Alyson Pedro.

- **Status:** All past **bank statements and utility billing deposits** have been reconciled and are currently matching **to the penny**.
- **Remaining Issue:** We are still experiencing difficulty with the **general ledger not balancing**.
- **Next Steps:** We anticipate identifying and resolving the general ledger issues during the scheduled audit on **November 24th and 25th**. Following the audit, the goal is to have all system bugs fixed to ensure smooth operation going forward.

II. October Utility Collections Report

- **Late Notices:** In October, **43 late letters** were mailed on the 19th.
- **Delinquency:** **23 customers** remained unpaid by October 28th and subsequently received a door hanger notice.
- **Current Status:** There are currently **4 customers** who have either made a partial payment or no payment at all. I have successfully contacted three of these customers but have been unable to reach the last one.
- **November Action:** This month's late letters will be mailed out after 10 a.m. on the **19th**.

III. Bond Payment Update

*The principal payment on the **various purpose bond** was successfully made this month. Only the **interest and principal payment for next year** remains to completely pay off the bond.*