



**CITY OF SEWARD  
City Council  
Committee Meeting  
Agenda**

---

**Monday, December 11, 2023**

**7:30 PM**

**Council Chambers at the Municipal  
Building**

---

**NOTICE IS HEREBY GIVEN** that a meeting of the City Council of the City of Seward, Nebraska will be held at 7:30 PM on Monday, December 11, 2023, in the Council Chambers, 142 N 7th Street, Seward, Nebraska in which the meeting will be open to the public. The Mayor and City Council reserve the right to adjourn into Closed Session as per Section 84-1410 of the Nebraska Revised Statutes. An Agenda for such meeting, kept continually current, is available at the Office of the City Clerk, 537 Main Street, Seward, Nebraska, during normal business hours. Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's Office at 402.643.2928 no later than 3:30 PM on the Friday preceding the Council Meeting.

City financial claims and related invoices will be available for Council member review, audit and voluntary signatures at the meeting location beginning 30 minutes prior to the scheduled meeting time.

**CALL TO ORDER**

**DISCLOSURE OF OPEN MEETINGS ACT & OTHER NOTIFICATIONS**

This is an Open Meeting of the Seward Planning Commission. The Seward Planning Commission abides by the Nebraska Open Meetings Act in conducting business. A copy of the Nebraska Open Meetings Act is displayed on the north wall of this meeting room facility as required. Disclosure of meeting recording processes is posted in the Meeting Room. A participant sign-in sheet is available for use by any Citizen addressing the Commission. Presenters shall approach the podium, state their name & address for the record and are asked to limit remarks to five minutes. All remarks shall be directed to the Chair who shall determine by whom any appropriate response shall be made. The Seward Planning commission reserves the right to adjust the order of items on this Agenda if necessary and may elect to take action on any of the items listed.

**ROLL CALL**

**CONSENT AGENDA**

**MINUTES**

1. Consideration of Approval of Draft Minutes of October 9, 2023.

## City of Seward Planning Commission

### Minute Record      October 9, 2023

The City of Seward Planning Commission met in regular session at 7:30p.m. October 9, 2023, in the Council Chambers at the Municipal Building at 142 North 7<sup>th</sup> Street, Seward, Nebraska. Upon roll call the following Commission Members were present: Russ Soucek, Dan Ellis, Ron Wallman, Sue Bowen, Ron Niemoth, Lacey Koch, and Traci Menke. Other Officials present: Building and Zoning Director, Tim Dworak, Administrative Assistant, Sara Van Cura.

Absent members were: Clarence Kotera, Scott Seevers.

All proceedings hereafter shown were taken while the convened meeting was open to the public. The meeting with the Planning Commission was called to order by Chairperson Wallman at 7:30 p.m. He requested that all individuals speaking during the public hearing limit their comments to five minutes.

#### Minutes

Consideration of Approval of Draft Minutes of September 11, 2023.

Moved by Commission Member Koch; Seconded by Commission Member Menke to approve the minutes.

Aye: Soucek, Ellis, Wallman, Bowen, Niemoth, Koch, Menke.

Nay: None.

Absent: Kotera, Seevers. Motion carried.

1. Public Hearing 7:30pm: TIF application by Focus Properties 511 LLC for 1313 West Hwy 34 – Parcel ID 800083296.

Chairperson Wallman opened the public hearing.

Alison Borer, Kline Williams, TIF council, stated this is to add this redevelopment project to the general redevelopment plan. This is a 2.5-acre parcel that is vacant and has been vacant since 2007. Two three story apartment buildings containing 24 units each having six one bed-one bath, twelve two bed-two bath, and six three bed-two bath. There will be paved parking spaces and detached parking garages for the tenants. The rental units are aimed at the workforce, low to moderate income levels. Taxes will begin in January 2025. It is zoned urban corridor where multi-family is permitted. The comp plan calls for infill and this complies. Traffic flow increase to the project area and existing infrastructure shall be sufficient. Zoning code requires 96 parking spaces. The preliminary plan shows 97.

Shannon Meyer, 1965 South Imig Dr, stated that he represents as one of the developers.

Chairperson Wallman asked what the anticipated rents would be at the time of opening.

Meyer stated that the average rate would be \$1250.

Commission Member Soucek asked if the construction for the buildings would be at the same time or would it be one at a time.

Meyer stated they would build both at the same time.

Chairperson Wallman asked if the green spaces denoted will be only grass or landscaping.

Meyer stated there will be grass and landscaping.

Jonathan Jank, Seward County Chamber & Development Partnership, stated quality housing attracts the workforce to fill our local job which is why this project is really important.

Chairperson Wallman closed the public hearing.

Moved by Vice Chairperson Ellis to amend the redevelopment agree for the TIF application by Focus Properties 511 LLC for 1313 West Hwy 34; seconded by Commission Member Koch.

Vice Chairperson Ellis stated the total amount of TIF is differing in the paperwork to what Borer stated, and if that mattered.

Dworak stated we are only concerning ourselves with zoning.

Chairperson Wallman stated to let the record show the Planning Commission feels the zoning is appropriate for this property and justified use.

Aye: Soucek, Ellis, Wallman, Bowen, Niemoth, Koch, Menke.

Nay: None.

Absent: Kotera, Seevers. Motion carried.

2. Administrative Item

3. Reports

4. Agenda Items

5. Upcoming Events

Meeting adjourned 7:52p.m.

Sara Van Cura  
Administrative Assistant

**PUBLIC HEARINGS**

1. Public Hearing 7:30pm: review a text amendment to the City of Seward Unified Land Development Ordinance; Article 32 Supplemental Development Regulations 410-32.8 Fence Regulations.

**APPLICATION TYPE**

**FINAL ACTION?**

**DEVELOPER/OWNER**

ULDO Amendment

**PC HEARING DATE**

**RELATED APPLICATIONS**

**PROPERTY ADDRESS, ZONING DISTRICT/USE**

December 11, 2023

**BRIEF SUMMARY OF REQUEST**

Review of a City of Seward Unified Land Development Ordinance (ULDO) Text Amendment to Article 32 Supplemental Development Regulations, § 410-32.8 Fence Regulations and corresponding City Code and Images.

**APPLICATION CONTACT**

Tim Dworak

City of Seward - Building and Zoning

**ANALYSIS**

Attached are copies of the proposed amendment red line changes as well as the existing amendment for comparison.

This amendment change is based on a requirement of Black Hills Energy to add barbed wire to the top of a 6 foot chain-link fence for protection of a new facility installed in the Seward Rail Campus and review of barbed wire usage within the City of Seward and its Extraterritorial Jurisdiction. While reviewing the fence code we took the opportunity to clean up city code and assure zoning code and city code are in uniformity.

The notice of this Public Hearing was posted in the Seward County Independent.

Prepared by

Tim Dworak

City of Seward Building - Zoning – Code Enforcement Director

**§ 410-32.8. Fence regulations.<sup>1</sup>**

A. Location restriction.

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

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

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.<sup>2</sup>

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

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

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

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

- (1) Height. The maximum average height of a fence shall be 78 inches. This height limit does not apply to supports, posts, or attached ornaments. The maximum height for any fence outside of a required front yard shall be six feet.
- (2) Setbacks. All residential fences in front yards shall be a minimum of two feet behind adjacent sidewalks.
- (3) Materials. Fences shall be constructed of wood, chain-link, PVC/resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize

---

1. Editor's Note: See also Ch. 225, Building Construction, Art. XIII, Fence Regulations.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

standard building lumber only. Barbed-wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

- H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:
- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
  - (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
  - (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
  - (4) Barbed wire shall not be used in the construction of any fence outside of the I-2 General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an Industrial District, provided that the bottom strand of the barbed wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Seward.

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

§ 410-32.8 **Fence regulations.**

A. Location restriction.

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

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of ~~30~~ 24 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.

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

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

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

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

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

EXCEPTION: Fences surrounding public utilities may have barbed wire provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of

the ground measured from the outer face of such fence.

- H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:
- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
  - (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
  - (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
  - (4) ~~Barbed wire fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any barbed wire fence or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning District, or fences surrounding public utilities, city, county and state maintenance facilities, or airports may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence shall not be used in the construction of any fence outside of the I-2 General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an Industrial District, provided that the bottom strand of the barbed wire shall be at least six feet above ground level.~~
  - (5) Electrified fences are not permitted within the jurisdiction of the City of Seward.

I. Agricultural Fences. Fences constructed in agricultural and rural residential districts are subject to the following special provisions:

- (1) Height. The maximum height of a fence for any permitted use in agricultural and rural residential districts shall be six feet.
- (2) Setbacks: All fences shall be located outside the dedicated right-of-way.
- (3) Barbed wire may be used to control ranging livestock, when surrounding public utilities, city, county, and state maintenance facilities, or airports.
- (4) Electrified fences may be used to control ranging livestock.

ORDINANCE NO. 2023-

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF SEWARD, CHAPTER 410 ZONING AND SUBDIVISION, ARTICLE 32 SUPPLEMENTAL DEVELOPMENT REGULATIONS TO AMEND FENCE REGULATIONS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD AS FOLLOWS:

That Chapter 410 of the Municipal Code of the City of Seward is hereby amended as follows:

Section 1. That §410-32.8 be amended as follows:

§410-32.8 Fence Regulations.

A. Location restriction.

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

B. Applicability. The regulations contained in this section apply to all fences with a height above grade of 24 inches and over.

C. Sight obstruction at street intersections. No fence or hedge permitted or required by this section or other sections of the Seward Municipal Code shall be built to a height of more than two feet above the established curb grade on the part of the lot within a vision clearance triangle.

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

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

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

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

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

EXCEPTION: Fences surrounding public utilities may have barbed wire provided that not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than 6 feet above the surface of the ground measured from the outer face of such fence.

H. Civic, office, commercial, and industrial fences. Fences constructed in commercial and industrial districts are subject to the following special provisions:

- (1) The maximum height of a fence for any permitted use in any nonresidential zoning district shall be eight feet.
- (2) Civic uses in residential districts. The maximum height of fences installed as part of primary and secondary educational facilities, day care, and park and recreation use types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts, shall be eight feet.
- (3) The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Seward.
- (4) Barbed wire fence. It shall be unlawful for any person to erect or cause to be erected or to maintain any barbed wire fence or any barbed wire strung along or upon any fence as a barrier within the city limits and the jurisdictional area of the city; provided that fences erected within the I-2 General Industrial Zoning

District, or fences surrounding public utilities, city, county and state maintenance facilities, or airports may be permissible to string not more than three strands of barbed wire upon supports inclined at an angle not greater than 60 degrees with the horizontal plane when such wires are strung so that they are suspended above and within the property lines, and further, that all elements of said fence shall be within a line drawn perpendicular upward from the property line, and the bottom strand of such barbed wire is not less than six feet above the surface of the ground measured from the outer face of such fence .

- (5) Electrified fences are not permitted within the jurisdiction of the City of Seward.

I. Agricultural Fences. Fences constructed in agricultural and rural residential districts are subject to the following special conditions:

- (1) Height. The maximum height of a fence for any permitted use in agricultural and rural residential districts shall be six feet.
- (2) Setbacks. All fences shall be located outside the dedicated right-of-way.
- (3) Barbed wire may be used to control ranging livestock, when surrounding public utilities, or when surrounding city, county, and state maintenance facilities.
- (4) Electrified fences may be used to control ranging livestock.

SECTION 2. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. WHEN OPERATIVE; PUBLICATION IN PAMPHLET FORM. This ordinance shall be published in pamphlet form and shall be in full force from and after its passage, approval and publication or posting as required by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023

CITY OF SEWARD, NEBRASKA

\_\_\_\_\_  
Joshua Eickmeier, Mayor

ATTEST: \_\_\_\_\_  
Derek Bargmann  
City Clerk

**ADMINISTRATIVE ITEMS  
REPORTS**

1. Report on Meetings Attended

**FUTURE REQUESTS FOR COMMISSION AGENDA ITEMS OR  
ADMINISTRATIVE ACTION  
ANNOUNCEMENT OF UPCOMING EVENTS  
MOTION TO ADJOURN**

---

I, Derek Bargmann, the duly appointed qualified and acting City Clerk of the City of Seward, Nebraska, hereby certify that the foregoing Notice of Meeting and Agenda for such meeting has been posted in the following places: Seward City Hall, Seward Municipal Building, Seward County Courthouse, Seward Memorial Library and CityofSewardNE.gov

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City.

---

Derek Bargmann, City Clerk

---

Date