



SCOTTSBLUFF CITY
PLANNING COMMISSION AGENDA
Monday, March 13, 2017, 6:00 PM
Council Chambers, 2525 Circle Drive, Scottsbluff, NE 69361

**PLANNING
COMMISSIONERS**

BECKY ESTRADA
CHAIRPERSON

ANGIE AGUALLO
VICE CHAIRPERSON

DANA WEBER

HENRY HUBER

MARK WESTPHAL

CALLAN WAYMAN

DAVID GOMPERT

JIM ZITTERKOPF

ANITA CHADWICK

LINDA REDFERN
ALTERNATE

- 1. WELCOME TO THE PLANNING COMMISSION MEETING:** Chairman
- 2. NEBRASKA OPEN MEETINGS ACT:** For all interested parties, a copy of the Nebraska Open Meetings Act is posted on a bulletin board at the back of the council chambers in the west corner.
- 3. ROLL CALL:**
- 4. NOTICE OF CHANGES IN THE AGENDA:** Additions may not be made to this agenda less than 24-hours prior to the beginning of the meeting unless added under item 5 of this agenda.
- 5. CITIZENS WITH ITEMS NOT SCHEDULED ON THE REGULAR AGENDA:** As required by State Law, no item may be considered under this item unless the Planning Commission determines that the matter requires an emergency action.
- 6. APPROVAL OF THE PLANNING COMMISSION MINUTES FROM:**
 - A Approve Minutes of 2/13/17 Meeting**
 - B Special Use Permit Scrap Metal Processing Facility in M-2 Zone**
Special Use Permit: Scrap Metal Processing Facility
Applicant: Langer Industrial Service, LLC
Owner: Jerry and Pam Szarkowski
Location: 417 9th Avenue
 - C Ordinance Chapter 25 Article 3**
Ordinance: 24-Hour Daycare
- 7. ADJOURN**

The public is invited to participate in all Planning Commission Meetings. If you need special accommodations to participate in the meeting, please contact the Development Services Department at (308) 630-6243, 24-hours prior to the meeting.

City of Scottsbluff, Nebraska

Monday, March 13, 2017

Regular Meeting

Item Appr. Min.1

Approve Minutes of 2/13/17 Meeting

Staff Contact: Annie Folck

**Planning Commission Minutes
Regular Scheduled Meeting
February 13, 2017
Scottsbluff, Nebraska**

The Planning Commission of the City of Scottsbluff, Nebraska met in a regular scheduled meeting on Monday, February, 2017, 6:00 p.m. in the City Hall Council Chambers, 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting had been published in the Star-Herald, a newspaper of general circulation in the City, on February 3, 2017. The notice stated the date, hour and place of the meeting, that the meeting would be open to the public, that anyone with a disability desiring reasonable accommodation to attend the Planning Commission meeting should contact the Development Services Department, and that an agenda of the meeting kept continuously current was available for public inspection at Development Services Department office; provided, the City Planning Commission could modify the agenda at the meeting if the business was determined that an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each Planning Commission member. An agenda kept continuously current was available for public inspection at the office of the Development Services Department at all times from publication to the time of the meeting.

ITEM 1: Chairman Becky Estrada called the meeting to order. Roll call consisted of the following members: Anita Chadwick, Angie Aguillo, David Gompert, Jim Zitterkopf, Callan Wayman, Mark Westphal, Henry Huber, and Becky Estrada. Absent: Dana Weber. City officials present: Annie Folck, Planning Coordinator, Gary Batt, Code Administrator II, Jordan Diedrich, Administrative Services Coordinator, and Anthony Murphy, Fire Prevention Officer.

ITEM 2: Chairman Estrada informed all those present of the Nebraska Open Meetings Act and that a copy of such is posted on bookcase in the back area of the City Council Chamber, for those interested parties.

ITEM 3: Acknowledgment of any changes in the agenda: None

ITEM 4: Business not on agenda: None

ITEM 5: Citizens with items not scheduled on regular agenda: None

ITEM 6: The minutes of the January 9th meeting were reviewed. **Conclusion:** A motion was made by Zitterkopf and seconded by Gompert to approve the minutes for the January 9th meeting. **"YEAS":** Estrada, Aguillo, Huber, Gompert, Zitterkopf, and Chadwick. **"NAYS":** None **Abstain:** Westphal, Wayman **Absent:** Weber

ITEM 7A: The Planning Commission opened a public hearing for the review of a Preliminary Plat for Hilltop Estates. Annie Folck gave a staff review of the project, stating that it included 41 residential lots in 4 blocks. The lots are configured to allow some existing structures to remain in place after the property is divided. The lots will be large for a residential area, varying from 15,000-25,000 square feet, with the majority around 25,000 sq ft. The streets are proposed to have a 52' right of way, with the roadway 32' wide from back to curb to back of curb. Because of the relatively narrow street width, some parking restrictions are expected to ensure that emergency vehicles always have access throughout the subdivision. Parking will not be allowed on both sides of the street. Because the lots are so big, adequate off-street parking should be provided on each lot.

The City also is going to be working with the developer on stormwater retention. In the past, developers have been required to provide retention on-site, and historically, those retention areas have not been well-maintained. Once the lots of a subdivision are sold off, there is typically no one who wants to retain responsibility for maintaining the retention areas long-term, and homeowners' associations have not been successful in the community. Due to new regulatory requirements through the City's NPDES MS4 (municipal separate storm sewer system) permit, the City will soon be responsible for ensuring that all of

these retention areas are inspected and maintained on a regular basis. In order to alleviate the maintenance burden on developers and the City, and to minimize the amount of developable land that must be sacrificed in order to create these retention areas, the City is pursuing a new policy that would allow developers to direct stormwater runoff to regional retention facilities that would be owned and maintained by the City. In return for accepting their stormwater, the City would charge developers an impact fee at the time that a subdivision is developed. Hilltop Estates will be the first subdivision that will use this model. There are three sub-basins within the drainage area. While it would be the City's preference for all of the runoff to drain to regional facilities, due to the very flat gradation of the property, there will be one small on-site retention area. The rest of the runoff will be directed south to the existing retention basin south of the SWBC building, and north to a retention basin that will be constructed on City property next to the soccer complex.

Jack Baker, the engineer on the project, stated that the project would be for single family homes on large lots, about ½ acre on average. He also stated that they were also planning on constructing a lift station for the sanitary sewer. The street layout would have two outlets onto 42nd St and connect to the existing 12th on the south. Commissioner Westphal asked if a storm sewer lift pump would be necessary. Baker stated that they would be working with the City to determine if it would be necessary or not. They are aware of historical drainage issues along 42nd St, and he thought that the construction of a large retention area should help with some of those issues. Also, as the area develops, he thought that the street may be redone with curb and gutter in the future as well. Bill Trumbull asked if the retention area could be sized to take some of the 42nd St runoff. Baker stated that they would work with the City on that, but currently they were looking at sizing the retention area just for the subdivision. Commissioner Gompert asked how the street width would compare to those on 4th Avenue, because there are some issues with lane widths in that area. Baker stated that he wasn't sure of the street width on 4th Ave, but that the larger lot sizes would accommodate much more off-street parking than in older parts of town, so parking should not be as much of an issue. He stated that the street width would be similar to other newer subdivisions in town, such as Five Oaks. Commissioner Westphal asked if trash service would be provided with roll-off containers, since there was no alley. Hunter Kosman, owner of the project, responded that they were planning on roll-off containers. Westphal also asked how lift stations for sanitary sewer have worked historically. Baker stated that the lift station will meet all state standards and will be built to have capacity in the structure that would be based on the design flow. There will be backup generators to ensure that it would still run during power outages, and there would be two pumps there that would run alternately so that if one went out, the other would still be able to handle the flows. The City has other lift stations around town and makes sure they are well-maintained.

Carr Trumbull, the owner of the property to the northeast, addressed the Planning Commission, stating that while he had no objections to the subdivision, he did have some concerns about the drainage in the area. Historically, there used to be bar ditches on both sides of 42nd Street that would carry the runoff to the east and south. Over time, the County allowed the bar ditch on the south side to be filled in with no culverts, forcing runoff to the north side of the road. In 2011 large rains filled the bar pits and runoff backed up into the roadway before flooding the properties on the north side of the road. He was concerned about the overflow from the retention pond and where it might go. He would like to see the City and County find a way to alleviate drainage problems on 42nd St from the proposed subdivision location to Sugar Factory Road. He stated that this area is the logical next developable property for the City. He was concerned that there is no written policy for the regional retention basins, since City policy can change when City staff changes. Folck stated that the City is working on a written policy and hopes to have that in place before this property is final platted. Trumbull asked if the City works with the County in areas that are the City's zoning jurisdiction, but outside of City limits. Mark Bohl responded that they do work with the County all the time, and that they are aware of the drainage issues on 42nd St. He worked with Bob Bennet, County Roads Superintendent, to work on improving drainage in this area after the 2011 flooding, and that he would follow up with the County to look at more ways to resolve the drainage issues.

Commissioner Wayman asked how deep the retention pond would have to be, and if a stormwater lift station would be necessary. Baker answered that the property on the north side of 42nd St is lower than the road, so excavation would be needed for capacity, but otherwise there shouldn't have to be much

change in elevation. The retention area would also be designed to be expandable to serve future developments in the area. Westphal stated that he would like the City to consider a 2nd retention area that could accommodate emergency overflow.

Conclusion: A motion was made by Aguallo and seconded by Chadwick to recommend approval of the Hilltop Estates Preliminary Plat.

"YEAS": Aguallo, Westphal, Wayman, Gompert, Huber, Chadwick, and Estrada. **"NAYS":** None.

ABSTAIN: Zitterkopf. **ABSENT:** Weber. Motion carried.

ITEM 7B: The Planning Commission opened a public hearing to consider the One and Six Year Street Plan. Mark Bohl addressed the commission, stating that the only project on the One Year plan was 42nd Street from Ave I to the Soccer Complex. This project is over 6,600 linear feet. In order to complete the project, the City is planning on annexing the north half of the street. The County has sent the City a letter requesting that the City annex this right-of-way. The project will include total removal of the current surface with new curb and gutter, storm sewer system, and a 3 lane roadway (two through lanes with a center turn lane). They should have this project ready to bid by late summer. There is no more federal funding for roadways in communities, so the City is taking advantage of federal funding for pathways, but will not be receiving any for street improvements. The 42nd St project will probably be bonded. Commissioner Westphal asked if the project would be asphalt or concrete. Bohl stated that they were proposing all concrete, with the roadway 41' from back of curb to back of curb, and the project would also include sidewalks and lighting.

The rest of the projects that are listed in the 6 year plan have no funding source. Bohl stated that if funding comes available for any of the other projects, he can move them up on the list. He also stated that the streets for the Hilltop Estates subdivision are not included in the plan at this time because the property is currently outside of City limits, but if the property is annexed and the developer wants to move forward with the project, the City can add that project to this list at that time.

Conclusion: A motion was made by Gompert and seconded by Wayman to recommend approval of the 2017 One and Six Year Street Plan.

"YEAS": Aguallo, Westphal, Wayman, Gompert, Huber, Chadwick, Zitterkopf, and Estrada. **"NAYS":** None. **ABSTAIN:** None. **ABSENT:** Weber. Motion carried.

ITEM 8: Unfinished Business: None.

There being no further business, a motion to adjourn was made by Westphal and seconded by Aguallo. The meeting was adjourned at 6:40 p.m. **"YEAS":** Aguallo, Zitterkopf, Gompert, Westphal, Wayman, Huber, Chadwick, and Estrada. **"NAYS":** None. **ABSTAIN:** None. **ABSENT:** Weber. Motion carried.

Becky Estrada, Chairperson

Attest: _____
Annie Folck

City of Scottsbluff, Nebraska

Monday, March 13, 2017

Regular Meeting

Item Appr. Min.2

Special Use Permit Scrap Metal Processing Facility in M-2 Zone

Special Use Permit: Scrap Metal Processing Facility

Applicant: Langer Industrial Service, LLC

Owner: Jerry and Pam Szarkowski

Location: 417 9th Avenue

Staff Contact: Annie Folck



SCOTTSBLUFF PLANNING COMMISSION Staff Report

To:	Planning Commission	Zoning:	M-2
From:	Development Services Department	Property Size:	8.96 Acres
Date:	March 13 th , 2017	# Lots/Units:	2
Subject:	Special Use Permit Request – Langer Industrial Service, LLC Scrap Metal Processing Facility		
Location:	417 9 th Ave		

Background: The applicant(s), Langer Industrial Service, LLC is requesting a special use permit to allow for a recycling center and scrap metal processing facility in an M-2 Heavy Manufacturing and Industrial Zone. The property is on the northeast corner of S. Beltline and 9th Avenue.

Scrap metal processing facilities are listed under special permits uses in the M-2 Heavy Manufacturing and Industrial zoning district with approval from the Planning Commission. This is the City's most intensive zoning district.

Analysis: The property is located in an M-2 Heavy Manufacturing and Industrial zoning district. The applicant has submitted all the necessary paper work for the special use permit. The surrounding properties to the east and south are also zoned M-2. The property to the southwest is zoned M-1, Light Manufacturing and Industrial, and the property to the west and north is zoned C-3, Heavy Commercial. There are some residential properties within 300 feet; however, they are all on the other side of the Burlington Northern Railroad Tracks, so there is some separation between the residential areas and the proposed facility location. With the location along the Beltline Highway, it is very unlikely that any truck traffic from the facility would ever enter into the residential areas to the north. However, other potential effects such as noise and rodents should be considered as these could possibly affect the residents to the north.

RECOMMENDATION

Approve

Make a motion to approve the special use permit to allow for a Scrap Metal Processing Facility at 417 9th Ave in a M-2 Heavy Manufacturing and Industrial zoning district to Langer Industrial Service, LLC subject to the following condition(s):

Deny

Make a motion to disapprove the special use permit for a Scrap Metal Processing Facility at 417 9th Ave in a M-2 Heavy Manufacturing and Industrial zoning district to Langer Industrial Service, LLC for the following reason(s):

Table

Make a motion to TABLE the special use permit request for a Scrap Metal Processing Facility at 417 9th Ave in a M-2 Heavy Manufacturing and Industrial zoning district to Langer Industrial Service, LLC for the following reason(s):



City of Scottsbluff, Nebraska

Monday, March 13, 2017

Regular Meeting

Item Appr. Min.3

Ordinance Chapter 25 Article 3

Ordinance: 24-Hour Daycare

Staff Contact: Annie Folck

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF SCOTTSBLUFF, NEBRASKA, AMENDING ARTICLE 2 OF CHAPTER 25 AND ARTICLE 3 OF CHAPTER 25 OF THE MUNICIPAL CODE BY INCLUDING AND AMENDING DEFINITIONS FOR DAY CARE AND PROVIDING FOR A SPECIAL PERMIT FOR A CHILD CARE CENTER, FAMILY CHILD CARE HOME OR DAY CARE CENTER THAT OPERATES 24 HOURS PER DAY AND REQUIRING A SPECIAL PERMIT IN ANY ZONE WHERE CURRENTLY PERMITTED, REPEALING ALL PRIOR ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:

Section 1. Chapter 25, Article 2 of the Scottsbluff Municipal Code is amended by repealing the existing language and adding the following language:

“25-2-1. Words; usage.

The following words are used in this Chapter in the following manner:

- (1) “shall” and “must” mean that a person, organization, board, or association has a mandatory duty to act in the manner stated; such words are not used to declare a legal result,
- (2) “shall not,” “may not” and “must not” mean that a person, organization, board, or association has a mandatory duty to refrain from acting in the manner stated, and
- (3) “may” means that a person, organization, board, or association may, but is not required, to act in the manner stated.

25-2-2. Accessory building.

A building detached from the main building which is located on the lot or tract of land and whose use is subordinate to, and appropriate and customarily incidental to the use of the main building.

25-2-3. Adult book store.

The term “adult book store” means any establishment in which the preponderance of the material offered for sale, rent, or display is characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as those terms are defined in this Chapter.

25-2-4. Alley.

A public way, usually situated at the rear of a lot, which serves as a secondary means of access to the abutting lot.

25-2-5. All weather surfacing.

A surface consisting of four (4) inches of stabilized base overlaid with at least two (2) inches of gravel, concrete, or asphaltic surfacing.

25-2-6. Apartment.

For purposes of a condominium property development, an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

25-2-7. Arterial street.

A through street designed to carry the accumulated traffic of other streets feeding into it through the City.

25-2-8. Automobile service station.

A business place, located on premises that abut on a street or highway, which supplies motorists with gasoline, oil, tires and automobile accessories and services at retail direct to the motorist, including the making of minor repairs but excluding making such major repairs as:

- (1) spray painting,
- (2) axle, body, clutch, differential, fender, frame, spring and transmission repairs,
- (3) major engine overhaul requiring removal of the cylinder head or crankcase pan,

- (4) radiator repair requiring its removal, or
- (5) complete recapping or retreading of tires. The terms “filling station” and “service station” are included in this definition.

25-2-9. Automobile wrecking yard.

An area outside a building:

- (1) where motor vehicles are disassembled, dismantled, wrecked or junked,
- (2) where motor vehicles not in operating condition are stored, or
- (3) where used parts for motor vehicles are stored.

25-2-10. Basement.

That part of a building, wholly or partly below grade level, in which the greater part of the distance between its floor and ceiling is below grade level. A basement is not counted as a story in computing the number of stories a building has.

25-2-11. Billboard.

A billboard is an advertising sign which directs the attention of the public to a business/activity conducted, or product sold or offered for sale at a location not on the same premises where such sign is located.

25-2-12. Block.

An area enclosed by streets. When used as a term of measurement, it means:

- (1) the distance measured along the centerline of a street between two intersecting streets, or
- (2) if a dead-end street, the distance measured between the nearest intersecting street and the lot line abutting the dead end.

25-2-13. Boarding, rooming, or lodging house.

A building other than a hotel where either lodging or meals or both, for five (5) or more persons are provided for compensation.

25-2-13.1. Body piercing.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human ear lobe.

25-2-13.2. Branding.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

25-2-13.3. Brewery.

Brewery shall mean any industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-13.4. Brewery, Micro.

Micro Brewery shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other used such as a standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-13.5. Brew Pub.

Brew Pub and shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 50 percent of the total floor area of the commercial space.

Note, this section has been renumbered by the City Clerk pursuant to 14-2-9

25-2-14. Building.

Any structure which has a roof supported by columns or walls, whether above or below ground level.

25-2-15. Building coverage.

The percentage of the area of a lot or other tract of land which is covered by the maximum horizontal cross-section of a building or buildings located on it. Structures, including shelters for nuclear fallout, of which no part is above the grade of the lot, are not included in building coverage.

25-2-16. Building line.

A line parallel, or nearly parallel, to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line that a building may be erected. For buildings erected prior to June 10, 1974, the building line means the exterior wall or omitted wall line closest to the street or other lot line.

25-2-17. Building, height of.

The distance measured vertically at the front of the building from the mean grade to the highest peak of the roof.

25-2-18. Camper.
(See "travel trailer.")

25-2-19. Carport.

A structure or a part of a structure, other than a garage, used to shelter motor vehicles.

25-2-20. Child care center or preschool.

The term "child care center or preschool" means a place where care is provided:

- a. To four or more children under the age of 13 at any one time from families other than the provider's own;
- b. For on the average of less than 12 hours per day;
- c. For compensation, either indirect or direct;
- d. On a regular basis;
- e. By a person other than their parents/guardians;
- f. In full compliance with all of the applicable laws and regulations of the State of Nebraska pertaining to day care, whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted.

25-2-21. Clinic.

A place where care, diagnosis, and treatment of sick, infirm, or injured persons or those needing medical or surgical attention is provided, but where board, room, or overnight lodging is not provided.

25-2-22. Club or lodge, private.

A building and facilities owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit nor to render a service customarily carried on as a business.

25-2-23. Cluster housing development.

A housing development comprising a group of tracts of real estate the areas of which are not required to comply individually within minimum lot area requirements, and which, for the purpose of compliance with minimum area requirements, may include the areas of common areas. Residential structures in such a development may have common walls, but the term does not include multi-story apartment type developments.

25-2-24. Common areas.

An entire planned unit development except all spaces therein granted or reserved to separate ownership.

25-2-25. Condominium.

An estate in real property consisting of an undivided interest in common in a portion of a lot, block or other tract of real estate, whether used for residential, business, commercial or industrial purposes, together with a separate interest in a building on such tract. A condominium may include, in addition, a separate interest in other portions of such real property.

25-2-26. Condominium development.

An entire lot, block or tract of land, and all structures thereon, which are or are to be, owned under a condominium regime.

25-2-27. Condominium Property Act.

The Condominium Property Act of the State of Nebraska or the Nebraska Condominium Act as set forth in the Nebraska statutes, as now existing or hereafter amended.

25-2-27.1. Convenience Warehouse Storage Facility.

A series of storage spaces contained in one building or in a series of buildings which are designed and used for the purpose of renting or leasing individual storage spaces to persons in order that any person renting or leasing one or more of such individual storage spaces shall have access for the purpose of storing property therein.

25-2-28. Corral.

An enclosure designed for the confinement of livestock, within which livestock in excess of one hundred fifty (150) head at a particular time are confined.

25-2-29. Court.

An open unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on one (1) or more sides by such building or buildings.

25-2-30. Day Care Center or Nursery School.

The provision of care:

- a. To children under 13 years of age to 4 or more children at any one time from families other than the provider's own;
- b. For on the average of less than 12 hours per day;
- c. For compensation, either direct or indirect;
- d. On a regular basis;
- e. By a person other than their parents/guardians;
- f. In a single family detached dwelling unit;
- g. In full compliance with all of the applicable laws and regulations of the State of Nebraska pertaining to day care whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted.

25-2-31. Decorative landscape feature.

Any structure or object, composed of any material, natural or artificial, erected, planted or positioned to enhance the visual or aesthetic value of the landscape of a tract of land.

25-2-32. Domestic violence shelter.

Any structure which is used primarily to provide temporary lodging and sanctuary for adult and child victims of domestic violence. No structure shall be considered a domestic violence shelter unless the following conditions are met:

- a. The shelter must be staffed by at least one person during the hours of operation in which the structure is occupied by a victim or victims.
- b. No more than five (5) adult victims may occupy the premises during a twenty-four (24) hour period.
- c. Occupancy by a victim of domestic violence shall not exceed seven (7) consecutive days.

25-2-33. Dormitory.

A building or part of a building containing a room or rooms each designed or intended to be rented for occupancy by more than two (2) persons.

25-2-34. Duplex.

A dwelling consisting of two (2) family units split horizontally.

25-2-35. Dwelling.

A building, or part thereof, designed for residential occupancy.

25-2-36. Dwelling unit.

A room, or group of rooms with kitchen facilities intended to be occupied as separate living quarters by a family, a group of persons living together, or a person living alone.

25-2-37. Dwelling, one (1) family or single family.

A building designed exclusively for occupancy by only one (1) family.

25-2-38. Dwelling, two (2) family.

A building designed exclusively for occupancy under one roof by two (2) families living independently of each other.

25-2-39. Dwelling, multiple family.

A building, or a part thereof, designed for occupancy under one roof by four (4) or more families living independently of each other.

25-2-40. Family.

(1) a group of natural persons consisting of a man, his wife, any children born to either him or his wife, legally adopted by either him or his wife, or placed with either him or his wife as foster children, or any combination of these persons,

(2) a group of natural persons as defined in (1) plus not more than six (6) other persons, at least three (3) of which must be related to some one of the persons described in (1) by blood, marriage, or legal adoption, or

(3) a group of not more than three (3) natural persons living together who are not related.

25-2-41. Family child care home.

The term "family child care home" means a place where care is provided:

- a. To four or more, but not exceeding twelve, children under age 13 at any one time from families other than that of the provider;
- b. For on the average of less than 12 hours per day;
- c. For compensation, either direct or indirect;
- d. On a regular basis;
- e. By a person other than their parents or guardians;
- f. In the home of the person providing the care;
- g. In full compliance with all the applicable laws and regulations of the State of Nebraska pertaining to child care, whether such laws and regulations exist at the time of the passage of this ordinance or are hereafter adopted.

25-2-42. Feedlot.

An enclosure designed for the confinement of livestock or other commercially slaughterable animals or fowl, within which are confined at any particular time (not necessarily, repeatedly) animals or fowl, to which feed not grown within the enclosure is regularly provided, when a permit is required by NDEQ.

25-2-43. Fence.

Any tangible barrier or obstruction composed of any material, natural or artificial, placed for the purpose, or having the effect, or preventing passage or view across the barrier or obstruction. The term includes hedges and walls.

25-2-44. Fence, Perimeter.

A fence which encloses, or substantially encloses, two or more contiguous or adjacent lots, blocks or tracts of land.

25-2-45. Fence, Privacy.

Any fence erected or positioned to block a view of enclosed property.

25-2-46. Fertilizer storage and mixing plant.

A facility where (1) fertilizer or raw materials used in the mixing or manufacturing of fertilizer are stored and (2) the component parts are mixed to make liquid and dry fertilizers or various combinations or blends of fertilizer. The term "fertilizer storage and mixing plant" shall not include the storage or sale of prepackaged fertilizer which does not require any mixing or blending prior to sale or distribution.

25-2-47. Floor area.

The total number of square feet of floor space within the exterior walls of a building, not including space in cellars and basements.

25-2-48. Floor area ratio.

The total floor area on a zoning lot divided by the lot area of that zoning lot. For example, a building containing twenty thousand (20,000) square feet of floor area on a zoning lot containing ten thousand (10,000) square feet of area has a floor area ratio of two (2) to one (1).

25-2-49. Frontage.

That part of a lot which abuts a public right-of-way or the principal means of access to the lot.

25-2-50. Garage.

A structure, or part thereof, in which one (1) or more motor vehicles are housed, stored, kept, or repaired. It does not include an exhibition room, show room, or warehouse where cars kept for sale are stored.

25-2-51. Garage, private.

An accessory building, or an accessory part of a principal building, which is primarily intended and used for storage of privately owned motor vehicles, boats, and trailers of the family or families residing on the premises where it is located but in which no business, service, or industry connected directly or indirectly with motor vehicles, boats, or trailers is carried on. It includes a carport.

25-2-52. Garage, public.

A building where motor vehicles, boats, or trailers are painted, rebuilt, reconstructed, repaired, or stored for compensation.

25-2-53. Grade.

The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

25-2-54. Gross floor area.

The total area of floor space within the exterior walls of a building.

25-2-55. Home occupation.

A business or profession, or an aspect thereof, which is carried on within a dwelling, or a building accessory thereto, and which by custom in the community constitutes a use of the premises which is incidental to use of the premises for dwelling purposes.

25-2-55.1. Emergency Shelter.

A residential facility operated by a government agency or by a private non-profit organization, which facility provides temporary accommodations to individuals or families who lack a fixed regular and/or adequate night-time residence.

25-2-56. Hotel/Motel

A building, or group of buildings, designed chiefly to provide for compensation for temporary lodging, with or without meals, containing individual sleeping units:

- (1) principally designed or used for temporary occupancy by tourists or transients,
- (2) with convenient parking space for each unit, and
- (3) with an entrance to each guest room or suite from an interior central hallway or independent exterior entrance.

25-2-57. Junkyard.

A space of two hundred (200) square feet or more located on a lot or tract of land which is used to store, dismantle, demolish, process, or abandon junk, or abandoned vehicles. The term "junk" shall have the meaning given to it in Chapter 12-1-1(3).

25-2-58. Kennel, dog.

A building, structure or premises in or on which more than three (3) dogs, at least five (5) months of age, are harbored. The term does not include a dog pound operated by or under contract with the City.

25-2-59. Living quarters.

One (1) or more rooms in a building designed for occupancy by one (1) or more persons which may be used for living or sleeping purposes.

25-2-60. Lodge, private.
(See “Club, private.”)

25-2-61. Lodging house.
(See “Boarding house.”)

25-2-62. Lot.

A single building site or a single parcel of land designated as a lot on a subdivision plat, a record of survey map, or described as such by metes and bounds, having sufficient area to accommodate a main building authorized, with respect to its location, by the municipal code. It includes two (2) or more previously separate lots, or parts of lots, combined as a single building site for use as a single parcel of land.

25-2-63. Lot area.

The total area of a lot lying within its lot lines.

25-2-64. Lot, corner.

A lot situated at an intersection of two or more streets whose intersection angle does not exceed one hundred thirty-five degrees.

25-2-65. Lot coverage.

The percentage of lot area covered by the buildings and structures located on the lot. Buildings and structures include porches, breezeways, patio roofs, and like structures, but not fences or swimming pools.

25-2-66. Lot depth.

The average of the maximum and minimum distances between the front lot line and the rear lot line of the building site.

25-2-67. Lot, double frontage.

A lot which extends from street to street.

25-2-68. Lot, interior.

A lot which is not a corner lot.

25-2-69. Lot, key.

The first interior lot to the rear of a reversed corner lot.

25-2-70. Lot line.

Any boundary line of a lot.

25-2-71. Lot line, front.

- (1) for an interior lot, the line separating the lot from the street or place on which it abuts, and
- (2) for a corner lot, the line separating the lot from the street on which the majority of the lots in the block front.

25-2-72. Lot line, rear.

The lot line directly opposite most distant from the front lot line. In the case of an irregularly shaped lot, it is the lot line, at least ten (10) feet long, which is parallel to, or most nearly so, and most distant from the front lot line.

25-2-73. Lot line, side.

Any lot line which is neither a front or rear lot line.

25-2-74. Lot of record.

A lot whose separate entity has been established by a plat recorded in the office of the Register of Deeds.

25-2-75. Lot, reversed corner.

A corner lot the rear lot line of which abuts on the side lot line of another lot.

25-2-76. Lot width.

The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

25-2-77. Main building.

A building on a lot which is occupied by the primary use.

25-2-78. Manufactured Home.

Manufactured home shall mean (a) 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 National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Health and Urban Development, or (b) a modular housing unit as defined in section 71-1557 of the Statutes of Nebraska bearing the seal of the Department of Health and Human Services Regulation and Licensure.

25-2-79. Master deed.

A deed establishing a condominium property regime.

25-2-80. Mobile home.

A movable or portable dwelling which:

- (1) is not less than eight (8) feet in width,
- (2) is not less than forty (40) feet in length,
- (3) is so constructed as to be towable on its own chassis, and to function without a permanent foundation,
- (4) can be connected to utilities, and
- (5) has kitchen and sanitary facilities.

A mobile home may consist of one (1) or more units which can be telescoped when being towed and later expanded to create additional capacity, or it may consist of two (2) or more units which can be towed separately but are designed to be joined into an integral unit. A dwelling so constructed shall be deemed to be a mobile home whether or not mounted upon a temporary or a permanent foundation. Mobile homes must meet HUD standards.

25-2-81. Mobile home park.

A tract of land containing at least four and one-half (4½) acres owned by one (1) legal entity and licensed as required by Article 9 of this Chapter.

25-2-82. Mobile home planned unit development.

A mobile home development, on a lot or tract of land comprising not less than five (5) acres, which is characterized by an integrated and coordinated arrangement under which the mobile home dwelling units are individually owned, and all of the common open space, including but not necessarily limited to, parking areas and drives, are owned in common by the owners of the mobile home dwelling units or by an incorporated or cooperative association of which such owners are the members.

25-2-83. Mobile home park drives.

Privately owned lanes and roadways within a mobile home park.

25-2-84. Mobile home space.

A plot of ground within a mobile home park designated for the accommodation of one (1) mobile home.

25-2-85. Municipal Uses.

A use of the land, or buildings, for municipal purposes such as water wells, parks, streets, alleys and other public infrastructure operated and maintained by the City.

25-2-86. Nursing Home.

A home for aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care for compensation.

25-2-87. Occupancy.

The actual possession or use of a building, structure, lot, or tract of land.

25-2-88. Open space.

Land areas which are not occupied by buildings, structures, streets, open visitor parking spaces or alleys, except approved landscaped features and active recreational facilities that are part of a Planned Unit Development.

25-2-89. Open space, common.

Open space which is suitably located and improved for common recreational purposes, active or passive, and is accessible to each lot or dwelling within a planned unit development through a system of public or private walkways.

25-2-90. Pharmacy.

Business premises wherein is carried on primarily the business of selling at retail of prescription and legal nonprescription drugs and medicines, and includes the selling at retail, as an incident to such business, of other medical supplies and equipment, personal care products and greeting cards.

25-2-90.1. Permanent Color Technology.

Permanent color technology means the process by which the skin is marked or colored by insertion of non-toxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

25-2-90.2. Permanent Cosmetic Facility.

A facility where procedures are performed in which permanent color technology is applied or pigment is applied with a needle, electronic machine, or other means to produce a permanent mark visible through the skin. Procedures include, but are not limited to the application of eyeliner, eyeshadow, lip, eyebrow or cheek color for the purpose of enhanced aesthetic; scar concealment; and/or re-pigmentation of areas involving reconstructive surgery or trauma. A permanent cosmetic facility must obtain appropriate licensure through the Nebraska Department of Health and Human Services for body art facilities.

25-2-91. Person.

An individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

25-2-92. Property.

Land, leasehold interests in land, any building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto or to any of such elements alone.

25-2-93. Planned business center.

Any business or commercial development on a lot or tract of land which contains not less than five (5) acres and is characterized by an integrated or coordinated arrangement of stores, shops, offices, buildings, and facilities.

25-2-94. Recreation areas.

The common open space which is usable for recreational purposes, whether or not developed with active facilities, such as swimming pools, tennis courts, recreational buildings, a clubhouse, or similar facilities located within a planned unit development.

25-2-95. Recycling center.

A building in which aluminum and tin cans, glass and plastic containers, and newspapers and paper products, or any of these, are received, stored and compacted for subsequent transportation to a processing facility.

25-2-96. Reversed frontage.

The situation in which the rear lot line of a corner lot abuts the side lot line of the adjacent interior lot.

25-2-97. Rooming house.

(See “Boarding house.”)

25-2-98. Satellite earth station, height.

The height of the dish measured vertically from the highest point of the dish, when positioned for operation, to the bottom of the base which supports the dish.

25-2-99. Scrap metal processing facility.

An establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap-for sale for remelting purposes.

25-2-100. Service building.

A building or buildings located in a mobile home park or trailer park which provide laundry and drying, toilet or bathing facilities to occupants of the park.

25-2-101. Setback line.

A line, as shown on a recorded plat or otherwise established by the City Council, beyond which no part of a main exterior wall of a building or structure may project.

25-2-102. Setback line, front.

The setback line at the front of the lot.

25-2-103. Setback line, rear.

The setback line at the rear of the lot.

25-2-104. Setback line, side.

The setback line at either side of the lot.

25-2-104.1. Sight triangle.

An area at a street intersection in which no buildings shall be erected or placed or trees, bushes or shrubs shall be planted in a manner which impedes vision between a height of 2 ½ feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 50 feet in each direction along the centerline of the streets. At the intersection of major arterial streets, the 50-foot distance shall be increased to 100 feet for each leg of the intersection.

25-2-105. Sign.

Any device containing elements or symbols, organized or related, which is designed to inform or to attract the attention of persons not on the premises on which the sign is located; provided, however, that mailbox numbers or names, government flags or insignia, legal notices, governmental identification, information or direction signs, shall not be included within this definition.

25-2-106. Sign, area of.

The entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure, or character. The area of a sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, squares, rectangles, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, squares, rectangles, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

25-2-107. Sign structure.

The supports, uprights, bracing, guy rods, cables and frame work of a sign or outdoor display.

25-2-108. Sign, accessory.

A sign which directs attention to a business, product, activity, or service conducted, sold, or offered for sale on the lot or tract of land where the sign is located.

25-2-109. Sign, attached.

A sign mounted flat against a wall or side of a building or structure.

25-2-110. Sign, detached.

A freestanding sign, and includes such signs whether standing upon the ground or upon a building or structure, and whether permanently fixed or movable, but does not include mobile signs.

25-2-111. Sign, mobile.

A movable or portable sign that is so constructed as to be towable on its own chassis and to function without a permanent base or support.

25-2-112. Sign, extending.

A sign mounted perpendicularly to the wall of a building.

25-2-113. Sign, political.

A sign, advertising structure, or display which communicates any message or idea identifying, supporting, opposing, promoting, conveying a position upon, or relating to any candidate for public office or proposition, amendment or issue connected with any local, special, state or national election. The term does not include political buttons, vehicle bumper stickers, signs on garments or hats, or political campaign memorabilia carried on the person.

25-2-113.1. Sign; Temporary Detached.

A temporary detached sign is a detached sign which meets one or more of the following criteria:

1. Relates a message that changes frequently or becomes outdated; or
2. Made of materials of relatively low durability; or
3. Intended to be removed or replaced within a period of six months or less; or
4. Is portable.

25-2-114. Solid Waste Transfer Station.

A building in which solid waste is deposited and sorted for recycling or disposal, and from which it is transported within ten days after initial deposit, to a recycling center or to a landfill site licensed by the State of Nebraska. The term “solid waste” means solid waste as defined in Chapter 19, however, that anything which is a hazardous waste shall not be considered a “solid waste” which is allowed to be deposited and sorted in a solid waste transfer station. The term “hazardous waste” means hazardous waste as defined in Chapter 19. The term “hazardous waste” shall also include any substance which is defined as a hazardous waste by the Rules and Regulations of the Nebraska Department of Environmental Control as such rules and regulations are or may become effective from time to time.

25-2-115. Specified anatomical areas.

The term “specified anatomical areas” means:

- a) less than completely and opaquely covered human genitals, pubic region, buttocks or female breasts below a point immediately above the top of the areola or
- b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

25-2-116. Specified sexual activities.

Specified sexual activities means:

- a) human genitals in a state of sexual stimulation or arousal;
- b) acts of human masturbation, sexual intercourse or sodomy; or,
- c) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

25-2-117. Store.

To place or leave in a location for preservation or later use or disposal.

25-2-118. Story.

That part of a building, not including a basement:

- (1) between the surface of any floor and the surface of the next floor above it, or
- (2) if there is no floor above, then the space between any floor and the ceiling next above it.

25-2-119. Story, half.

A story directly under a gable, hip, or gambrel roof whose wall plates on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of that story.

25-2-120. Street.

A public way, road, or highway, furnishing the principal means of access to an abutting lot or tract of land.

25-2-121. Street, front.

A street on which the majority of the lots in the block front.

25-2-122. Street, side.

A street which intersects a front street.

25-2-123. Structure.

Anything constructed or erected on the ground, or attached to something constructed or erected on the ground. The term includes manufactured homes, signs, billboards and fences so constructed, erected or attached.

25-2-124. Structural alteration.

A change in any supporting members, such as bearing wall, column, beam, or girder of any structure.

25-2-125. Subdivision.

The dividing of any parcel of land into two (2) or more parcels.

25-2-125.1. Tattooing.

Tattooing means the process by which the skin is marked or colored by insertion of non-toxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

25-2-125.2. Tattoo/body piercing establishment.

Any establishment where tattooing, branding and/or body piercing is engaged in and where the business of tattooing, branding, and/or body piercing is conducted, or any part thereof. This definition does not include practices that are considered medical procedures such as implants under the skin. Practices recognized as medical procedures by the State Medical Board shall not be performed in a tattoo/body piercing establishment. All tattoo/body piercing establishments must obtain appropriate licensure through the Nebraska Department of Health and Human Services for body art facilities.

25-2-126. Temporary.

Less than twelve (12) months.

25-2-127. Townhouse.

An arrangement of single family dwelling units, joined by common walls on not more than two (2) sides, with the uppermost story being a portion of the same dwelling located directly beneath at the grade of the first floor area, and having exclusive individual ownership and occupancy rights of each dwelling unit, including, but not limited to the land area directly beneath such dwelling unit.

25-2-128. Travel trailer.

A portable vehicular structure built on a chassis which is designed to be used as a temporary dwelling while traveling, the body of which is not more than eight (8) feet wide nor thirty-two (32) feet long, and which usually contains bath or toilet facilities, or both. The term includes a camper.

25-2-129. Trailer park.

A tract of land which is not a mobile home park but contains individual parking lots for travel trailers. It may have temporary hookup facilities for plumbing and electrical services.

25-2-130. Unit.

The element of a planned unit development which is not owned in common with the owners of other elements in the development.

25-2-131. Use, Accessory.

A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

25-2-132. Use, Conditional

A use classified as conditional may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed, it may create special problems such as excessive bulk, height or abnormal traffic conditions.

25-2-133. Use, Non-conforming

Use of land, buildings or structures legally existing at the effective date of this ordinance which does not comply with all regulations of this ordinance or any amendments hereto governing the zoning district in which such use is located.

25-2-134. Use, Permitted.

A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of particular zoning district.

25-2-135. Use, Principal.

The primary use of land or buildings as distinguished from accessory uses. A principal use may be either permitted or conditional.

25-2-136. Used car lot.

A lot or tract of land where second-hand automobiles, intact and ready for operation, are kept and offered for sale.

25-2-137. Variance.

An authorization granted by the Board of Adjustment with respect to a lot, tract of land, building or structure so as to permit the use of a lot or tract of land, or the construction, reconstruction, maintenance, repair or use of a building or structure, which is otherwise prohibited by this Chapter, because of peculiar and exceptional practical difficulties, or an exceptional and undue hardship of a type recognized by section 19-910 R.R.S. 1943, as amended, as grounds for the granting of a variance.

25-2-138. Yard.

An open space, other than a court, on a lot or tract of land generally unobstructed except as permitted in this Chapter from the ground upward.

25-2-139. Yard, front.

A yard extending the full width of a lot or tract of land between the front wall of the main building and the front lot line.

25-2-140. Yard, rear.

A yard extending the full width of a lot, or tract of land, between the rear of the main building and the rear lot line. The depth of a required rear yard is measured from the nearest point of the rear lot line to the nearest point of the main building.

25-2-141. Yard, side.

A yard between a side wall of the main building and the side lot line extending from the front yard to the rear yard.

25-2-142. Zoning district.

An area delineated on a zoning map for which uniform use regulations are specified.

25-2-143. Zoning map.

A map or maps directly enacted by the City Council as a part of this Chapter showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an Director record of the City, and a copy of which is attached to a copy of the text of this Chapter.

Section 2. Chapter 25, Article 3 of the Scottsbluff Municipal Code is amended by repealing the existing language and adding the following language:

“25-3-23. General Requirements

- (1) Accessory buildings. Accessory buildings, regardless of the direction they face, may not project beyond the rear of the main building. Accessory structures under two hundred square feet shall be anchored to a four inch concrete slab, pier footings, or secured by some other means approved by the Development Services Director or his/her designee.
- (2) Building projections: lateral. Eaves may extend into the front yard and rear yard setback area not to exceed a distance of two feet (2'), but may not extend into a side yard setback area. Porches, covered porches, decks, platforms or terraces not over three feet (3') above the average level of the adjoining ground may extend eight feet (8') into the required front yard. This exception shall not exceed any more than eight feet (8') into any front yard setback established in the zoning district. Covered porches, decks, platforms or terraces shall not be enclosed with any solid material such as screening, siding, plywood, or other solid material normally used for outside wall covering. Any railing shall comply with the requirements of the adopted building code and shall be at least 50% open to the passage of air and light. Open or enclosed fire escapes, fireproof outside stairways, or balconies, may not project more than five feet (5') into a yard, nor more than three and one-half feet (3.5') into a court.
- (3) Buildings, structures; projections; vertical. In measuring height of buildings or structures for compliance with this Chapter, the following parts of buildings or structures are not included, except where expressly otherwise provided: parapet walls not more than four (4) feet high, chimneys, cooling towers, elevators, bulkheads, fire towers, grain elevators, penthouses stacks, stage towers or scenery lofts, sugar towers, ornamental tanks, radio or television towers, ornamental towers, monuments, cupolas, domes and spires, and necessary mechanical appurtenances; provided, such projections shall not be so placed as to obstruct light or ventilation.
- (4) Covered patio or porch. A covered patio, porch, or similar accessory structure must comply with all yard area and space requirements applicable to an attached or detached accessory building, whichever is applicable. A front covered patio or porch shall not be enclosed. If a front covered patio or porch is enclosed, it shall no longer fall under this definition and shall be considered part of the building.
- (5) Carport. A carport may be attached to the main residence. If the carport is open on two sides, it may be built to the interior property line. The interior lot line side of the carport shall not be enclosed. Storm water runoff from the carport roof shall not drain onto adjoining property. There shall be an opening of a width of not less than thirty-six inches and of a height not less than that of a standard door to allow transportation between the front and back yards.
- (6) Common area. Where a building adjoins an area held in common with other property owners in the immediate vicinity, the roof overhang of the building may encroach into the commonly held area provided that the minimum spacing between buildings as mandated by the applicable fire prevention code is maintained.
- (7) Corner lot: obstructions. No building or structure, or a part thereof, may be built on a corner lot in any R Zone, or residentially used lot or tract of land, within a triangular area bounded by the lot lines abutting two (2) intersecting streets and a line connecting a point lying on each lot line twenty (20) feet from the point of intersection of the lot lines. Shrubs within this area may not exceed three (3) feet in height and trees therein must be trimmed to a height above the curb or established street grade of at least eight (8) feet.
- (8) Corner lot: side street. A building on a corner lot shall be set back from the side street not less than one-half (½) of the distance required by this Chapter for a front building setback. In zones C-1, C-2, and C-3, no building or structure, or any part thereof, shall be constructed within a triangular area at the street corner of a lot or tract which has, as its sides, sides herein designated and described. Side A shall consist of a side that borders the lane of traffic approaching the intersection, and that is fifteen (15) feet in length. Side B shall consist of a side that borders the lane of traffic leaving the intersection, and that is five (5) feet in length. Side C shall be the hypotenuse.
- (9) Decorative structures. A special permit may be issued to erect in a front setback area a decorative structure, exclusive of signs, which does not have a height in excess of three (3) feet above the ground.
- (10) Feedlots. New feedlots and the expansion of existing feedlots are not permitted within the City of Scottsbluff's zoning jurisdiction.
- (11) Hotels, motels; lot area. Lot area requirements for dwelling units apply to hotels and motels which provide kitchen facilities in any room, suite, or apartment.
- (12) Lot dimensions: reduction. After the effective date of this Chapter, no lot area, size or other dimension may be reduced below the minimum lot area, size, or other dimension required by this

Chapter. If the area, size or other dimension is below such minimum requirements when this Chapter becomes effective, it may not be reduced further.

(13) Particular streets; setbacks. All buildings and structures, except fences and signs, shall be set back from the following streets not less than the following distances:

- (a) from East side of 1st Avenue between East 15th Street and East Overland, ten (10) feet,
- (b) from East side of 1st Avenue between East 19th and East 20th Streets, ten (10) feet,
- (c) from both sides of Broadway Avenue between the South City Limits and West Overland Drive, twenty (20) feet,
- (d) from both sides of West 27th Street between Broadway Avenue and the West City limits, twenty (20) feet, and
- (e) from both sides of East Overland Drive between Railway Street and the East City limits, twenty (20) feet. If setbacks required by other provisions of this Chapter are greater than those specified in this section, the setback requirements of such other provisions shall govern.

(14) Railroad intersection. No building or other structure may be placed on a triangular tract of land which on one side abuts a public street that is intersected by a railroad track, on a second side abuts the railroad right-of-way, and the third boundary line which, extended, intersects the centerline of the nearest rail and the nearest right-of-way line of the street at points respectively, which are less than fifty (50) feet distant from the point of intersection of such centerline of the nearest rail and such right-of-way line of the street extended.

(15) Rear yard; depth; area. In computing depth or area of a rear yard for a lot whose rear yard opens into an alley, one-half ($\frac{1}{2}$) of the width of the alley is considered to be part of the yard.

(16) Semidetached dwellings; bungalow court; setbacks. For purposes of the application of front, side, and rear yard setbacks, a semidetached (two-family) dwelling or a bungalow court is considered to be one (1) building occupying one (1) lot.

(17) Setbacks; front. Front yard setback requirements apply to that part of the yard abutting a front street whether the building on the lot fronts on the front or a side street. A building on a corner lot shall be set back from the side street not less than one-half the distance required by the Chapter for a front building setback. In zones C-1, C-2 and C-3 no building or structure, or any part thereof, shall be constructed within a triangular area at the street corner of a lot or tract which has, as its sides, sides herein designated and described. Side A shall consist of a side that borders the lane of traffic approaching the intersection, and that is fifteen (15) feet in length. Side B shall consist of a side that borders the lane of traffic leaving the intersection, and that is five (5) feet in length. Side C shall be the hypotenuse. Accessory buildings, regardless of the direction they face, may not project beyond nor into any yard required by the Chapter, nor may they be located in such yard.

(18) Setbacks; plat. If setbacks greater than required by this Chapter are shown in a recorded plat of an addition or subdivision which has been approved by the City Council, compliance shall be had with the setbacks shown in the plat.

(19) Setbacks; quarter section lines. If a track abuts upon or is adjacent to a quarter section line on which no public street, alley, highway, road or way has been established, the front and rear setback requirements for buildings and structures which are established elsewhere in this Chapter shall apply to that part of the tract which so abuts or is so adjacent as if the quarter section line were the centerline of a platted street which is one hundred feet in width, and as if the tract or, as the case may be, part of the tract fronted on such street.

(20) Subdivided lot; noncompliance; special permit. Anything in this Article to the contrary notwithstanding, if the City Council shall have approved the subdivision of a lot (whether by approval of a final replat or approval of a subdivision without a plat) into two (2) or more tracts on each of which there has existed since prior to June 10, 1974 one (1) or more residence buildings, and after the subdivision one (1) or more of such tracts or buildings shall not comply, because of such subdivision, with one or more other requirements of this Article, the Planning Commission, upon an application made pursuant to Article 16 and compliance with all other requirements of such Article, may issue a special permit waiving such noncompliance with Article 3, subject to such conditions, if any, as the permit may prescribe.

(21) Swimming pool; location. A swimming pool or similar accessory structure may not be located in either a front or side yard setback area.

(22) Use of Land. Public Utility. The use of land (exclusive of public streets and alleys) and buildings in any location for public utility (whether publicly or privately owned) purposes which the Commission finds reasonably necessary for the public convenience and welfare. The permits authorized in subdivisions (3) and (4) of the preceding sentence may not be granted for more than one (1) year,

but may be renewed for periods not exceeding one year each for written application made at least thirty (30) days before the one period expires.

(23) Uses: illegal; existing. No use of any lot, tract of land, building or structure which was illegal at the time this Chapter was enacted is made legal by the enactment of this Chapter unless the use conforms fully to the requirements of this Chapter.

(24) Uses requiring special permit. The following uses which, in absence of a special permit granted by the Planning Commission, are not permitted in any zone or, as the case may be, in certain zones are permitted if the Planning Commission grants a special permit for the use:

1. Accessory living quarters for persons employed in agricultural work on the land
2. Animal hospital or dog kennel
3. Slaughtering of animals or poultry
4. Outdoor amusement enterprises
5. Cemetery
6. A child care center or preschool, family child care home or day care center/nursery school when in a zoning district they are permitted or specially permitted which operates for more than 12 hours per day. Further provided that each child must be present for 12 hours or fewer per day but the provider can operate any time of the day or night after a special permit is approved.
7. Drive-in theater
8. Golf course or driving range
9. Hospital, sanitarium or chemical dependency rehabilitation facility
10. Livestock feeding or sale yard
11. Nuisance-producing agricultural use
12. Nursing home
13. Private club or social center
14. Sand or gravel pit or plant, borrow pit, stripping of top soil, or recycling concrete rubble and the retail sale of the resulting product
15. Private or parochial school or similar institution
16. Oil or gas well, and
17. Facility providing temporary care for runaway or homeless minors. The term “runaway or homeless minors” includes, but is not limited to, minors of that description who are placed in the facility by order of a court or by other public agency.

(25) Yard space; openness. Except as otherwise permitted in this Article, the minimum required yard must be open above its lowest point to the sky. A yard or open space required for one building or structure may not be used to fulfill a yard or open space required for any other building or structure.

Section 3. Previously existing Chapter 25, Article 2 and Article 3 of the Scottsbluff Municipal Code and all other Ordinances and parts of Ordinances in conflict herewith are repealed. Provided, however, this Ordinance shall not be construed to affect any rights, liabilities, duties or causes of action, either criminal or civil, existing or actions pending at the time when this Ordinance becomes effective.

Section 4. This Ordinance shall become effective upon its passage, approval as provided by law, and publication shall be in pamphlet form.

PASSED AND APPROVED on _____, 2017.

ATTEST:

 Mayor

 City Clerk (Seal)

Approved to form:

 City Attorney



SCOTTSBLUFF PLANNING COMMISSION Staff Report

To: Planning Commission
From: Development Services Department
Date: March 13, 2017
Subject: Ordinance Amendment allowing for 24-Hour Daycare
Location: N/A

Background

Currently, the City's zoning code classifies two types of day cares. A "Family Child Care Home" is a daycare that provides care for 12 or fewer children. A "Child Care Center or Preschool" or "Daycare" provides care for more than 12 children. This matches licensing requirements from the Nebraska Dept of Health and Human Services. Currently both types of daycares are only allowed to operate for 12 or fewer hours per day. The City has been approached by a daycare owner who wants to start operating around the clock to provide child care services to parents who work nights.

Staff is recommending a code change (attached) that would allow 24-hour daycares in the same zones where other daycares are allowed, but only with a Special Use Permit. This would allow more oversight and give neighbors an opportunity to voice any concerns they have about traffic or hours of operation which could affect them. The other change that is included in this ordinance is to add the title "nursery school" to the definition for "Day Care". Previously "nursery school" was listed as a permitted use in the zoning code, but there was no definition for it.

RECOMMENDATION

Approve

Make the motion to give a POSITIVE recommendation for the ordinance amendment adding language and requirements for 24-hour Daycare into City code Chapter 25, Article 3 subject to the following condition(s):

Deny

Make the motion to give a NEGATIVE recommendation for the ordinance amendment adding language and requirements for 24-hour Daycare into City code Chapter 25, Article 3 for the following reason(s):

Table

Make the motion to TABLE the the ordinance amendment adding language and requirements for 24-hour Daycare into City code Chapter 25, Article 3 for the following reason(s):