

MCCOOK CITY COUNCIL

REGULAR MEETING

**Monday, August 10, 2026
5:15 PM - City Council Chambers**

Call to Order and Roll Call.

Open Meetings Act Announcement.

Items

1. Approve the minutes of the July 13, 2026 regular Planning Commission meeting.
2. Public Hearings and Regular Agenda.
 - A. Discussion regarding the Walters Subdivision preliminary plat, focusing on potential adjustments to the platted lots.
 - B. Discussion regarding the review of the City of McCook's proposed Zoning Regulations more specifically Article 22 Solar Energy Provisions, Article 23 Wind Energy Conversion Systems and Article 24 Telecommunications towers.

Adjournment.

CITY MANAGER'S REPORT
AUGUST 10, 2026 PLANNING COMMISSION MEETING

ITEM: _____

RECOMMENDATION:

Approve the minutes of the July 13, 2026 regular McCook Planning Commission meeting.

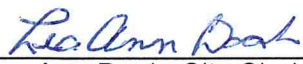
BACKGROUND:

Receive and approve the minutes.

FISCAL

IMPACT: None.

APPROVALS:



Lea Ann Doak, City Clerk

August 6, 2026

McCook Planning Commission
July 13, 2026
5:15 P.M.

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Commissioners Camy Bradley, Matt Davidson, Jamie Mockry, Jesse Stevens, Bobby Gaulke, David Brewster.

Absent: Chair Chad Lyons; Vice Chair Tammie Hilker; Commissioners Kelly Hammerlun, Kurt Vosburg; City Clerk Lea Ann Doak.

City Officials present: City Manager Nate Schneider, Assistant City Manager Tera Koetter, City Attorney Nate Mustion, Deputy City Clerk Tracy Burkey, Building Official Barry Mooney.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on July 9, 2026, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

City Manager Schneider asked Secretary Camy Bradley to run the meeting since Chair Lyons and Vice Chair Hilker were absent.

Secretary Bradley announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the June 8, 2026 regular Planning Commission meeting.

Motion to approve the minutes of the June 8, 2026 regular Planning Commission meeting. This motion, made by Jamie Mockry and seconded by Bobby Gaulke, passed.

Camy Bradley: YEA, David Brewster: YEA, Matt Davidson: YEA, Bobby Gaulke: YEA, Kelly Hammerlun: ABSENT, Tammie Hilker: ABSENT, Chad Lyons: ABSENT, Jamie Mockry: YEA, Jesse Stevens: YEA, Kurt Vosburg: ABSENT
YEA: 6, NAY: 0, ABSENT: 4

2. Public Hearings and Regular Agenda.

- 2.A. Review and discuss the City of McCook's proposed Zoning Regulations, more specifically Article 30 Sign Regulations, Article 22 Solar Energy Provisions, and Article 23 Wind Energy Conversion Systems.

Building Inspector Mooney reviewed the proposed changes to Article 30 Sign Regulations. He noted

that the section numbers will be changing, along with numerous revisions and deletions that have been made.

Discussion was held by the Commission.

Commissioner Bradley asked for clarification on the home occupation signs that are in residential areas. Inspector Mooney stated that he has had no one raise concerns regarding such signs, so for now we are not worried about that.

Article 22, Solar Energy Provisions and Article 23 Wind Energy Conversion Systems discussion were tabled due to the fact that the Miller and Associates engineers could not attend the meeting.

Adjournment.

With no further business, Secretary Bradley declared the Planning Commission meeting adjourned at 6:13 P.M.

Tracy Burkey, Deputy City Clerk
Recording Secretary

CITY MANAGER'S REPORT
AUGUST 10, 2026 MCCOOK PLANNING COMMISSION MEETING

ITEM:___ Discussion regarding the Walters' Subdivision preliminary plat, focusing on potential adjustments to the platted lots..

BACKGROUND:

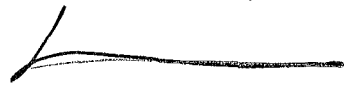
As part of the Walters' Subdivision process, the planning commission approved a preliminary plat of the entire Walters' tract. A portion of the preliminarily platted land was the subject of a final plat, said land located to the west and south of the P.F.C. Gerald L. Walters Youth Sports Complex. The remainder of the property was omitted from the final plat to ensure the lots are "right-sized". The lots at issue are scheduled to be zoned for Residential Medium District development. Before we complete a final plat, city staff would like to have a discussion with the planning commission and Craig Bennett of Miller & Associates to share opinions, thoughts, and concerns.

APPROVALS:



Lea Ann Doak, City Clerk

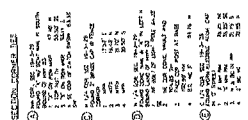
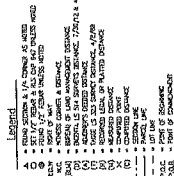
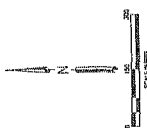
August 5, 2026



Nathan A. Schneider, City Manager

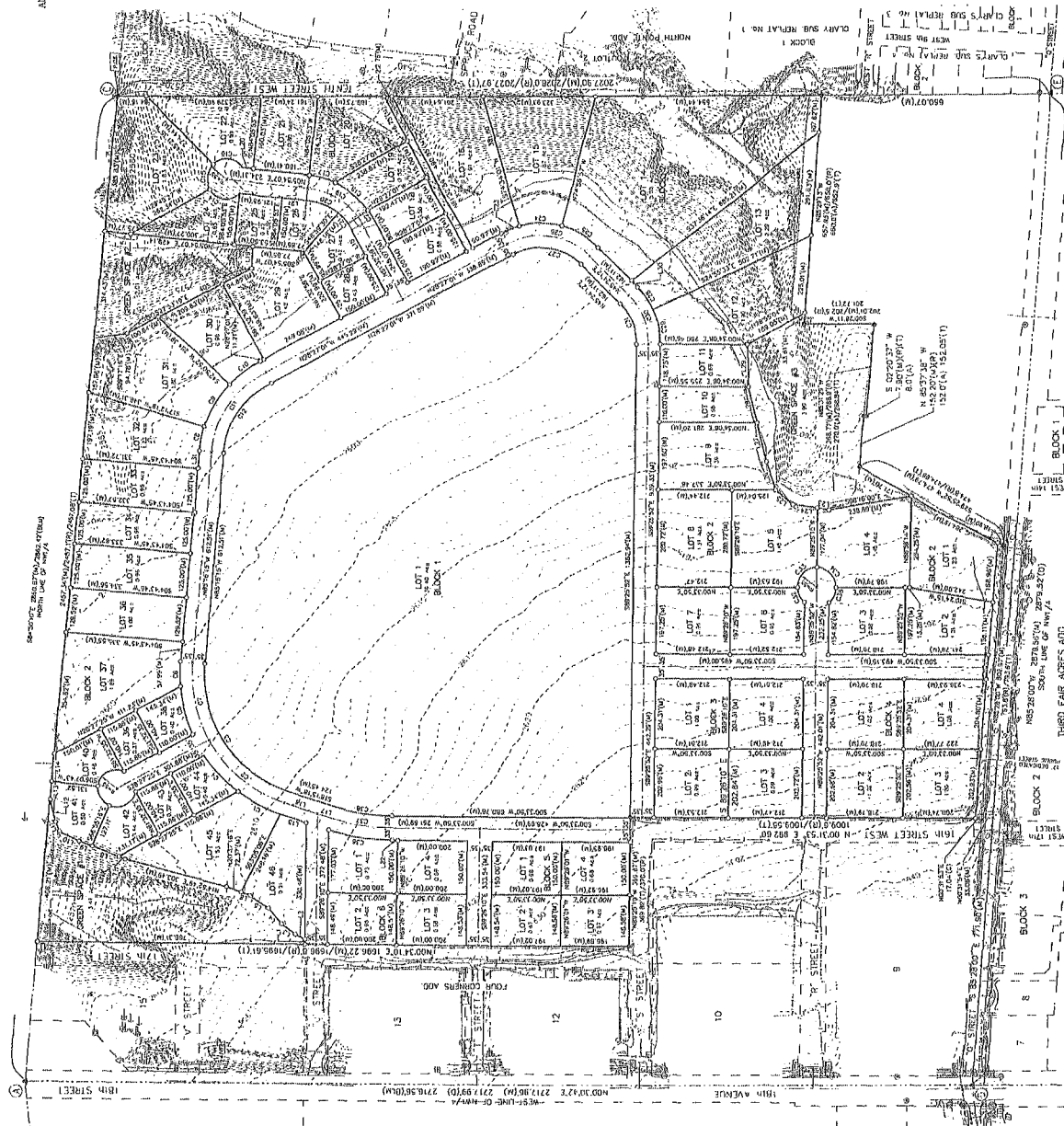
August 5, 2026

RECORDED JUNE 21, 2024

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SECRET

WALTERS FIRST ADDITION
McCook, Nebraska

[illegible][illegible]

THIS PLAY OF SURVEY DOES NOT CONSTITUTE A RESEARCH BY MILLER & ASSOCIATES TO DETERMINE INNERSHIP, EASEMENTS OR RIGHTS OF WAY OF RECORD.

CITY MANAGER'S REPORT
AUGUST 10, 2026 PLANNING COMMISSION MEETING

ITEM: _____ Discussion – Regarding the review of the City of McCook's proposed Zoning Regulations more specifically Article 22 Solar Energy Provisions, Article 23 Wind Energy Conversion Systems and Article 24 Telecommunications Towers.

BACKGROUND:

City staff has been continuing the review of the proposed Zoning Regulations. The review items to discuss are Solar Energy Provisions, Wind Energy Conversion Systems and Telecommunications Towers.

FISCAL

IMPACT: None.

APPROVALS:



Barry Mooney, Building Inspector

August 6, 2026



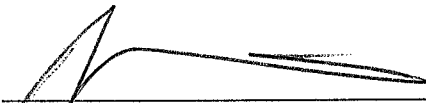
Lea Ann Doak, City Clerk

August 6, 2026



Tera Koetter, Assistant City Manager

August 6, 2026



Nate Schneider, City Manager

August 6, 2026

ARTICLE 23

WIND ENERGY CONVERSION SYSTEMS

Article 23 - Wind Energy Conversion Systems

Section 2301. Small and Commercial Wind Energy Conversion Systems.

Intent: To balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of McCook, Nebraska, finds these regulations are necessary to ensure that all wind energy conversion systems (CWECS) are appropriately designed, sited, and installed.

Section 2302. Types of Wind Energy Systems.

- A. **Small Wind Energy Conversion System (SWECS)** - A wind energy conversion consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and is intended to primarily reduce on site consumption of utility power. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be sold back to the utility company.
- B. **Commercial Wind Energy Conversion System (CWECS)** - A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers. A wind energy conversion system equal to or greater than 100 kW in total name plate generating capacity.

Section 2303. Definitions.

Aggregate Project. Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual wind energy conversion systems (WECS) within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

Commercial WECS. A wind energy conversion system of equal to or greater than one hundred (100) kW in total nameplate generating capacity.

Connector line. Any power conductor that carries electrical power from one (1) or more wind turbines to the point of interconnection with the distribution system.

Daytime hours. From sunrise to sunset.

Fall Zone. The area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure.

Feeder lines. Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the WECS.

Hub Height. The height between the ground level at the base of the tower and the top of the tower, exclusive of the rotor blades.

Meteorological Tower. A tower which is erected primarily to measure wind speed and direction plus other data relevant to siting a wind energy conversion system. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.

Nighttime hours. From sunset to sunrise.

Property line. The boundary line of the area over which the entity applying for a wind energy conversion system permit has legal control for the purpose of installing, maintaining and operating a wind energy conversion system.

Rotor Diameter. The diameter of the circle created by the outer most point of the rotor blades.

Shadow flicker. Alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.

Small wind energy conversion system (SWECS). A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power.

Structurally Mounted System. A small wind energy system that mounted on a building including residential dwellings.

Substations. Any electrical facility utilized to convert electricity produced by a Wind Energy Conversion System for interconnection with high voltage transmission lines.

Total Height. The highest point, above ground level, reached by a rotor tip or any other part of the wind energy conversion system.

Tower. The vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.

Tower Height. The height above grade of the first fixed portion or stub portion of the tower, excluding the wind turbine itself.

Transmission Line. The electrical power lines that are High Voltage Transmission Lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Vertical axis wind turbine (also VAWT). One (1) or more mechanical devices, such as wind turbines, with multiple caged blades, which are designed and used to convert the kinetic energy of wind into a usable form of energy. The turbine rotates on a vertical axis. The VAWT includes all parts of the system except the tower and transmission equipment.

Wind Energy Conversion System (WECS). An electrical generating facility comprised of one (1) or more wind turbines and accessory facilities, including but not limited to: power lines,

transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy, which may be used on-site or distributed into the electrical grid.

Wind Turbines. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

Section 2304. Small Wind Energy Conversion System - (SWECS).

A. Permitted use: Small wind energy conversion systems shall be permitted, as an accessory use within any district as long as certain requirements as set forth below shall be met:

1. Tower height:

- a. For all residential or residentially zoned properties tower height shall be limited to thirty five (35) feet or the maximum height for a structure in that district; tower must meet required setbacks.
- b. For non-residential or non-residentially zoned properties between twenty thousand (20,000) square feet and one (1) acre, tower height shall be limited to thirty-five (35) feet or the maximum height for a structure in that district; tower must meet required setbacks.
- c. For non-residential or non-residentially zoned properties greater than one (1) acre in size, there is a fifty-five (55) foot height limit and the tower must meet required setbacks.
- d. Wind energy facilities shall be sited in a manner that minimizes shadow flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

2. Noise:

- a. Small wind energy systems shall not exceed sixty-five (65) dBA during daytime hours and fifty-five (55) dBA during nighttime hours, as measured at the closest neighboring inhabited dwelling unit.
- b. The noise level may be exceeded during short-term events such as utility outages and/or severe windstorms (wind speeds of greater than fifty (50) miles per hour).

3. Approved wind turbines:

- a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small certification program recognized by the American Wind Energy Association.
- b. Wind turbines shall not be modified from manufacturer's specifications or design/build in any manner.

4. Compliance with building and zoning codes:

- a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings along with proof of insurance which is the responsibility of the applicant to provide and maintain.
- b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska as well as the National Electric Code and certified by a licensed professional engineer shall also be submitted.
- c. Turbines and towers shall be of tubular design and if painted or coated, shall be of a non-reflective white, grey, or other neutral color and shall not be used to display advertising.
- d. All electrical wires associated with a small wind energy system other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- e. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
- f. Small wind system specifications including manufacturer and model; rotor diameter, tower height, tower type (freestanding or guyed).
- g. Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location.

5. Compliance with FAA regulations:

- a. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports in the Airport Hazard Overlay District.
- b. No small wind energy system shall be installed until evidence has been given to the governing body of the City of McCook has been informed of the applicant's intent to install a SWECS if it is located within the designated hazard district.
- c. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).

6. Utility notification:

- a. No small wind energy system shall be installed until evidence has been given that the electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
- b. Off-grid systems shall be exempt from this requirement.

7. Decommissioning:

- a. Small wind energy systems shall be considered discontinued or decommissioned after one (1) year without energy production. All small WECS and accessory facilities, including the base and footing shall be completely removed within one hundred eighty (180) days of the discontinuation of use.

B. Setbacks:

1. No part of the wind system structure, including guy-wire anchors, may extend closer than ten (10) feet to the property lines of the installation site; tower must meet required underlying setbacks.
2. All towers for SWECS shall adhere to the setbacks established below to minimize the impacts of noise, ice fling and blade throw:

Required Setbacks for SWECS Towers:

- a. Property Lines 1.5 times the total height.
- b. Road Rights-of-way* 1.5 times the total height.
- c. Other Rights-of-Way 1.5 times the total height.

* The setback shall be measured from any future rights-of-way if a planned change or expanded right-of-way is known.

C. Special Exception and structures:

After the provisions of Article 33, Div. 2 of this ordinance relating to special exceptions have been met the following conditions may be allowed as special exception:

1. Towers in excess of thirty-five (35) feet in height in residential zoned and non-residentially zoned districts with lots between twenty thousand (20,000) square feet and one (1) acre provided all required setbacks and other requirements can be met.
2. Towers in excess of fifty-five (55) feet in height in non-residentially zoned areas provided all required setbacks and other requirements can be met.
3. Rooftop and tower systems supported in part or wholly by a residential, commercial or accessory building shall be of vertical axis wind turbine design only. All buildings must be evaluated for the stress and loads developed by a VAWT and certified by a Nebraska State licensed engineer and filed with the building permit application.

Section 2305. Commercial Wind Energy Conversion System -- (CWECS).

A. Permitted use:

All commercial wind energy systems shall be a special exception within the A-1 District. The following requirements and information shall be met and supplied:

1. Name(s) of project applicant.

2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout shall include the following:
 - a. The location of property lines, wind turbines, feeder lines, and all related accessory structures. It shall also include distances, elevations, acreage, contours with appropriate intervals for site evaluation and be drawn to scale;
 - b. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
 - c. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed CWECS;
 - d. Location of any overhead utility lines on the property;
 - e. Access roads;
 - f. Provide a copy of the Easement Deed from the Red Willow County Register of Deeds Office for each property involved in the CWECS;
 - g. Provide a map illustrating all transmission lines connecting to the Substation.
6. Certification by a registered engineer that:
 - a. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
 - b. All applicable local, state, and federal building, structural and electrical codes have been followed;
 - c. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Red Willow County;
 - d. The rotor and over speed control have been designed for the proposed use on the proposed site;
 - e. The design and safety of the proposed tower to withstand winds of one hundred fifteen (115) miles per hour;
 - f. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.
7. Documentation of land ownership or legal control of the property.

8. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks where actual WECS will be considered.
9. A USGS topographical map; or map with similar data, of the property and surrounding area, including any other wind energy conversion system, within two (2) miles of the proposed wind energy conversion system not owned by the applicant.
10. Location of migratory waterfowl flyways, wetlands, wildlife preserve, scenic, and natural areas within two thousand six hundred forty (2,640) feet of the proposed wind energy conversion system.
11. An acoustical analysis that certifies that the noise requirements within this regulation can be met.
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agencies and that the governing body of the City of McCook has been notified of the project.
14. Evidence that there will be no interference with any commercial and/or public safety communication towers.
15. Decommissioning Plan as required by Section 2308.

B. Special safety and design standards:

All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of twelve (12) feet of clearance between their lowest point and the ground.
2. All CWECS shall have a sign or signs posted on the tower, transformer and substation warning of high voltage. Additional signs shall be posted on the tower base or perimeter fencing with emergency contact information.
3. All wind turbines which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
4. Consideration will be given to painted aviation warnings on all towers less than two hundred (200) feet.
5. All wind turbines and towers that are part of a CWECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

7. Feeder Lines to all communications and connector lines associated with the project distribution system, installed as part of WECS shall be buried. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle.
8. No CWECS shall exceed sixty (60) dBA at the nearest structure or use occupied by humans.
9. Wind energy facilities shall be sited in a manner that minimizes shadow flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.
10. The applicant shall not cause interference with power quality of area utility feeder circuits and shall not introduce noise to the connected electric distribution system. WECS shall not cause interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves or television signals. The applicant shall notify all electric utilities and communication tower operators within five (5) miles of the proposed WECS location upon application for permits.
11. The developer shall present evidence the project meets the environmental permitting requirements of all applicable state and federal agencies if such permits are required.
12. The applicant shall be responsible for soil erosion, sediment control, and storm water runoff. The plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
 - a. Grading;
 - b. Construction and drainage of access roads and turbine pads;
 - c. Design features to control dust;
 - d. Design features to maintain downstream water quality;
 - e. Re-vegetation to ensure slope stability;
 - f. Restoring the site after temporary project activities;
 - g. Disposal or storage of excavated materials;
 - h. Protecting exposed soil;
 - i. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized;
 - j. Maintenance of erosion controls throughout the life of the project.

C. Setbacks:

All towers shall adhere to the setbacks established below, to minimize the impacts of noise, ice fling and blade throw:

Required Setbacks for WECS Towers:

- a. Property Lines - 150' from property lines, however, the setback may be less when two (2) adjoining property owners are within the aggregate project.
- b. Road Rights-of-way* - One-half the rotor diameter.
- c. Neighboring dwelling units - 1,000 feet.
- d. Other structures and cemeteries adjacent to the applicant's sites - One-half the rotor diameter.

* The setback shall be measured from any future rights-of-way if a planned change or expanded right-of-way is known.

Section 2306. Construction and Operations.

- A. All public roads to be used for the purpose of transporting CWECS, substation parts, cement or equipment for construction, operation, or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction.

A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); CWECS Owner(s); Township Representative(s), Nebraska Department of Transportation (NDOT) and/or Zoning Administrator. The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.

- B. The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CWECS.
- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

Section 2307. Safety Measures.

- A. Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. The governing body of the City of McCook upon recommendation from the Planning Commission shall determine the height, color, and type of fencing, if needed, for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one (1) sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment, entrances. The sign shall contain the following information:
 - 1. Warning - high voltage
 - 2. Manufacture's name
 - 3. Operator's name
 - 4. Emergency phone number
 - 5. Emergency shutdown procedures

- C. Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.
- E. The CWECS operator shall maintain a current insurance policy which will cover liability, installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. amount of said policy shall be established as a condition of approval. The CWECS shall warranted against any system failures reasonably expected in severe weather operation conditions.

Section 2308. Discontinuation and Decommissioning.

- A. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the City of McCook Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and facilities shall be removed four (4) feet below ground level within one hundred eighty (180) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CWECS.
- B. Each CWECS shall have a decommissioning plan outlining the anticipated means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning.
- C. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

1. Additions, alterations, and improvements. There shall be no addition to the existing building without planning commission review and approval. Any other alterations or improvements to the structure shall comply with all applicable regulations of the residential zoning district in which it is located, and with the adopted city building codes.
2. Retail sales. There shall be no retail sales to the general public as a principal use on the premises.
3. Manufacturing. There shall be no manufacturing allowed on the premises.

F. *Traffic Management.*

1. Traffic control. Ingress, egress, and traffic circulation on the site shall be designed to minimize the impacts on neighboring residential properties. Designated off-street parking may be required. Proposals for receipt of deliveries by truck shall be evaluated to determine the safety of the truck parking and unloading area, its compatibility with adjacent residential uses and the impact of its location on the free flow of traffic on the public street.
2. Off-street parking. See Section 2203 of these regulations for off-street parking space requirements.
3. Reduced number of spaces. In the event that the required parking cannot be met on the site of the church, school, hospital or multi-family structure, the planning commission may approve on-street or other public parking to meet part of the total required spaces or may approve off site parking within a reasonable distance of the site, subject to submission of evidence of a long-term lease agreement with the landowner.

Article 22.

DIVISION 2. SOLAR ENERGY PROVISIONS

Section 2128. Applicability.

No solar panel, neighborhood solar or solar farm shall be installed or constructed within the zoning jurisdiction of the City of McCook unless a special exception, if applicable, and a building permit have been issued. All solar units shall be constructed in conformance with the building, and fire codes adopted by the City of McCook. For those devices that include plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in these regulations.

Section 2129. Definitions.

Accessory solar energy systems. Include any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

Concentrated solar power. A solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: parabolic trough, solar power tower, enclosed trough, fresnel reflectors and dish stirling.

Development. Any plat, subdivision, or planned unit development created under the City of McCook subdivision and zoning regulations.

Electric utility. The public electric utility providing retail service to a given area.

Net excess generation. On an ISCS, net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period;

Net metering. Net metering means a system of metering electricity in which a local distribution utility:

1. Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and
2. Compensates the customer-generator for net excess generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period.

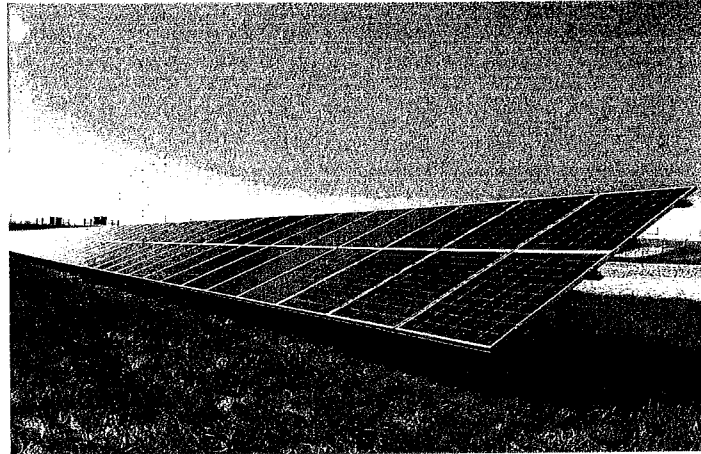
Solar access. The ability to receive sunlight across real property for any solar energy device.

Solar access easement. A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

Solar conversion system (SCS). An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

Solar conversion system, commercial. A commercial solar conversion system (CSCS) is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

Solar conversion system, ground-mounted. Any SCS which is directly supported and attached to the ground.

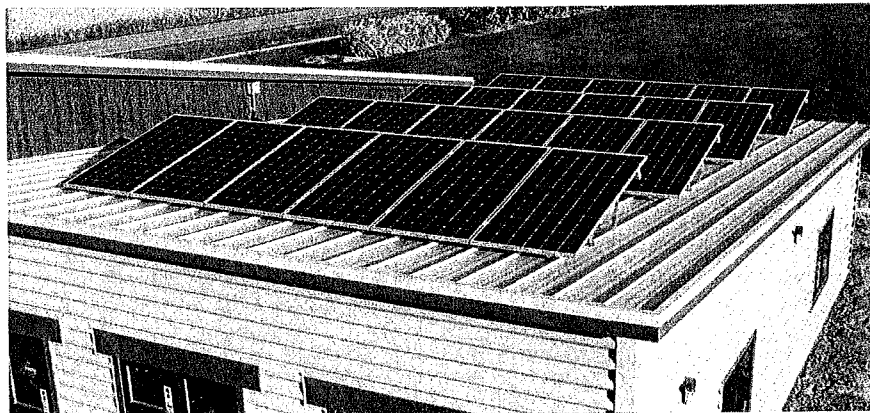


Example of a Solar Conversion System, Ground-Mounted

Solar conversion system, individual. An individual solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use.

Solar conversion system, neighborhood. A neighborhood solar conversion system (NSCS) is a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

Solar conversion system, structure-mounted. Any SCS which is directly connected to and supported by a building.



Example of a Solar Conversion System, Structure-Mounted

Solar skyspace. The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

1. Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to

all positions of the sun between 9:00 a.m. and 3:00 p.m. local apparent time from September 22 through March 22 of each year.

2. Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between 8:00 a.m. and 4:00 p.m. local apparent time from March 23 through September 21 of each year.

Solar oriented subdivision. A subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

Section 2130. General Provisions Applying to ISCS, NSCS, and/or CSCS.

The following provisions shall apply, typically, to two (2) or more of the different solar conversion systems in this section:

1. For commercial and neighborhood SCS: Applicant shall provide evidence that the project meets commonly-accepted management practices for avian, wildlife, and environmental protections in place at the time of application.
2. For all SCS's: Applicant shall comply with specific requirements of the McCook Fire Department or the Rural Fire Department.
3. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner, free of weeds and in conformance with International Property Maintenance Code as adopted by the City of McCook based upon the ground cover decided.
4. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upon by the City of McCook, the electric utility, and the owner/developer.
5. Repowering: If any SCS is no longer operating for purposes of repowering, replacement, or maintenance, decommissioning provisions will not apply for up to six (6) months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six (6) months will be considered abandoned and decommissioning provisions will apply.
6. Repowering does not require a new special use permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
7. Any applicant for a SCS project shall meet with and shall indicate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.
8. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
9. SCS may be installed in the floodway fringe given that all components are installed a minimum of one (1) foot above base flood elevation and subject to written authorization

of the Floodplain Administrator.

10. No SCS shall be constructed in the identified floodway.
11. Concentrated solar power (CSP) systems are prohibited within the City of McCook and the extraterritorial jurisdiction (ETJ) boundary.
12. Solar hot water heating systems are exempt from these provisions.
13. Financial assurances shall be in place as part of the decommissioning plan.
14. The following spatial parameters act to guide solar developments in regard to size (megawatts) and land required (acres):

<u>Megawatts</u>	<u>Acres</u>
1 MW	5-10
2 MW	10-20
20 MW	100-200
100 MW	500-1,000
200 MW	1,000-2,000

Section 2131. Individual Solar Conversion Systems.

- A. *General requirements for ISCS:* ISCS's shall conform to the required front, side and rear lot setback requirements except as provided herein:
 1. An SCS which is attached to an integral part of the principal building shall meet the building and fire codes adopted by the City of McCook and accessibility.
 2. A ground-mounted ISCS may be located only in the required rear yard provided it does not exceed eight (8) feet in height, maintains a forty (40) foot setback to all lot lines, and adheres to a three hundred (300) foot setback from an existing dwelling.
 3. No ground-mounted ISCS shall be located in the required side yard or front yard.
 4. All ground-mounted ISCS's shall have an agreed to solar access easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground-mounted ISCS is in place and operational.
 5. The applicant for any ISCS shall provide evidence that they have a working net metering agreement with the electric utility.
- B. *Structural requirements:* The physical structure and connections to existing structures shall conform to the building and fire codes adopted by the City of McCook.
- C. *Plot plan:* The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- D. *Preexisting solar panels:* Notwithstanding noncompliance with the requirements of this

section, a solar panel erected prior to the adoption of these regulations, pursuant to a building permit issued by the City of McCook, may continue to be utilized so long as it is maintained in operational condition.

E. *Decommissioning:*

1. Whenever an ISCS ceases operation on a property, it shall be required to report this to the City of McCook Zoning Administrator and the electric utility.
2. Whenever, a ground-mounted ISCS is no longer operating, the property owner shall have six (6) months to completely remove the structure and wiring. The location of the ISCS shall be returned to a usable state based upon the surrounding property.

Section 2132. Neighborhood Solar Conversion Systems.

A. *General requirements for NSCS:* NSCS's shall meet the following requirements:

1. An NSCS shall be set on its own lot within the neighborhood/development;
2. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development;
3. No excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a net metering agreement;
4. The developer shall provide the City of McCook with all solar easements established; however, the City of McCook shall not be responsible for enforcing said easements;
5. All solar easements shall be enforced by an established Home Owners Association for the development/neighborhood;
6. A ground-mounted NSCS shall be protected from unauthorized access with fencing and/or bollards, unless the Planning Commission and City Council deem, as part of the conditions, it is not necessary;
7. All connections to the uses within the neighborhood shall be made underground;
8. An access agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of an emergency;
9. A net metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity; and
10. All ground-mounted NSCS's shall have an agreed to solar access easement from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground-mounted NSCS is in place and operational.

B. *Structural requirements:* The physical structure and connections to existing structures shall conform to the building and fire codes adopted by the City of McCook.

C. *Solar oriented subdivision/plot plan:*

1. Whenever a NSCS is part of a proposed new subdivision, the developer shall outline the specific lot or outlot where the NSCS will be placed. Specific developments/ neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.
2. The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
3. The developer shall install all underground wiring as prescribed by the electric utility.
4. All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
5. The developer shall provide the City of McCook with as-builts of the wiring locations within the subdivision.

D. *Decommissioning:*

1. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of McCook may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

Section 2133. Commercial Solar Conversion Systems.

A. *Applicability:* The purpose of this subsection is to provide standards for fixed panel photovoltaic solar farms or CSCS consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater between each module and the growth of beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, the City of McCook finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, nonurbanized, or low-density areas with other uses.

B. *Site development standards:*

1. Lot coverage for accessory structures: No more than one (1%) percent of the gross site area shall be occupied by enclosed buildings and structures.
2. Setbacks: A forty (40) foot setback shall be in place for all property lines and three (300)

foot setback measured from existing dwellings.

3. Height: The average height of ground mounted solar panel arrays shall not exceed eight (8) feet.
4. Landscaping buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered industrial or agricultural for the purposes of buffer requirements, there are no requirements for screening from public streets.
5. Stormwater management: Fixed panel solar arrays shall be considered pervious and the property shall be designed to absorb or detain specific runoff. The impervious cover calculation shall include the support posts of the panels, any roads or impervious surfaces, parking areas and buildings on the site.
6. A property developed pursuant to this subsection shall be required to plat however water and sewer connections shall not be required. Suitable fire department access shall be required.
7. Signage shall conform to the City of McCook Sign Regulations.
8. Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
9. Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing a minimum of six (6) feet and a maximum of eight (8) feet in height provided the fencing material is predominantly open.
10. All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

C. Districts:

1. Structure-Mounted Solar Conversion System.
 - (a) Permitted in all zoning districts.
2. Ground-Mounted Solar Conversion System.
 - (a) Permitted in the A-1, A-2, I-1 and I-2 districts.
3. Solar Conversion System, Neighborhood.
 - (a) Permitted in the A-1 and A-2 districts.
 - (b) Special Exception approved in the I-1, I-2, R-1, R-2, R-3, R-4, C-1, C-2, C-3 and C-4 districts.
4. Solar Conversion System, Commercial.

(a) Special Exception approved in the A-1, A-2, I-1 and I-2 districts.

(b) Not allowed in any Residential and/or Commercial districts.

D. *Submittal requirements:* All plans shall contain the following:

1. These requirements shall apply to both the special exception and building permit;
2. A plot plan, drawn to scale, of the property indicating the total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines;
3. The plot plan shall include any roads, electric lines and/or overhead utility lines;
4. A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant power district;
5. A copy of the interconnection agreement with the local electric utility;
6. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant;
7. Structural engineering analysis for a solar panel, array and its foundation, as applicable;
8. Manufacturer's recommended installations, if any; and
9. Documentation of land ownership and/or legal authority to construct on the property;
10. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The City of McCook reserves the right to require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

E. *Compliance with other regulations:*

1. Zoning permit applications for CSCS's shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State of Nebraska's electrical code and that has been pre-approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
2. This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.

F. *Discontinuation:* A CSCS shall be considered abandoned after one (1) year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within ninety (90) days of abandonment.

ARTICLE 24

TELECOMMUNICATIONS TOWERS

Article 24 - Telecommunications Towers

Section 2401. Purpose.

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) granted the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the city to be in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication services.

Section 2402. Definitions.

As used in this section, the following terms shall have the following meanings:

Abandonment. In the case of a non-co-located facility, shall mean:

1. Failure to start operations within ninety (90) days of completion of the structure, or
2. To cease operation for a period of ninety (90) or more consecutive days.

In the case of a co-located facility, abandonment shall mean:

1. Failure to start operations within one hundred eighty (180) days of completion of the structure, or
2. To cease operation for a period of one hundred eighty (180) or more consecutive days.

If factors beyond a provider's control postpone the start of or cause the temporary cessation of operations of a co-located or non-co-located facility, the time limitations specified herein shall be extended for such period of delay.

Administrative permit. Shall mean a process and approval by the City Manager or Designee as described in this article.

Antenna. Shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite services (including direct-to-home satellite services), and/or video programming services via multi-point distribution services.

Antenna support structure. Shall mean any building or structure other than a tower which can be used for location of telecommunication facilities.

Applicant. Shall mean any person that applies for a conditional use permit.

Application. Shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the city submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, both formal and informal, made by an applicant to the city concerning such request.

Camouflage. Describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure to be effectively hidden from view.

Co-location. Shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one (1) personal wireless service provider.

Conforming commercial earth station. Shall mean a satellite dish which is two (2) meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

Engineer. Shall mean any engineer qualified and licensed by any state or territory of the United States of America.

Height. Shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

Owner. Shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the city who desires to develop, construct, modify, or operate a tower upon such tract of land.

Person. Shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for-profit or not-for-profit.

Provider. Shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

Satellite dish antenna. Shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

Screening. Shall mean materials, or landscaping, which effectively hide personal wireless facilities from view.

Security barrier. Shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

Significant gap. Shall mean a user cannot connect with the national telephone network or cannot maintain a connection supporting reasonably uninterrupted communication.

Special exception permit. Shall mean a process and approval as currently described in Article 24, Division 2 of these regulations, or as otherwise set forth in City ordinances or regulations.

Stealth. Shall mean any telecommunication facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look like something other than a tower, such as a light pole, power poles and trees.

Telecommunications facilities. Shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which

a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- a) Any conforming commercial earth station;
- b) Any earth station antenna or satellite dish antenna three (3) or less in diameter.

Tower. Shall mean a self-supporting lattice, guyed, or monopole structure, which supports telecommunications facilities. The term tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

Tower owner. Shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a conditional use permit.

Section 2403. Location of towers and construction standards.

- A. Towers shall be permitted as a special exception of land in only those zoning districts where specifically listed and authorized in this regulation.
- B. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the city prior to approval of its application for a special exception by the planning commission and issuance of the permit by the city. Applicants shall submit their application for a special exception to the zoning administrator and shall pay the required filing fee.
- C. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the city after the effective date of this ordinance shall conform to the building codes and all other construction standards set forth by city, county, federal, and state laws and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the zoning administrator.

Section 2404. Use of City Property.

- A. *Priority of Users.* Priority for the use of City-owned land for wireless telecommunication antennas and towers will be given to the following entities in descending order:
 - 1. City of McCook;
 - 2. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of McCook and private entities with a public safety agreement with the City of McCook;
 - 3. Other governmental agencies, for uses which are not related to public safety; and
 - 4. Entities providing licensed, and unlicensed (where permitted by law), commercial wireless telecommunication services, cellular, personal communication services (PCS), radio and television services, specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), data, Internet, paging, and similar services that are marketed to the general public.

B. *Minimum Requirements.* The placement of wireless telecommunication antennas or towers on City-owned property must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the City-owned property is intended;
2. The antennas or tower will have no significant adverse impact on surrounding private property;
3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement, which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of antenna or tower removal;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in Section 2047, subsection A;
6. The applicant must reimburse the City for any costs, which it incurs because of the presence of the applicant's antennas or tower;
7. The user must obtain all necessary land use approvals; and
8. The applicant will cooperate with the City's objective to promote co-locations and thus limit the number of separate antenna sites requested.

Section 2405. Application to develop a tower.

Prior to commencement of development or construction of a tower, an application shall be submitted to the zoning administrator for a special exception and shall include the following:

- A. Name, address, telephone number and FCC license 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.
- B. The legal description and address of the tract of land on which the tower is to be located.
- C. The names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately-owned towers and structures.
- D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or co-locate the applicants telecommunications facilities on a tower or usable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or co-located on another tower or usable antenna support structure.

- E. 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 the city council and federal and state and ANSI standards.
- F. 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.
- G. 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.
- H. A performance bond in the amount of fifty thousand (\$50,000.00) dollars to cover the expenses of removal and disposal of the tower.

Section 2406. Setbacks and separation or buffer requirements.

- A. All towers up to one hundred (100) feet in height shall be setback on all sides a distance equal to the height of the tower from any structure. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
- B. Towers exceeding one hundred (100) feet in height may not be located in any residentially zoned district and, also, must be separated from all residentially-zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of one-quarter mile (1,320 feet).
- C. Towers must meet the following minimum separation requirements from other towers:
 - 1. Monopole tower structures shall be separated from all other towers, whether monopole, self supporting lattice, or guyed by a minimum of one (1) mile, except for those monopoles tower structures that provide coverage for significant gaps in services as determined by substantial evidence of colored coverage maps and field measurements with test antenna at different heights.
 - 2. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one (1) mile, except for those monopoles tower structures that provide coverage for significant gaps in services as determined by substantial evidence of colored coverage maps and field measurements with test antenna at different heights.

Section 2407. Structural standards for towers adopted.

Towers shall be designed, constructed and maintained in accordance with the building codes of the City of McCook, Nebraska, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this article of the zoning regulation.

Section 2408. Illumination and security fences.

- A. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses/zoned properties within a

distance of three hundred (300%) percent of the height of the tower, any tower subject to this section shall be equipped with dual mode lighting.

- B. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will prevent, to the extent practical, unauthorized climbing of said structure.

Section 2409. Exterior finish.

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the planning commission as part of the application approval process. All towers which must be approved as a special exception shall be stealth design unless an affidavit attesting to the fact that the stealth features are impractical or the cost of such features represents an undue burden on the applicant.

Section 2410. Landscaping.

Landscaping, as described herein, shall be required to screen as much of the support structure as possible, the fence surrounding both the support structure and any other ground level features (such as a building), and in general soften the appearance of the cell site. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

Section 2411. Screening.

The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the City for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

Section 2412. Maintenance, repair or modification of existing towers.

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non conforming structure and may be maintained or repaired without complying with any of the requirements of this section. Non-conforming structures or uses may not be enlarged or the degree of non-conformance increased without complying with this section, including applying for and obtaining a special exception. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this section including applying for and obtaining a special exception. Said application shall describe and specify all items which do not comply with this section and may request, subject to final review and approval of the planning commission, an exemption from compliance as a condition of the special exception.

Section 2413. Inspections.

The City of McCook reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with any construction standards set forth by the city, federal, and state law

or applicable ANSI standards. Inspections shall be made by either an employee of the city's zoning office, zoning administrator, or a duly appointed independent representative of the city.

Section 2414. Maintenance.

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to, or a danger to, the life or property of any person or the public.

Section 2415. Term of Permit.

An administrative or special exception permit granted hereunder shall be in effect for a term of ten (10) years unless it is sooner terminated due to abandonment or failure to comply with these regulations.

Section 2416. Renewal Applications.

A permittee that desires to renew its administrative or special exception permit hereunder shall, not more than three hundred sixty-five (365) days nor less than ninety (90) days before expiration of the current permit, file an application with the City for renewal of its permit which shall include the applicable information required pursuant to the permit application.

Section 2417. Abandonment.

If any tower shall cease to be used for a period of one (1) year, the zoning office shall notify the tower owner that the site will be subject to determination by the zoning administrator that the site has been abandoned. Upon issuance of written notice to show cause by the zoning administrator, the tower owner shall have thirty (30) days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the zoning administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy-five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the zoning administrator, or his/her designee and a written request shall be directed to the city attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and City of McCook codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

Section 2418. Satellite dish antennas, regulation.

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of McCook only upon compliance with the following criteria:

- A. In residentially-zoned districts, satellite dish antennas may not exceed a diameter of two (2) feet.
- B. Single family residences may not have more than two (2) satellite dish antennas.
- C. Multiple family residences with ten (10) or fewer dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter.
- D. In residential-zoning districts, satellite dish antennas shall not be installed in the required front yard setback area.

- E. All satellite dish antennas installed within the zoning jurisdiction of McCook, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.
- F. Commercially-zoned districts, satellite dish antennas shall not be installed in the required front yard setback area. The intent of this provision is to prohibit satellite dish antennas from being visually unattractive to consumers.