

Ordinance No. 2961

AN ORDINANCE ADOPTING SECTIONS 111-21 THROUGH 111-23 OF THE ALLIANCE MUNICIPAL CODE; AMENDING OTHER PORTIONS OF CHAPTER 111 OF THE ALLIANCE MUNICIPAL CODE; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1: Sections 111-21 through 111-23 of the City Code are adopted as follows:

“Sec. 111-21. Purpose.

The purpose of this Code is to provide for the development of one-family dwelling units that are accessory to an existing dwelling structure on the same lot. This Code protects the safety, convenience, and welfare of adjacent and surrounding land uses through appropriate zoning and land use control.

Sec. 111-22. Applicability.

This Code shall apply to all newly constructed accessory dwelling units as well as any improvements thereto. Existing accessory dwelling units shall not be required to meet this Code until such time as they are reconstructed or reconfigured unless such dwelling was an illegal nonconforming use at the time of the adoption of this Code.

Sec. 111-23. General Requirements.

The following criteria shall be considered the minimum requirements for accessory dwelling units:

- (a) It shall be constructed using the same general design guidelines for one-family housing found in Section 111-162 except as permitted in the R-4 zoning district.
- (b) It shall not exceed a total square footage that is the lesser of 80% of the footprint of the principal residence, or 800 square feet.
- (c) The owner of the lot is required to live on the property for a minimum of one year but may reside in either dwelling.
- (d) The accessory dwelling shall share utility connections with the main building unless it is found advantageous by the City Manager or designee to permit separate service connections.
- (e) Detached accessory dwellings shall be no taller than the principal dwelling structure, or 18 feet, whichever is greater except that detached garages with an

accessory dwelling on the second story shall be permitted to be 26 feet in height.

- (f) The maximum lot coverage on lots with an accessory dwelling unit shall be increased to 50%.
- (g) Detached accessory dwellings shall follow the same setback and building separation requirements as other detached accessory structures.
- (h) One off street parking space is required for the accessory dwelling in addition to the required off street parking for the principal dwelling structure.
- (i) The property shall be subject to a deed restriction stating that the accessory dwelling shall not be sold separate from the main building and that the lot may not be split unless such lot meets the minimum requirements of the subdivision code.”

SECTION 2. Sections 111-24 through 111-40 of the City Code are reserved.

SECTION 3. Section 111-42. Process of the City Code is amended as follows:

“Sec. 111-42 - Process.

“The administrative process of an AEDS shall be the same as that of a final plat. The application and fee for the AEDS shall be accompanied by a survey of the proposed tract prepared by a licensed surveyor, a site plan showing utility access and ingress/egress access to a public right of way, including the necessary transportation and utility requirements of this code, and an agreement signed by the property owner of the AEDS and the owner of the remaining minimum 80 acre tract. The ordinance approving the AEDS, a survey of the AEDS tract, and the agreement signed by the property owner of the AEDS and the owner of the remaining minimum 80 acre tract, shall be filed at the Box Butte County Courthouse. Such agreement shall act to bind any subsequent owners of both tracts to the requirements of this Code”

SECTION 4. Section 111-122. Residential and light commercial requirements is amended as follows:

“Sec. 111-122. – Residential and light commercial requirements.

In C-0, C-1, and in all residential zoning districts, no fence shall be erected, constructed, reconstructed, or moved except those which follow these guidelines:

- (1) *Location and height.*

- a. Facing the front lot line within 25 feet of said line on an interior lot. An open fence or a closed fence with no more than 50 percent closed construction, not exceeding 48 inches in height. The portion of the fence that sits between the front building line of a nonconforming principal building, excluding any porches, patios, or enclosed entryways, and the front lot line setback, may be constructed using the criteria in part (e) of this subsection with the approval of the neighboring property owner.
- b. Facing the front lot line within 25 feet of said line on a corner lot. Any fence constructed within the fence vision triangle must not be more than 50 percent closed construction and not exceeding 48 inches in height. Fences outside the fence vision triangle may be constructed using the criteria in part (a) of this subsection.
- c. Facing the side lot line adjacent to the side street on a corner lot. Any fence constructed within the fence vision triangle or within a driveway vision triangle must not be more than 50 percent closed construction. Fences outside the fence vision triangle or driveway vision triangle may follow the guideline in part (e) of this subsection.
- d. Facing the interior side lot line within 25 feet of the front property line. Any open fence or closed fence not exceeding 48 inches in height. The portion of the fence that sits between the front building line of a nonconforming principal building, excluding any porches, patios, or enclosed entryways, may be built using the criteria in part (e) of this subsection with the approval of the neighboring property owner.
- e. Fences along all other lot lines. May be open or closed. They shall be limited to 72 inches in height.

(2) *Material.* All fences shall be constructed using only the following fencing material:

- a. Board wood not exceeding 12 inches in width.
- b. Polyvinyl Chloride (PVC) or other plastics similar in appearance.
- c. Fiberglass.
- d. Wrought iron.
- e. Wood simulated composite.
- f. Masonry.
- g. Chain link (not chain), decorative wire, or decorative border fencing.
- h. Chicken wire, barbed wire, welded wire, kennel type fencing, corrals, and electrically charged fences are not permitted except in R-R zoning.”

SECTION 5. Section 111-123. Heavy commercial, industrial, and Ag requirements is amended as follows:

“Sec. 111-123. – Heavy commercial, industrial, and Ag requirements.

In C-2, C-3, Ag, and all industrial zoning districts, no fence shall be erected, constructed, reconstructed, or moved except those that meet the following guidelines:

(1) *Location and height.*

- a. Fences may not be greater than 96 inches in height provided any portion of the fence above 72 inches shall not exceed more than 50 percent closed construction except fences constructed for junkyards.
- b. Fences with greater than 50 percent closed construction shall not be permitted within the fence vision triangle or driveway vision triangle; provided, they may be permitted if the applicant can demonstrate to the city manager or designee how its construction will not interfere with the regular and safe flow or vision of traffic. (Fences in C-2 are exempt from all vision triangle requirements).
- c. In all districts except C-2, barbed wire or similar material may be allowed to construct the portion of the fence greater than 84 inches in height as long as such wire does not protrude into a public right-of-way or into the neighboring property. In C-3 districts, the portion of the fence containing barbed wire must be located in the rear or side yard.

(2) *Material.* All fences shall be constructed using only the following fencing material:

- a. Board wood not exceeding 12 inches in width.
- b. Polyvinyl Chloride (PVC) or other plastics similar in appearance.
- c. Fiberglass.
- d. Wrought iron.
- e. Wood simulated composite.
- f. Masonry.
- g. Chain link (not chain), decorative wire, or decorative border fencing.
- h. Non-reflective steel (or other similar metal) paneling, coated or painted with rust-resistant material; only if constructed in in M-1, M-2, and M-3 zoning districts.

- i. Chicken wire, barbed wire, welded wire, kennel type fencing, corrals, and electrically charged fences are not permitted except in the Ag, Exclusive Agriculture zoning districts, or as allowed in the above code.”

SECTION 6. Section 111-242. One- and two-family dwelling parking requirements is amended as follows:

“Sec. 111-242. – One- and two-family dwelling parking requirements.

- (a) *Permit required.* A construction permit is required for the construction, expansion, or alteration of all parking areas and drives leading thereto. The permit application shall be accompanied by a site plan showing the location of the work in relationship to lot lines and existing structures, the type and thickness of paving material, and how water runoff will be routed.
- (b) *Stormwater runoff.* Stormwater shall be routed to lawns, yards, or other permeable surfaces when possible; however, it may not be routed to the neighboring lot without obtaining easement to do so.
- (c) *Number of spaces.* There shall be provided a minimum of two off-street parking spaces for each family unit. Accessory dwelling units shall provide a minimum of 1 off street parking space in addition to any others required.
- (d) *Location.*
 - (1) Such parking spaces must be located on the same lot as the principal building or buildings, or in a community garage or lot on the same block.
 - (2) Parking may be head-in from a public street or alley.
 - (3) Parking areas and drives leading thereto may be constructed adjacent and parallel to lot lines.
- (e) *Construction material.* Off-street parking spaces and drives leading thereto shall be paved with Portland cement, asphaltic concrete, paving brick, gravel, or rock, provided that any gravel or rock shall not be allowed in the front or side yards.
- (f) *Width.* One- and two-family dwellings are exempt from a maximum driveway width on the lot provided runoff is not routed to the street, but are limited to a 30 foot wide curb cut and a 24 foot wide driveway in the city right-of-way.
- (g) *Spacing.* Driveways on the same lot shall be a minimum of 12 feet apart. Driveways on separate lots do not require a minimum separation distance.”

SECTION 7. Section 111-243. Off-street parking requirements for all other land uses is amended as follows:

“Sec. 111-243. – Off-street parking requirements for all other land uses.

- (a) *Permit required.* A construction permit is required for all off-street parking lots, drives leading thereto, curbs, and drainage facilities within the city and its extraterritorial zoning jurisdiction as well as any parking lot improvements.
- (b) *Application.* The application shall include, but may not be limited to, the following information:
- (1) The name and address of the applicant.
 - (2) A statement that the applicant is the owner of the lot or the owner's agent.
 - (3) A legal description of such lot.
 - (4) A scale drawing of the proposed parking lot for which a construction permit is requested, including adjacent lot lines, present and proposed sidewalks, and access from all streets and alleys. Drawings should designate appropriate measurements, including ingress and egress locations, landscaping, parking layout, plan for handling Stormwater drainage, lighting, and surface material (type, depth, and subsurface preparations).
 - (5) A statement of the off-street parking lot needs and purposes for the permit.
- (c) *Fee.* For each permit issued there shall be charged and collected from the applicant, a fee, in accordance with a schedule established by the city council.
- (d) *Number of spaces.* The following table shall be used as a guideline in determining the number of spaces required for the land use as listed:

Minimum Number of Off-street Parking Spaces	
Land Use:	Number of Spaces
Hospitals/Institutional living	0.5 per bed and 0.5 per employee
Day care	0.75 per employee
Industrial	0.33 per employee
Commercial recreation:	
Indoor	5 per 1,000 gfa

Outdoor	0.25 per patron
Bowling	4 per 1,000 gfa
Assembly (auditoriums, churches, theaters, etc.)	Number of spaces must equal 25% of seating capacity
Bars, pubs, dancing	5 per 1,000 gfa
Restaurants:	
Sit-down	8 per 1,000 gfa
Fast-food	10 per 1,000 gfa
Medical/dental clinic	3.5 per 1,000 gfa
Veterinary clinic	1 per 1,000 gfa
Wholesale, warehouse	0.33 per employee
Office:	
Bank/insurance	2.5 per 1,000 gfa
General office	2.0 per 1,000 gfa
Motor vehicle sales and service	2.0 per 1,000 gfa
Retail:	
General	3 per 1,000 gfa
Shopping center	3 per 1,000 gfa
Hotels, motels	0.3 per sleep unit
Multi-family housing	1.5 per dwelling unit

Note: gfa = gross floor area

- (e) *Reduced number of spaces.* The board of adjustment may permit the paving of fewer than the required number of spaces in cases where the immediate occupant of the property clearly shows that fewer spaces are needed at that time. Staff may also approve the utilization of on street parking spaces in lieu of off street parking spaces at a ratio of two on-street spaces to every one off-street space, provided any on street parking stall shall be adjacent to the subject property and each space shall be a minimum of 22 feet long and 8 feet wide.
- (f) *Parking stall size.* Standard parking stall dimensions shall be at least nine feet by 20 feet or ten feet by 18 feet; parallel parking dimensions shall be a minimum of nine feet by 22 feet. If the stall is adjacent to a landscaped area at least four feet wide and an overhang is permitted into the landscaped area, the

stall length may be reduced by two feet. Other parking dimensions shall be as established by the board of adjustment.

(g) *Construction material.*

- (1) Nonresidential R-1 through C-3 inclusive. Parking lots in these districts shall be paved with Portland cement, asphaltic concrete, paving brick, rock or gravel provided any rock or gravel parking lot shall be in the rear yard, or as otherwise provided for in Code.
- (2) All other zoning districts. The minimum parking lot surface material shall be rock or gravel.
- (3) The thickness of material shall be approved by the city manager or designee giving due consideration to the likely use of the facilities heavy duty vehicles and anticipated degree of use.

(h) *Striping/marking.* Required off-street parking lots shall have individual spaces marked for hard surface parking lots.

(i) *Maneuvering.* Minimum parking lot aisle width shall be as follows:

Minimum Maneuvering Aisle Width					
Traffic Direction	Parking Stall Angle				
	90 degree	60 degree	45 degree	30 degree	0 degree
One-way Traffic	24 feet	18 feet	16 feet	14 feet	15 feet
Two-way Traffic	24 feet	20 feet	20 feet	20 feet	20 feet

(j) *Prohibited activities.*

- (1) Head-in parking from a public street or highway, excluding alleys, shall not be allowed.
- (2) No signs shall be permitted within the required parking areas except those necessary for the orderly parking thereon.
- (3) No parking or maneuvering incidental to parking shall be on any public street or walk; parking lot design shall be that any automobile may be parked and unparked without moving another.

(k) *Driveways.* Ingress and egress shall be by means of paved driveways constructed in accordance with city standards based on the land use and the zoning district location as follows:

- (1) Nonresidential R-R through R-4 inclusive are limited to a maximum width of 30 feet.
- (2) C-0 through C-3 inclusive shall form and maintain driveways no less than 25 feet wide but no greater than 40 feet wide.
- (3) Ag and M-1 through M-3 shall form and maintain driveways no less than 30 feet wide but no greater than 45 feet wide.
- (4) The minimum distance between driveways shall be 12 feet except in one- or two-family dwellings located on two different lots.

(l) *Setbacks.*

- (1) The back of the curb of a parking area shall not be closer than three feet to a lot line unless wheel stops are placed and maintained at the three foot line.
- (2) Pedestrian protection in the form of curb or wheel stops shall be placed a minimum of three feet from any sidewalk.
- (3) Multifamily parking shall not be located in the front yard setback, the front yard, or the side street setback on a corner lot.

(m) *Stormwater.* Stormwater requirements shall be in accordance with chapter 113.

(n) *Accessibility.* Accessibility requirements shall be the same as found in the city building code.

(o) *Landscaping and screening.*

- (1) *Required to provide.* Each unenclosed hard surface parking facility over 6,000 square feet shall provide and maintain interior landscaped area equal to no less than five percent of the total paved area of the parking facility. All vision clearances shall be met according with chapter 20.
- (2) *Drawing submittal.* A landscaping plan must be submitted with an off-street parking permit application for all hard surface lots. Such plan shall be drawn to scale, include the entire lot or tract and shall show ground covers such as seeded or sodded areas, shade trees, shrubs and any walls or fences. Such areas and facilities as loading docks, trash bins and outside storage yards shall be screened by such trees, shrubs and fences to the extent that the appearance of the premises from adjacent streets and property is attractive and pleasing. The purpose and intent of such landscaping is to provide shade and greenery, soften architectural lines, provide maximum absorption of surface water and

present an attractive appearance. Large parking lots shall be divided down into sections as appropriate for the type and size of the development.

- (3) *Appeal*. The adequacy of the landscape plan shall be reviewed and determined by the city manager or designee and any other city departments as appropriate. An applicant may appeal a denial of a landscape plan to the board of adjustment if feels that the denial is unreasonable and the board of adjustment shall have the final approval or denial authority. Compliance with the landscape and screening plan, as approved, is mandatory and any failure to carry out all details of said plan shall be deemed a violation of the zoning code.
- (4) *Bordering residential neighborhoods*. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the city official.
- (5) *Landscaping maintenance*. The property owner is responsible for maintenance and/or replacement of the landscaping according to the permitted landscape plan. Dead and dying plants shall be replaced by the owner. No buildings, storage of materials, or parking shall be permitted within the landscaped area, and the landscaped area shall be maintained and kept free of all debris, rubbish, weeds and tall grass.

(p) *Lighting*. Lighting is required for all new off-street parking lots unless an exemption is given by the city manager or designee, and the purpose of the exemption be filed with the construction permit.

- (1) Any lights used to illuminate the parking areas shall be so arranged to direct light away from any adjacent lots in a residential district.
- (2) All lighting requirements will be based upon the National Electrical Code and the table as follows:

Open Parking Facilities						
General Parking and Pedestrian Area				Vehicle Use Area		
Level of Activity	Lux (min. on pavement)	Foot-candles (min. on pavement)	Uniformity Ratio (avg.:min.)	Lux (min. on pavement)	Foot-candles (min. on pavement)	Uniformity Ratio (avg.:min.)

High	10	0.9	4:1	22	2	3:1
Medium	6	0.6	4:1	11	1	3:1
Low*	2	0.2	4:1	5	0.5	4:1

*This recommendation is based on the requirement to maintain security at any time in areas where there is a low level of nighttime activity.

Covered Parking Facilities					
Day			Night		
Areas	Lux (min. on pavement)	Foot-candles (min. on pavement)	Lux (min. on pavement)	Foot-candles (min. on pavement)	Uniformity Ratio (avg.:min.)
General parking and pedestrian areas	54	5	54	5	4:1
Ramps and corners	108	10	54	5	4:1
Entrance areas	538	50	54	5	4:1

(q) *Garbage collection in parking lots.* If an alley is not available or large enough, space may be allocated in the parking lot for an adequate number of solid waste containers as determined by the city sanitation department. Such space shall not be located in the required front yard or side-yard setback areas, shall be free of any restraints from other utilities or parked vehicles, and must be accessible to collection trucks. Parking stalls occupied by containers will not count towards the required minimum number of off-street parking spaces. In the event the property is served by a commercial solid waste disposal firm, placement of the collection containers must be approved by the city. However, this is not intended to restrict the temporary placement of roll-out containers moved to the curb or alley for solid waste collection purposes.

(r) *Nonconforming parking lots.*

(1) Preexisting violations. Any and all violations of previous parking regulations of said city that have accrued at the time of the effective date of the ordinance from which this chapter is derived which would otherwise become legal nonconforming uses under this chapter shall not become legal nonconforming uses under this chapter, but shall

remain violations of this chapter in the same manner that they were violations of prior parking regulations.

- (2) Legal preexisting. All off-street parking lots in existence at the time of the passage of the ordinance from which this section is derived shall be considered legal preexisting, nonconforming parking lots if they met the requirements before its passage but no longer meet the new requirements. These lots shall be allowed to remain provided the use of the facility for which they are intended does not change in occupancy classification and they are maintained in good condition, free of all weeds, trash, other debris, and water pools or puddles.
- (3) Alterations and additional off-street parking stalls shall meet the newly adopted standards.”

SECTION 8. Section 111-403. Permitting is amended as follows:

“Sec. 111-403. Permitting.

No solar energy system shall be constructed or installed without the approval of the Alliance Municipal Electric Superintendent; the issuance of a building permit; a conditional use permit from the city for systems greater than 500 square feet in photovoltaic cell area; as well as any other necessary permits required by the state for such installations.

- (1) The applicant shall obtain written permission from the electric department superintendent. Such written approval shall be submitted to community development in addition to the construction drawings, building permit, and CUP application (if necessary).
- (2) Additions to an existing solar energy system or an additional system that would result in the total amount of cell area greater than 500 square feet shall require a CUP.
- (3) The applicant shall call for inspections during construction and before putting the system into service. Any use of the system before a final inspection by the city and state shall merit the immediate disconnect of electric utilities from the Alliance Municipal Electric System.”

SECTION 9. Section 111-443. Setback exceptions is amended as follows:

“Sec. 111-443. - Setback exceptions.

- (a) *Porches.* Porches on one and two-family dwellings may extend six feet into the required front or rear setback if:

1. The dwelling is located in a neighborhood that was developed prior to April 7, 1938. A neighborhood shall be considered developed as such when a majority of the houses fronting the same side of the street on the same side of the block, were constructed prior to April 7, 1938 according to the Box Butte County Assessor, Sanborn Insurance Maps, and/or any other credible sources staff may possess;
2. Multiple houses fronting the same side of the street on the same side of the block, were also legally constructed with porches extending into the front or rear yard setbacks;
3. Porches may not be extended into the front or rear setbacks on dwellings where the original porch was enclosed or converted to a room unless said enclosed porch or room meets the minimum setback requirements for one and two-family dwellings and the proposed porch meets the other provisions of this code;
4. Any porch extending into the front or rear setback shall not be turned into a room; and
5. Any porch extending into the front or rear setback shall not leave a setback of less than 15 feet from the property line to the front of the porch.

- (b) *Residential front building line.* In subdivisions without front building lines dedicated on the plat, in covenants, or this code, and where 40 percent or more of the frontage on the same block and same side of the street has been developed, excluding reverse corner lots, the front building line for all remaining undeveloped lots shall be determined by taking the average setback found on developed lots, excluding those that vary more than ten feet in depth; provided that the board of adjustment may permit a variance in case of hardship as defined by State Statute.
- (c) *Open and unobstructed.* Every part of each required minimum yard or court established by setbacks and building lines shall be open and unobstructed from finished grade or, where applicable from such other specified level at which the yard or court is required, to the sky except as otherwise provided for in Code.
- (d) *Architectural intrusion.* Every part of required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features, and eaves; provided, however, that none of the projections shall extend into a court more than six inches nor into a minimum yard more than 24 inches.
- (e) *Reverse corner lots.* Setbacks on reverse corner lots shall be the same as if the structure were facing the same direction as the structures on non-reverse corner lots on the same block.
- (f) *Nonconforming reverse corner lots.* On reverse corner lots that were subdivided before the adoption of subdivision regulations and do not meet minimum lot size

requirements, the minimum setbacks shall be 5 feet from the side street (front), alley, and rear property lines; and the maximum lot coverage shall be 60%.

- (g) *Nonconforming corner lots.* Any addition to a structure on a corner lot legally developed with a side street setback less than is currently permitted by code may continue along that same side street building line provided such building line is a minimum of 5 feet from the side street property line and is not located within the front or rear yard setbacks.”

SECTION 10. Section 111-444. Yard allowances is amended as follows:

“Sec. 111-444. - Yard allowances.

Yard Requirements				
Use	Street Side Yard of a Corner Lot	Interior Side Yard	Rear Yard	Front Yard
Open storage of boats, trailers, and campers	Anywhere in above yard	Anywhere in above yard	Anywhere in above yard	Not Allowed
Television, radio equipment, and satellite dishes	Anywhere in above yard	Anywhere in above yard	Anywhere in above yard	Not Allowed
Garages, carports, and other accessory buildings	Anywhere except within required setbacks	Anywhere except within required setbacks	Anywhere except within required setbacks	Not Allowed
Intrusion into Setbacks:				
Cornices, chimneys, planters or similar architectural features	Two feet	Two feet	Two feet	Two Feet
Fire escapes	Four feet	Four feet	Four feet	Four Feet
Enclosed Porch	Not Allowed	Not Allowed	Not Allowed (b)	Not Allowed (b)
Open Porch	Three Feet (a)	Three Feet (a)	Three Feet (a)(b)	Three Feet (a)(b)

Unenclosed Porch	Not Allowed	Not Allowed	Not Allowed (b)	Not Allowed (b)
---------------------	-------------	-------------	-----------------	-----------------

(a) Setback intrusion shall only occur to the extent it is necessary to meet the minimum landing size required by the city building code, and intrusion shall not be permitted in situations where an existing porch was enclosed or turned into a room.

(b) See Sec. 111-443 (a)."

SECTION 11. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 12. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this 18th day of July, 2023.


Earl Jones, Mayor

(SEAL)

Attest: 
Shelbi C. Pitt, City Clerk

Approved as to Form and Legality:


Simmons Olsen Law Firm