



Saline County Board of Commissioners

Meeting Agenda

AGENDA

SALINE COUNTY BOARD OF COMMISSIONERS

SALINE COUNTY COURTHOUSE

Wilber, NE

9:30 AM

DATE: March 28, 2023

This agenda is kept on a daily basis and may change from day to day as requests come in to the County Clerk's office. Requests to be on the agenda must be in the County Clerk's office 24 hours prior to the start of the meeting as stated above. This agenda is considered current on the day of the meeting and cannot be changed or altered except for an emergency.

The Board reserves the right to go into executive session if such session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual.

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES OF THE PREVIOUS MEETING

CITIZENS FORUM

CORRESPONDENCE

REPORT OF OFFICIALS

BUSINESS FOR ACTION

10:00 - Michaela Nielsen, Soarin Group - Report on Human Resources activity, resources and training
Discuss/Approve members of the employee health insurance committee-Phil Hardenburger, Stephanie Krivohlavek, Dee Drake, Jamie Woltemath, Kara Burda, Lyle Weber, Lori Moldenhauer, Daryl Clark, Melanie Kunc and Michaela Nielsen

10:15 - Marci Fehlhafer, SE NE CASA - to discuss Child Abuse Prevention Month and permission to place a table inside of courthouse and pinwheels outside

10:30 - Sheriff Alan Moore - discuss/approve Resolution #2023-13 to establish fund #2411 (DOJ) Federal Drug Forfeiture and #2412 (USDOT) Federal Drug Forfeiture

Sheriff Alan Moore - Discuss/Approve U.S. Marshall Contract

Assessors Office Monthly Update

Discuss/Approve Resolution #2023-12, changing the July through December 2023 meeting dates to July 3, July 11, July 25, August 8, August 22, September 5, September 19, October 3, October 17, October 31, November 14, November 28, December 12 and December 26

Discuss/Possible action to be taken regarding the support of the Nebraska Broadband Bridge Program Grant - FCC RDOF Rural Digital Opportunity Funding

Review other Nebraska Counties that have noise ordinances with wind farms

Discuss/Approve/Disapprove the availability of funds for the sound decibel study on wind turbines

Discuss/Approve soliciting bids for the Public Defender

Discuss/Approve the 2023 County Treasurer's Public Tax Sale Return

RESOLUTIONS TO TRANSFER FUNDS

HIGHWAY SUPERINTENDENT - ROAD AND BRIDGE MATTERS

Receive bids until 11:00 am and at that time bids will be open for the Lowboy Trailer.

Discuss and approve/disapprove Request to Occupy Right of Way permit for Shawn Cross in the SE4 of 4-8-1.

CLAIMS APPROVAL

11:30 COUNTY GENERAL ASSISTANCE AND CLOSED SESSION MATTERS

Personnel Issue

ADJOURNMENT

SALINE COUNTY BOARD OF COMMISSIONERS

The regular meeting of the Saline County Board of Commissioners was called to order at 9:30 a.m. on Tuesday, March 14, 2023, by Chairperson Phil Hardenburger. Present were Hardenburger, Marvin A. Kohout, Janet J. Henning, Russ Karpisek and Stephanie A. Krivohlavek Commissioners, County Clerk Anita K. Bartels and County Attorney David C. Solheim.

Notice of said meeting was posted in the County Clerk's Office and published in all three county newspapers on March 8, 2023, in compliance with State Statutes.

Hardenburger advised those present of the open meetings act posted at the back of the room and that all proceedings are electronically recorded.

Krivohlavek moved to approve the agenda, seconded by Kohout. Voting aye were Hardenburger, Henning, Karpisek Kohout and Krivohlavek, nays none, motion carried.

Henning moved to approve the minutes of the February 28, 2023 meeting, seconded by Krivohlavek. Voting aye were Henning, Karpisek, Kohout, Krivohlavek and Hardenburger, nays none, motion carried.

Under Citizens Forum, Gary Veprovsky and Lester Ralston addressed the Board.

Under Correspondence, Bartels reported receiving a check in the amount from the National Opioid Settlement Trust in the amount of \$4,239.48; from the City of Crete the March 7th agendas for the City Council and the Personnel, Legislative Development, Public Works, Finance and Public Safety Committees; from SENDD a notice the March 16th meeting has been postponed to March 23, 2023; from the Saline County Historical Society the minutes of their March 4, 2023 meeting and communications with Melanie Kunc from the Extension Office regarding their need for additional storage space.

Karpisek reported having correspondence with constituents regarding road conditions and a wind study.

Under Report of Officials, Karpisek reported he has a SENDD meeting on March 23rd.

Krivohlavek reported on attending County Government Day and gave a reminder of the Aging Services Shamrock Shuffle and the Saline County Area Transit Soup and Sandwich lunch both on Saturday, March 18, 2023.

Kohout reported he was interviewed by Channel 10/11 regarding the Public Advocacy Commission involvement in past Saline County trials; attending County Government Day; a zoom meeting with Hometown Housing; a Tobias wind meeting; Southeast District meeting and he has been asked to testify in the Legislature on Inheritance Tax.

Henning reported on meetings with CASA and Region V Services.

Hardenburger reported on a zoom meeting with Hometown Housing, attending County Government Day; an Ag Society meeting; a meeting with Brad Swiggart on self insured employee health insurance; the Southeast District meeting and an upcoming Hometown Housing meeting on Friday the 17th.

Henning moved to approve recognizing March 21st as Down Syndrome Awareness Day, setting the courthouse exterior lights to yellow and blue, seconded by Krivohlavek. Voting aye were Karpisek, Kohout, Krivohlavek, Hardenburger and Henning, nays none, motion carried.

Henning moved to approve the February 2023 Clerk of District Court fees in the amount of \$22,110.18, seconded by Krivohlavek. Voting aye were Krivohlavek, Hardenburger, Henning, Karpisek and Kohout, nays none, motion carried.

Henning moved to approve the February 2023 Clerk fees in the amount of \$10,572.00, seconded by Karpisek. Voting aye were Hardenburger, Henning, Karpisek, Kohout and Krivohlavek, nays none, motion carried.

Henning moved to approve the February 2023 Sheriff fees in the amount of \$2,606.28, seconded by Krivohlavek. Voting aye were Henning, Karpisek, Kohout, Krivohlavek and Hardenburger, nays none, motion carried.

By teleconference, Ebony Cooksey with Nextlink Internet, presented to the Board, information on their fiber installation project at Western for rural broadband. This project would be funded under the Nebraska Broadband Bridge Program Grant – FCC RDOF Rural Digital Opportunity Funding. Ebony is seeking Saline County support for this project. This would not be financial support, rather a letter of support to submit with the grant application. No action was taken, pending the collection of information from the newly created State office on rural broadband.

At 10:47 a.m. the Board recessed;

At 10:56 a.m. the Board reconvened;

Planning & Zoning Administrator Lyle Weber, reported the existing turbines were built without sound limits. He has contacted 4 companies, 2 of which asked how much money do you have to spend and then they will state what they can do with that amount. He contacted Olsson Associates in Nebraska, who contract their wind studies with an out of state company called Epsilon Associates. Epsilon gave an estimate of \$10-\$15,000 if they used the model working from their office and starting at \$50,000 if they were on site. A Lancaster County Consultant Dominique Cheede informed Weber, there is really no way to accurately measure wind sound due to changing weather conditions, blade style and size of the turbine. Cheede did suggest if a study would be done, to conduct the study on 4 of each turbine size and the cost would be \$3,500 - \$4,000 per turbine site. Weber stated there are 3 different sizes of turbines, making the total count of turbines to be tested would be 12. Cheede suggested time to leave the measure device in place would be at least 2 weeks. Weber informed the Board he does not have the funds available in the Planning & Zoning budget to cover this cost.

Since it was unknown if the company who installed the Milligan 1 turbines conducted a sound study, the Board requested Weber contact Milligan 1 to obtain a copy of the study if available.

Karpisek moved to table action on the availability of funds for a sound/decibel study on wind turbines until the next meeting, giving Weber time to check if there is a study available from Milligan 1, seconded by Krivohlavek. Voting aye were Kohout, Krivohlavek, Hardenburger, Henning and Karpisek, nays none, motion carried.

Hardenburger reported speaking with insurance broker Brad Swiggart, regarding employee health insurance options, including a self-insurance package. He noted if the County would choose to self-insure, there would be reinsurance to cover catastrophic claims. Kohout stated the NACO Board has taken a more positive position on self-insurance and has it as an option on their new package, which the NACO Board will be meeting on at their April 27th meeting.

By consensus an employee health insurance committee is to be formed, to discuss/research/review health insurance options, to become effective July 1, 2023. This committee will consist of Phil Hardenburger, Stephanie Krivohlavek, Dee Drake, Jamie Woltemath, Michaela Nielson and any official or employee wishing to be a part of this committee. Bartels is to contact the County offices, requesting additional members to participate on this committee. A list of interested parties will be presented to the Board at their March 28th meeting.

County Attorney David Solheim presented for approval two Federal Grant applications to fund a Saline County Victims Assistance Program, SFY 2024 JAG and SFY 2024 VOCA. This grant would allow the addition of a victim-witness coordinator to the County Attorney's office. Henning moved to approve the two applications, seconded by Karpisek. Voting aye were Karpisek, Kohout, Krivohlavek, Hardenburger, and Henning, nays none, motion carried.

For Highway Superintendent Bruce Filipi, Bartels read his recommendation to accept the JJK Construction (low bid) in the amount of \$1,087,445.01 for Project C-76(790) Swanton West.

Henning moved to award the bid to JJK Construction, seconded by Kohout. Voting aye were Kohout, Krivohlavek, Hardenburger, Henning and Karpisek, nays none, motion carried.

Henning moved to approve the claims as presented, seconded by Kohout. Voting aye were Krivohlavek, Hardenburger, Henning, Karpisek and Kohout, nays none, motion carried.

A&F Construction	Bldg Maint	295.00
Rebecca Anderson	Atty Fees	118.75
Anytime Plumbing	Bldg Maint	627.31
Barnas	Supplies	430.22
Johnny Barta	P&Z	33.34
Matt Baumann	Reimb	696.95
Black Hills	Utility	10,559.82
Gerald Brown	P&Z	29.41
Capital Business Systems	Cntrct	140.00
City of Wilber	Utility	8,574.60
Ace Hardware	Supplies	81.18

CAMC	Cntrct	845.84
Culligan	Cntrct	184.25
Dee Drake	Reimb	22.79
Eakes	Supplies	3,226.80
Ecolab	Supplies	487.70
Engineered Controls	Bldg Maint	548.00
Farmers Coop	Fuel	252.47
First Concord	Ins	5,681.74
First Concord	Ins	75.00
First Wireless	Equip	750.00
Friend Community Healthcare	Cntrct	380.00
Galls	Uniform	534.81
Greatamerica Financial	Cntrct	337.63
Heath Sports	Uniform	78.94
David Hermsmeier	P&Z	16.31
Jefferson Co Em Mgmt	Cntrct	4,350.00
Randy Kalkwarf	Reimb	174.74
Jeffrey Koll	P&Z	29.41
Lancaster Co Youth Svcs	Cntrct	1,932.00
Lincoln Radiology	Cntrct	32.34
Mallory Safety	Supplies	517.36
Microfilm Imaging	Cntrct	150.00
MIPS	Cntrct	2,940.33
Monroe Systems	Supplies	208.55
Keith Muller	P&Z	19.59
NACO	Trng	120.00
DHHS	Cntrct	371.00
Nebraska.gov	Cntrct	109.50
NIRMA	Cntrct	1,118.00
NPPD	Utility	259.00
Tyson Osborn	Reimb	40.37
Physicians Lab	Cntrct	55.00
Quill	Supplies	60.94
Sack Lumber	Supplies	233.89
Saline Co Atty	Reimb	47.24
Saline Co Court	Reimb	203.00
Saline Co Dist Court	Reimb	208.00
Saline Co Imprest	Reimb	25,474.01
Saline Co Sheriff	Reimb	522.57
Sapp Bros	Fuel	5,460.82
Sarpy Co Sheriff	Cntrct	8,695.00
Secretary of State	Cntrct	20.00
Seward Co Independent	P&P	3,901.53
Sid Dillon	Equip Rpr	2,925.11
Siemens	Bldg Maint	1,250.80
Rachel Smith	Reimb	57.87
Soarin Group	Cntrct	3,959.40
Stanard Appraisal	Cntrct	6,004.50
Summit	Supplies	9,438.85
Thomson Reuters	Cntrct	155.57
Nelson, Clark & Timan	Atty Fees	323.00
Tk Elevator	Bldg Maint	342.66
Union Bank	Bond Fees	1,374.00
Unite	Comm	6,477.07
Verizon	Comm	171.12
Visa	Trng	107.24
Visa	Supplies	30.02

Visa	Fuel	50.80
Visa	Supplies	26.59
Visa	Uniform	348.89
Visa	Uniform	65.00
Visa	Equip	418.93
Voss Lighting	Supplies	219.80
Walker	Supplies	36.41
Walker	Supplies	78.83
Joel Weber	P&Z	41.86
Mary Jo Weber	P&Z	62.16
41 Auto	Supplies	1,210.54
AKRS	Supplies	159.30
Beatrice Concrete	Gravel	14,748.02
Beaver Hardware	Supplies	9.18
Black Hills	Utility	2,340.17
City of Crete	Utility	313.41
City of Wilber	Utility	170.22
Ace Hardware	Supplies	60.55
Auto Supply	Supplies	514.96
Eakes	Supplies	438.71
Farmers Coop	Fuel	18,037.43
Farmers Union Coop	Supplies	208.03
Food Mesto	Supplies	12.68
Linde Gas	Supplies	91.57
Matheson Tri-Gas	Supplies	1,571.03
MHC	Supplies	51.42
NE IA Ind	Supplies	465.27
Nebraska.gov	Cntrct	7.50
NMC	Equip Rpr	2,523.18
Orschelns	Supplies	104.98
Pomp's Tire Service	Supplies	90.00
Powerplan	Equip Rpr	1,852.24
CNH	Supplies	102.40
RDO	Supplies	23.50
Sack Lumber	Supplies	6.41
Saline County ROD	Cntrct	16.00
Sapp Bros	Fuel	2,461.01
Scherbarth Ace	Supplies	5.38
Seward Co Ind	P&P	281.78
Speece-Lewis	Eng Fees	54,742.50
Spring Creek Repair	Equip Rpr	663.71
Truck Center	Supplies	169.87
Village of Dewitt	Utility	75.35
Village of Dorchester	Utility	208.17
Village of Swanton	Utility	65.53
Village of Tobias	Utility	57.60
Village of Western	Utility	83.25
Visa	Supplies	36.56
Waste Connections	Utility	236.78
Wilber Plumbing	Supplies	5.97
Young's Welding	Supplies	83.52
41 Auto	Supplies	16.46
Soarin Group	Equip	6,494.00
Visa	Hlth Fair	268.35
Jessica Acosta	Prgm	920.00
City of Crete	Prgm	120.00
Samantha Cosaert	Prgm	285.00

Culligan	Cntrct	58.25
Farmers Coop	Fuel	55.13
Food Mesto	Prgm	69.90
Hosanna	Prgm	160.00
Tia Kreshel	Prgm	420.00
Delaney Mazza	Prgm	246.00
Wilber Care Center	Prgm	750.00
Family Service Assoc	Prgm	4,800.00
Anita Stougard	Prgm	1,065.00
Verizon	Comm	42.78
First Wireless	Equip	7,824.70
Visa	Supplies	212.50
Barnas	Supplies	1,899.57
Bob Barker Company	Supplies	546.34
Eakes	Supplies	806.18
Summit	Supplies	5,500.97
Visa	Supplies	146.50
Union Bank & Trust	Bond Pmt	14,248.55
iSolved Payroll, Taxes & Payments	Payroll & Taxes	229,452.87
Ameritas Life	Retire	27,158.31
Principal Dental	Dental Ins	2,123.34
Madison Nat'l Life	Life Ins	61.63
AFLAC	Ins	1,131.85
VSP	Eye Ins	490.30
Empower	Def Comp	2,217.00
First Concord	Café	1,810.62
Colonial Supp Ins	Ins	164.87
Madison Nat'l Life	Dis Ins	198.03
Teamsters	Dues	275.00
New York Life	Ins	95.64
Globe Life	Ins	213.64
Clear Recovery	Garnish	205.42
Bruce H. Wingerd	Garnish	512.74

At 11:41 a.m. Kohout moved to enter closed session to discuss a personnel issue, seconded by Henning. Voting aye were Hardenburger, Henning, Karpisek, Kohout and Krivohlavek, nays none, motion carried.

At 12:09 p.m. Karpisek moved to exit closed session, seconded by Kohout. Voting aye were Henning, Karpisek, Kohout, Krivohlavek and Hardenburger, nays none, motion carried.

Hardenburger announced during closed session a personnel issue was discussed with no action was taken.

At 12:10 p.m. Hardenburger announced the Board would recess and relocate to the Law Enforcement Center for a quarterly tour.

At 12:20 p.m. Hardenburger announced the Board would reconvene at the Law Enforcement Center.

Law Enforcement personnel John Hensel and Jeff Mulbery gave the Commissioners and County Clerk a tour of the Law Enforcement and Dispatch Centers.

There being no further business to come before the Board, the meeting was adjourned at 1:57 p.m. The next regular meeting will be on Tuesday, March 28, 2023 at 9:30 a.m. in the Saline County Commissioners' Room, Court House, Wilber, NE.

ATTEST:

Anita K. Bartels, County Clerk

Janet J. Henning

Stephanie A. Krivohlavek, Vice-Chairperson

Marvin A. Kohout

Phil Hardenburger, Chairperson

Russ Karpisek

I, Anita K. Bartels, County Clerk in and for Saline County, do hereby certify that the minutes of the previous meeting held on February 28, 2023 were approved as presented.

Anita K. Bartels, County Clerk

Janet J. Henning

Stephanie A. Krivohlavek, Vice-Chairperson

Marvin A. Kohout

Phil Hardenburger, Chairperson

Russ Karpisek

RESOLUTION # 2023-13

WHEREAS, the Saline County Sheriff's Office participates in the federal Equitable Sharing (eShare) Program, Department of Justice (DOJ) and Department of the Treasury (USDOT) equitable sharing funds must be tracked and maintained separately.

WHEREAS, the Saline County Treasurer must maintain equitable sharing funds received by the Saline County Sheriff's Office in the same manner as appropriated funds, two separate funds will be established for tracking both revenues and expenditures for each respective program. The two accounts to be established are Federal Drug Forfeiture (DOJ) Fund #2411 and Federal Drug Forfeiture (USDOT) Fund #2412 respectively and no other funds may be commingled in these accounts.

BE IT HEREBY RESOLVED, by the Board of Commissioners of Saline County, NE, two new funds will be established in order to manage funds received via the Equitable Sharing (eShare) program to keep said funds separate from all other revenue.

Motion made by Commissioner _____, seconded by Commissioner _____, to adopt the foregoing Resolution. All members present voting as follows:

Yeas: _____

Nays: _____

Chairman

SUBSCRIBED AND SWORN TO before me this 28th day of March, 2023.

Saline County Clerk

RESOLUTION #2023-12

WHEREAS, the Commissioners of Saline County, Nebraska do hereby consent to change the dates scheduled for the July 2023 through December 2023 Board of Equalization and Board Commissioner Regular Meetings to July 3, July 11, July 25, August 8, August 22, September 5, September 19, October 3, October 17, October 31, November 14, November 28, December 12 and December 26.

The original meeting dates were set and approved during the 2023 Organizational meeting on January 3, 2023.

Motion was made by Commissioner _____ and seconded by Commissioner

_____ to adopt the foregoing Resolution.

Ayes: _____

Nays: _____

Abstentions: _____

Absent: _____

SUBSCRIBED AND SWORN TO before me this 28th Day of March, 2023

Kimball County

Zoning and Subdivision Regulations

Adopted: October 5, 2010

Amended: April 3, 2012

Amended: May 21, 2013

Amended: November 19, 2013

Amended: July 1, 2014

Amended: May 2, 2017

Amended: April 17, 2018

Amended: July 7, 2020

Amended: June 21, 2022

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RESOLUTION NO. 2010-20

A RESOLUTION OF KIMBALL COUNTY, NEBRASKA, ESTABLISHING LAND USE ZONING AND SUBDIVISION STANDARDS WITHIN THE UNINCORPORATED AREAS OF KIMBALL COUNTY; ESTABLISHING ZONING DISTRICTS; ADOPTING MAPS OF SAID AREAS AND ZONING DISTRICTS THEREIN; REGULATING THE USE OF LAND ITS DEVELOPMENT INCLUDING BUT NOT LIMITED TO THE USE, SETBACK, LOT AREA, LOT WIDTH, YARDS, AND HEIGHT OF BUILDING; PLATTING, DIVISION, IMPROVEMENTS REQUIRED, DESIGN STANDARDS; PROVIDING FOR THE ADMINISTRATION, ADJUSTMENT, ENFORCEMENT AND AMENDMENT THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND REPLACING ALL RESOLUTIONS IN CONFLICT HEREWITH.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF KIMBALL COUNTY, NEBRASKA THAT THIS RESOLUTION SHALL APPLY TO THE UNINCORPORATED AREAS WITHIN KIMBALL COUNTY, NEBRASKA; AND DISTRICTS AND THEIR RELATED STANDARDS SHALL BE ESTABLISHED AS DEFINED HEREIN AND THE ZONING MAP ADOPTED AND MADE PART HEREOF:

SECTION 1. TITLE

1.01. A Comprehensive Zoning Code and Subdivision Regulations for Kimball County are established as set out in this Resolution. This Resolution and any later amendments to it shall be known as the "Kimball County Zoning and Subdivision Resolution" and may be cited by that name.

SECTION 2. PURPOSE AND INTENT

2.01. This Zoning Resolution is intended to provide a unified regulatory system for land use in Kimball County. The Zoning Resolution is designed to serve the following purposes:

1. To promote the health, safety, comfort and general welfare of the present and future residents of Kimball County;
2. To secure safety from fire, flood, and other dangers;
3. To preserve and protect property values throughout Kimball County;
4. To protect the tax base of Kimball County;
5. To preserve quality agricultural lands;
6. To regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population;
7. To create zoning districts within the unincorporated areas of Kimball County;
8. To regulate the location and use of buildings and land within each district or zone;
9. To enforce and maintain the objectives and policies of the Kimball County Comprehensive Plan;
10. To encourage the most appropriate use of land;
11. To promote such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply and other public requirements;
12. To secure economy in government expenditures;
13. To preserve, protect, and enhance historical buildings, places, and districts; and,
14. To develop the livestock and crop production and processing sector of Kimball County's economy. (Resolution 2013-4, May 21, 2013)
15. To encourage best management practices relating to soil conservation, water supply conservation, surface water drainage and other uses. To lessen or avoid hazards to persons and damage to personal and real property resulting from accumulation of run-off storm or flood waters. (Resolution 2022-29, June 21, 2022)

16. To provide for the harmonious development and orderly expansion of urban areas radiating outwardly from existing communities, for adequate sanitary facilities, for safe and healthy drinking water, and for reducing flood damage and fire potentials. (Resolution 2022-29, June 21, 2022)

SECTION 3. AUTHORITY AND GENERAL PROVISIONS

3.01. Authority: Kimball County is authorized by law to regulate zoning, planning, subdivision of land, and buildings by virtue of Neb. Rev. Stat. §Section 23-114 as amended, and is hereby declared to be in accordance with all provisions of these statutes.

3.02. Jurisdiction: This Resolution shall apply to the unincorporated areas within the boundaries of Kimball County, Nebraska not located within the zoning jurisdiction of any municipality as set forth by Nebraska law, and as may be amended when necessary.

3.03. Scope: Except as may hereinafter specified, no building, structure or land shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with all the terms of this Resolution for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 25.

3.04. Districts: In order to carry out the purpose and intent of this Resolution, the unincorporated area of Kimball County, Nebraska is hereby divided into the following zoning district classifications:

- A-1 Agriculture One District;
- A-2 Agriculture Two District;
- RE Residential Estate District;
- C Commercial District;
- IC Interstate Highway Commercial;
- I Industrial District;
- WPO Wellhead Protection Overlay District; and, (Resolution 2012-02, April 3, 2012)
- AHAO Airport Hazard Area Overlay District. (Resolution 2013-6, November 19, 2013)

3.05. District Boundaries and Official Map: The boundaries of the zoning districts are indicated upon the Official Zoning Map of Kimball County, Nebraska, which map is made a part of this Resolution by reference hereto. The Official Zoning Map and all the notations, references, and other matters shown thereon shall be as much a part of this Resolution as if the notations, references and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be on file in the Kimball County Courthouse and shall bear the signature of the Chairperson of the Board of Commissioners attested by the County Clerk, under the certification that this is the Official Zoning Map of the Kimball County Zoning Resolution.

3.06. Changes to Official Zoning Map: If in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matters portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the County Clerk on the Official Zoning Map. The County Board may from time to time adopt a new Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original Zoning Resolution or any subsequent amendment thereof.

3.07. Disincorporation: All territory which may hereafter become part of the unincorporated area of Kimball County, Nebraska which is regulated by this Resolution by the disincorporation of any city or village, or any part thereof, shall automatically be classified as lying and being in the RE Residential Estate District until such classification shall have been changed by amendment of this Resolution as provided by law.

3.08. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts the following rules apply:

1. The district boundaries are the centerline of roads, alleys, waterways, or other public right-of-way, unless otherwise indicated; and where the designation of a boundary line coincides with the location of roads, alleys, waterways, or other public right-of-way, the centerline of the roads, alleys, waterways, or other public right-of-way shall be construed to be the boundary line of the district;
2. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with platted lot-lines, the lot-line shall be construed to be the boundary of the district;
3. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with section lines, quarter lines, quarter section lines, or quarter - quarter section lines, the section lines, quarter lines, quarter section lines, or quarter - quarter section lines shall be construed to be the boundary of the district; and,
4. Boundaries following railroad lines shall be construed to be midway between the main tracks.

3.09. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations: (Resolution 2020-25, July 7, 2020)

1. The regulations provided for under this Resolution regulate, restrict, or prohibit the erection, construction, reconstruction, and/or alteration of non-farm buildings or structures. Non-farm buildings are all buildings except those buildings utilized for agricultural purposes. Nothing in this exemption shall preclude non-farm buildings from meeting basic setbacks.

3.10. Interpretation: In the interpretation and application of the provisions of this Resolution, the following regulations set forth below shall govern:

1. **Minimum Requirements:** In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare.
2. **Overlapping or Contradicting Regulations:** Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted;
3. **Private Agreements:** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern; and,
4. **Unlawful Uses:** The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

3.11. Severability: It is hereby declared to be the intention of Kimball County that the provisions of these regulations are severable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgment shall not affect any other provisions of these regulations; and,
2. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property or structure, the judgment shall not affect the application of the provisions to any other property or structure.

3.12. Amendments: Any provision of this Resolution from time to time may be amended, supplemented, changed, modified, or repealed by the County Commissioners according to law; provided, however, that such amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after the study and report by the Planning Commission.

3.13. Repeals:

1. All Resolutions of the County inconsistent herewith to the extent of such inconsistency, and no further, are hereby repealed;
2. The repeal of any of the above mentioned does not revive any other Resolutions or portions thereof repealed by said Resolutions; and,
3. Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to repeal.

3.14. Lot Size in Agriculture Districts:

A lot shall be considered to meet the minimum lot size requirement if the lot would otherwise meet the minimum lot size requirements if the lot size was not reduced because of public right-of-ways or other extenuating circumstances. Every lot shall be located on a lot of record.

3.15. Setback and Lot Size Reduction Prohibited: No setback, lot or tract existing at the time of adoption of this Resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Setbacks, lots or tracts created after the effective date of the Resolution shall meet or exceed the minimum requirements established by this Resolution.

3.16. Disclaimer of Building and Other Codes and County Liability: This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or other code which would regulate the design and construction of any building or structure within the jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements of this Resolution are solely for the purpose of assuring compliance with the land usage regulations set forth in this Resolution for the purposes set forth in Section 2 of this Resolution. Kimball County assumes no liability and shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit, or other form of land usage approval may have been issued nor shall Kimball County assume any liability for any non-compliance with any Federal, State or other code, regulation or requirement.

SECTION 4.

RULES, DEFINITIONS AND STANDARDS PERTAINING TO ALL KIMBALL COUNTY

4.01 Rules:

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

- A. Words used in the present tense shall include the future tense;
- B. Words in the singular number include the plural number and words in the plural number include the singular number;
- C. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for";
- D. The word "shall" is mandatory; the word "may" is permissive;
- E. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities;
- F. Unless otherwise specified, all distances shall be measured horizontally;
- G. The word "County" means Kimball County, Nebraska;
- H. In the event that there is any conflict or inconsistency between the heading of a section, subsection or paragraph of this Resolution and the context thereof, the headings shall not be deemed to affect the scope, meaning or intent of the context;
- I. The words "County Board" shall mean the Kimball County, Nebraska Board of Commissioners; and,
- J. The words "Planning Commission" shall mean the Kimball County Planning Commission duly appointed by the County Board.

2. Any word or phrase which is defined in this section, and used within this Resolution, shall have the meaning as so defined whenever the word or phrase is used, unless the definition is expressly limited in its meaning or scope.

4.02. Definitions: For the purpose of this Zoning Resolution, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

1. Abut, Abutting: To border on, being contiguous with or have property or district lines in common, including property separated by an alley.

2. Access: A driveway or intersection which provides an entrance or exit to private or publicly owned land from a public road.

3. Accessory Structure: A structure detached from a principal building located on the same lot and customarily incidental to that of the main building.

4. Accessory Use: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of land or buildings and located on the same lot as the principal use. A use incidental, related, appropriate and clearly subordinate to the main use of the land or building which accessory use does not alter the principal use of the subject land or affect other properties in the district.

5. Acreage: The number of acres in a piece of land: acres collectively.

6. Adjacent: When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line were it not for the separation caused by a street/road or any other public right-of-way.

7. Adult entertainment center: An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast, or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.
8. Adults-only bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
9. Adults-only motion picture theater: An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse for observation by patrons therein.
10. Agricultural and Farm Buildings and Structures: Any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
11. Agriculture: The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, pasturing of buffalo, elk and other animals, dairying, raising and management of poultry, fish, bees and other animals, truck farming, forestry or orchards, the non-commercial storage and processing of agricultural products produced on the premises and use of the land for fee hunting, including accessory uses customarily associated with these activities in Kimball County. Agriculture includes farming.
12. Airport Hazard Zone: Consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.
13. Alley: An established passageway for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway. (Nebraska Revised Statute §39-1302)
14. Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.
15. Bed and Breakfast: Any place of lodging that provides rented rooms to ten or fewer people that is the personal residence of the owner, that is occupied by the owner at the time of rental, and in which the only meal served to renters is breakfast. §81-2,242.
16. Billboard: A sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located.

17. Borrow Pit: An area of land where the overburden, consisting of unconsolidated rock, glacial debris, and other earth material overlying bedrock is extracted from the surface. Extraction occurs on a one-time only basis or only intermittently as need occurs, for use as fill materials by the extracting party in the form in which it is extracted. No milling is involved, except for the use of a scalping screen to remove large rocks, wood and trash. The material is used by the extracting party more for its bulk than its intrinsic qualities on land which is relatively near the borrow pit. (*Interagency Agreement between the Mine Safety and Health Administration, U.S. department of Labor and the Occupational Safety and Health Administration*).
18. Buffer: A strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road.
19. Building: Any structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.
20. Building Area: The area of a lot remaining after the minimum yard open space requirements of the zoning resolution has been met.
21. Building Height: The vertical dimension from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between eaves and the ridge level for gable, hip and gambrel roofs. Mechanical equipment, chimneys, spires and similar appurtenances not intended for human habitation are not subject to the height limitations contained in the District Regulations.
22. Building Setback Line: The minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.
23. Commercial Use: The purchase, sale, or transaction involving the disposition of any article, substance commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit including renting of rooms, business offices and sales display. (Resolution 2017-15, May 2, 2017)
24. Communication Tower: Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
25. Compatible Use: A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other. (Resolution 2012-02, April 3, 2012)
26. Comprehensive Plan: The officially adopted document intended to guide the long range development of the county.
27. Concentrated Animal Feeding Operation: An operation that stables or confines animals specified in any of the categories defined in the Livestock Waste Control Regulations and is required to obtain an Operating Permit by the Nebraska Department of Environmental Quality. The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.
28. Conditional Use: A land use that would not be generally compatible with other permitted land uses in a zoning district, but which if controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote health, safety, convenience and general welfare.

29. Conditional Use Permit: A permit issued stating that the conditional use meets all conditions set forth in local resolutions. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioners.
30. Convenient Store: A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase on a relatively few items (in contrast to a “supermarket.”), it is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.
31. Developer: The legal or beneficial owner or owners of any of the land proposed to be included in a given development or the authorized agent therefore, including the holder of the option or contract to purchase, or other individual having an enforceable legal interest in such land.
32. Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and a use or extension of use of land.
33. District: A part, zone, or geographic area within the county within which certain uniform zoning or development regulations apply.
34. Dwelling: A building or portion thereof, designed and used for residential purposes, but not including recreational travel trailers or motor homes.
35. Dwelling, Accessory: A dwelling located on the same lot as the principal or primary dwelling.
36. Dwelling, Agriculture: A dwelling occupied by a person or persons which is directly associated with an agricultural operation.
37. Dwelling, Non-farm: A dwelling occupied by a person or persons in which either the head of the household or the spouse of the head of household are not engaged in agriculture.
38. Dwelling, Single Family: A dwelling having accommodations for and occupied exclusively by one family, including code compliant mobile homes, and intended to be occupied by not more than one family. A single family dwelling includes a townhouse or condominium.
39. Dwelling, Two-Family, Duplex: A building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family, being on a single lot and under the control of one owner.
40. Dwelling, Multiple-Family: A building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
41. Easement: A permanent or temporary grant of right by a property owner to the public, a corporation, or persons, for the use of tract of a strip or parcel of land for a specified purpose or purposes. Ownership shall remain with the property owner.
42. Excavation: The removal of clay, soil, limestone, sandstone, sand or gravel from the earth by excavating, stripping, leveling or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit or normal farming practices. Stone milling shall include the crushing, cutting, grinding or otherwise processing when associated with an excavation operation. Not all of the operations will apply to pre-existing, long term excavation sites.

43. Family Entertainment Center: A commercially operated center that offers various forms of entertainment, such as arcade games, carousels, roller coasters, and performers, as well as food, drink, and souvenirs. These centers are permanently located entertainment complexes, open either all year or seasonally every year.

44. Farm: An area of agricultural and horticultural land which is primarily used for agricultural or horticultural purposes. Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes includes the following uses of land: 1) land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the land or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and 2) land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.

45. Frontage: The boundary of a lot or tract of land which abuts the road/street and through which the lot has its primary vehicular and/or pedestrian access. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on roads/streets.

46. Grandfather Rights: The use of a building or structure, land and a building or structure or land existing and lawful at the time of the adoption or amendment of these regulations, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations. When a nonconforming use of land is discontinued or abandoned for a period of twelve consecutive months that use shall not be re-established or resumed. See Section 25 Non-Conforming Uses.

47. Hazardous Waste: Any waste product generated which is listed as a hazardous material by the United States Environmental Protection Agency.

48. Home Occupation: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

49. Hotel or Motel: A building or portion thereof, or a group of buildings, offering transient lodging accommodations on a monetary rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.

50. Industrial: A) Heavy- Any industrial, manufacturing, fabrication, warehousing, or processing which emits noxious smoke, odor, dust or noise. B) Medium-Any industrial, manufacturing, fabrication, warehousing, or processing which might emit noxious smoke, odor, dust or noise. C) Light- Any industrial, manufacturing, fabrication, warehousing or processing which does not emit noxious smoke, odor, dust or noise. All processing, fabrication, manufacturing, assembly and disassembly takes place wholly within an enclosed building. (Resolution 2012-02, April 3, 2012)

51. Junk: Old scrap; copper; brass; iron; steel; rope; rags; batteries; paper; trash; rubber debris; waste; dismantled or wrecked automobiles, or parts thereof; and other old scrap or ferrous or nonferrous materials.

52. Kennel: A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

53. Livestock: All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.

54. Lot: A parcel of land occupied or designed to be occupied by one or more buildings, structures, or uses, together with such open areas as are required by this Resolution.

55. Lot, Area: The total horizontal area within the lot lines of a lot.

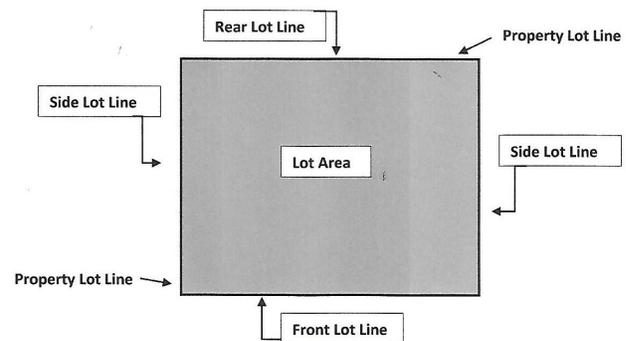
56. Lot, Corner: A lot that has frontage on two (2) or more intersecting streets or roads.

57. Lot, Depth: The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

58. Lot Line, Front: The property line dividing a lot from a street/road. On a corner lot only one street/road line shall be considered as a front lot line.

59. Lot line, Rear: The line opposite the front lot line.

60. Lot Line, Side: Any lot lines other than front lines or rear lines.



61. Lot, Width: The average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

62. Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air condition, and electrical systems contained in the structure, except that manufactured home includes an structure that meets all of the requirements other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such as existed on September 1, 2001, 42, U.S. C. 5401 et seq. (Neb Rev Stat §71-4603).

63. Manufactured Housing: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec.5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

64. Manufacturing: Uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer. (Resolution 2012-02, April 3, 2012)

65. Mining: The act of recovering mineral, sand, gravel, quarry, coal or other resources from the ground. Mining shall include, but not be limited to, recovery of the resources by processing on site (including "in-situ," solution, and other extractive methods), open pit excavation, wet or dry pit excavation and subterranean excavation. (Resolution 2012-02, April 3, 2012)

66. Mobile Home: A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. (Neb Rev Stat §76-1463) It does not include recreational vehicles or travel trailers.

67. Motor Sport Facility: A building, structure or place consisting of a circumscribed area of land laid out for motor sports. Designed and created to serve a particular function for motor sports.

68. Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

69. Nonconforming Structure: A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

70. Nonconforming Use: A use or activity that was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

71. Nursery: The use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

72. Oil and Gas Production: The drilling, development, production and abandonment of oil and gas as defined by the Nebraska Oil and Gas Conservation Commission. Nebraska Revised Statute §57-903 Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casing-head gas. Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil.

73. Overlay District: A district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change. (Resolution 2012-02, April 3, 2012)

74. Owner: One or more persons, including corporations, who have title to the property, building or structure in question. (Resolution 2012-02, April 3, 2012)

75. Parcel: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

76. Principal Use or Structure: The predominate use of land or structures as distinguished from an accessory use.

77. Public Use Area: An area of land or water, whether publicly or privately owned, which is designed for and used by 10 or more unrelated persons, on at least a quarterly basis, for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas,

public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not be construed to include any cemeteries, rights-of-way for streets or roadways or privately owned land used for hunting and/or fishing.

78. Public Uses: Including but not limited to public parks, playgrounds, golf courses and recreational facilities; fire stations; schools; publicly owned or operated airports; and public utilities and utility distribution systems; excluding governmental landfill operations. (Resolution 2012-02, April 3, 2012)

79. Recreational Facilities: Facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming or golf. Recreational facilities shall include country clubs and athletic clubs. It shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include areas or stadiums used primarily for spectators to watch events. (Resolution 2012-02, April 3, 2012)

80. Recreational Purposes: Includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user; and operated on a commercial basis by the paying public. (Resolution 2012-02, April 3, 2012)

81. Recycling: The process by which recovered waste materials are transformed into new products in such a manner that the original products may lose their identity.

82. Relative, direct: A person's mother, father, son, or daughter.

83. Restaurant: A public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

84. Restaurant, Drive-In: An establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

85. Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.

86. Retail Trade: Uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

87. Right-of-way: Land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway; (Nebraska Revised Statute §39-1302)

88. Road: A public way for the purposes of vehicular travel, including the entire area within the right-of-way. A road designated as part of the state highway system may be called a highway, while a road in an urban area may be called a street. (Nebraska Revised Statute §39-1302) Road shall mean the same as street.

89. Salvage or wrecker dealer: Any person who acquires one or more motor vehicles or trailers for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap.

90. Salvage Yard: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales.

91. Scrap Metal Processor: Any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license.

92. Screened: Construction and maintenance of fences, earth berms or the use of landscaping materials or other materials used to lessen the noise, light, or visual impacts of a land use on surrounding land uses.

93. Self-Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products. (Resolution 2012-02, April 3, 2012)

94. Service Stations: Buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair. (Resolution 2012-02, April 3, 2012)

95. Sewer & Waste Water Treatment Operation: Pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal. (Resolution 2012-02, April 3, 2012)

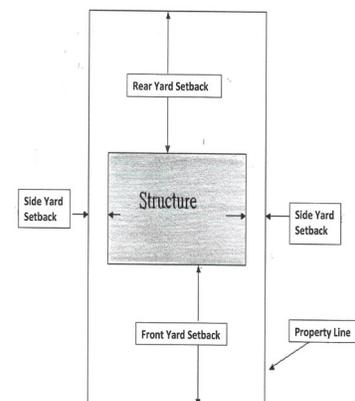
96. Setback: The horizontal distance from the front lot line or the side or rear lot line of any lot, or edge of an existing road easement, in which a building may not be constructed.

Setbacks are further defined as follows:

A. Setback, Front: An open space extending across the entire width of a lot between the front lot line, or edge of an existing road easement, and the nearest point of a building.

B. Setback, Rear: An open space extending across the entire width of the lot between the rear lot line, or edge of an existing road easement, and the nearest point of a building.

C. Setback, Side: An open-space extending along the side lot line from the front setback to the rear setback and lying between the side lot line, or edge of an existing road easement, and the nearest point of a building.



97. Sexually oriented business: An adult entertainment center, adults-only bookstore, adult novelty store, adult video store, nudist camp, or adults-only motion picture theater whose inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement.

98. Sign: Any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.

99. Solar Energy System (SES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)

100. Solid Waste: Any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923.

101. Storage: The keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.

102. Structure: Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street-light fixtures, and street/road signs.

103. Structure, Farm: A structure that is utilized for and directly associated with an agricultural operation.

104. Structure, Non-Farm: Any structure that is not utilized for and directly associated with an agricultural operation.

105. Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or in the dimension or configurations of the roof or exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration: A) Attachment of new facade where structural supports are not changed; B) Addition of fire escapes where structural supports are not changed; C) New windows or doors; and, D) Repair or replacement of non-structural members.

106. Subdivider: Any person who causes land to be subdivided into a subdivision for himself, herself, or others or who undertakes to develop a subdivision but does not include a public agency or officer authorized by law to create subdivisions. (Nebraska Revised Statute §81-885.01)

107. Subdivision: The division of a lot, tract, or parcel of land into two or more sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel of land created is more than ten acres in area. (Nebraska Revised Statute §23-372)

108. Truck Wash Services: A facility to wash and clean interior and exterior of semi-truck tractors, large trucks and small vehicles, together with trailers. (Resolution 2012-02, April 3, 2012)

109. Variance: A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment in accordance with Nebraska State Statutes.

110. Wastes: Sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state. (Resolution 2012-02, April 3, 2012)

111. Wind Energy System (WES): A Wind Energy System is an electrical generating facility comprised of one 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. Equipment that converts and then stores or transfers energy from the wind into usable forms of electrical energy and includes any base, blade, foundation, generator, nacelle, accessory building, rotor, tower, transformer, turbine, vane, wire, or other components used in the system. Accessory facilities, including but not limited to: power lines, transmission lines, transformers, substations and meteorological towers. The WES is designed to provide energy to off-site users or export to the wholesale market. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)

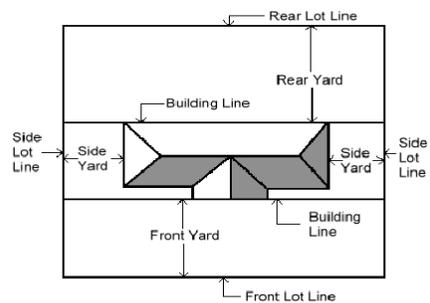
112. Wholesale Trade: The sale of goods or merchandise to retailers; to industrial, commercial, institutional, or other professional business users; or to other wholesalers and related subordinated services. (Resolution 2012-02, April 3, 2012)

113. Yard: That portion of the area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the District in which the lot is located.

114. Yard, Front: A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the closest point of the primary building.

115. Yard, Rear: A yard extending across the full width of the lot, the depth of which is the distance between a rear lot line and the closest point of the primary building.

116. Yard, Side: A yard extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principle building.



117. Zoning Administrator(s): The person or persons authorized and empowered by the County Board to administer the requirements of these zoning regulations.

118. Zoning Regulations: The term zoning regulations shall mean the requirements stipulated in this Resolution and any amendments to it.

4.03 STANDARDS PERTAINING TO ALL KIMBALL COUNTY (Resolution 2022-29, June 21,2022)

A. Comprehensive Plan Relationship

These zoning regulations are designed to implement various elements of the Comprehensive Development Plan as required by state statutes. Any amendment to the district regulations or map shall conform to the Comprehensive Plan adopted by the governing body.

B. Overlay Districts

Within the County, there are areas that require additional requirements to meet the County's goals for development, redevelopment, or natural resource protection. These overlays will act in conjunction with the underlying zoning district. The original zoning district designation does not change.

C. Drainage, Erosion and Storm Water Management

1. No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Natural drainage ways shall be maintained. Other drainage ways may include terraces on slopes, sod swales or ditches.
2. Drainage controls are to minimize the opportunity for soil to be moved by wind, precipitation and runoff and to contain sediment that does move close to its place of origin and thus prevent it from reaching a water body or damaging other lands.
 - a. Erosion and sediment control practices shall be in conformance with the Nebraska Erosion & Sediment Control Act.
3. Proper management of storm water runoff will minimize damage to public and private property, reduce harmful effects of development on land, reduce local flooding, and maintain after development the pre-development runoff characteristics.
 - a. Storm water runoff shall be in conformance with the Storm Water Management Plan as required by the Nebraska Department of Environment and Energy.

D. Access and Easements

1. Every building/structure shall be on a lot or parcel of land which abuts a public or approved private street/road or shall be accessible by means of a recorded permanent access easement at least 20 feet in width to provide safe and convenient access for servicing, fire protection and required off street parking.
2. No building or structure shall be placed or erected on or over any utility easements, except for structures associated with such utility easements.
3. All driveways shall be arranged to provide adequate sight lines.

E. Conservation and Preservation Easement

All conservation and preservation easements must comply with the Nebraska Conservation and Preservation Easements Act and specifically in accordance with Nebraska Revised Statute § 76-2,112.

SECTION 5. "A-1" AGRICULTURAL DISTRICT

5.01 Intent: The intent of this district is to maintain agricultural crop and livestock production which is in balance with the natural environment and promote new forms of agricultural production which is compatible with existing ranch and farm uses and the environment. The intent is also to encourage soil and water conservation, preserve water quality, prevent contamination of the natural environment within the County and to preserve and protect ranch and farm operations from conflict with non-agricultural uses. Uses, if allowed to develop would be or could become incompatible with the agricultural character of the County. (Resolution 2012-02, April 3, 2012)

5.02 Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution;
2. One or more single-family dwellings per lot/parcel that is directly associated with the agricultural operation;
3. One non-farm single-family dwelling per lot/parcel;
4. Home Occupations in accordance with Section 13.01;
5. Bed and Breakfasts;
6. Apiaries;
7. A non-commercial borrow pit for personal uses. (Resolution 2017-15, May 2, 2017)
8. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted.
9. Oil and Gas Production: (Resolution 2012-02, April 3, 2012)
10. Electric public utility transmission lines and substations; and, pipeline and pipeline facility as defined by 49CFR192 and 49CFR195. (Resolution 2014-9, July 1, 2014)
11. Concentrated Animal Feeding Operations of 2499 Animal Units or under; (Resolution 2018-21, April 17, 2018)
12. Off-grid Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
13. Off-grid Wind Energy Systems (in accordance with Section 18); (Resolution 2018-21, April 17, 2018)
14. Offices incidental to the operation of the listed permitted uses; and,
15. Accessory buildings and uses customarily incidental to a permitted use.

5.03 Conditional Uses: The following conditional uses may be permitted in the "A-1" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 26.

1. Concentrated Animal Feeding Operations of 2500 Animal Units and over (in accordance with Section 15); (Resolution 2018-21, April 17, 2018)
2. Place of Worship; (Resolution 2012-02, April 3, 2012)
3. Nurseries; (Resolution 2012-02, April 3, 2012)
4. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;

- I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;
 - K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities;
5. Airports and landing strips;
 6. Billboards (in accordance with Section 14);
 7. Communication towers (in accordance with Section 16);
 8. Commercial trailer washout;
 9. Fairgrounds;
 10. Wind Energy Systems (in accordance with Section 18);
 11. Kennels;
 12. Sewage and wastewater treatment operations;
 13. Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. (Resolution 2012-02, April 3, 2012)
 14. Mining using excavation techniques; (Resolution 2017-15, May 2, 2017)
 15. Asphalt or concrete batch plant;(Resolution 2017-15, May 2, 2017) and,
 16. Motor Sport Facility if adjacent to A-2 District (in accordance with Section 19).
(Resolution 2012-02, April 3, 2012)
 17. Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

5.04. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
(Resolution 2012-02, April 3, 2012)
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.

SECTION 6. "A-2" AGRICULTURAL DISTRICT

6.01. Intent: The intent of this district is to recognize the use of agricultural land for purposes of farming and other agricultural practices, limiting the land uses that may be a detriment to the efficient pursuit of agricultural production but to provide low-density residential development in selected areas along paved roadways. This district is located near urban and built-up areas with reasonable reach of fire protection and hard surfaced roads. (Resolution 2022-29, June 21, 2022)

6.02 Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution
2. One (1) primary single-family dwelling per lot/parcel;
3. Home Occupations in accordance with Section 13.01;
4. Bed and Breakfasts;
5. Apiaries;
6. A non-commercial borrow pit for personal uses; (Resolution 2017-15, May 2, 2017)
7. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted;
8. Oil and Gas Production; (Resolution 2012-02, April 3, 2012)
9. Electric public utility transmission lines and substations; and, pipeline and pipeline facility as defined by 49CFR192 and 49CFR195; (Resolution 2014-9, July 1, 2014)
10. Off-grid Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
11. Off-grid Wind Energy Systems (in accordance with Section 18); (Resolution 2018-21, April 17, 2018)
12. Offices incidental to the operation of the listed permitted uses; and,
13. Accessory buildings and uses customarily incidental to a permitted use.

6.03 Conditional Uses: The following conditional uses may be permitted in the "A-2" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 26.

1. Place of Worship; (Resolution 2012-02, April 3, 2012)
2. Nurseries; (Resolution 2012-02, April 3, 2012)
3. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;
 - I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;
 - K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities.
4. Billboards (in accordance with Section 14);
5. Communication towers (in accordance with Section 16);
6. Commercial trailer washout;

7. Fairgrounds;
8. Wind Energy Systems (in accordance with Section 18);
9. Kennels;
10. Salvage yard or Scrap Metal Processor (in accordance with Section 13);
(Resolution 2012-02, April 3, 2012)
11. Sewage and wastewater treatment operations;
12. Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. (Resolution 2012-02, April 3, 2012)
13. Mining using excavation techniques; (Resolution 2017-15, May 2, 2017)
14. Asphalt or concrete batch plant; (Resolution 2017-15, May 2, 2017)
15. Motor Sport Facility (in accordance with Section 19). (Resolution 2012-02, April 3, 2012)
16. Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

6.04. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.

SECTION 7. "RE" RESIDENTIAL ESTATE DISTRICT

7.01 Intent: The intent of this district is to provide the present and future residents of Kimball County with low-density residential subdivisions in rural areas. This district is to recognize the gradual growth near cities and to provide for the proper development and facilities necessary for future growth. (Resolution 2022-29, June 21, 2022)

7.02 Permitted Uses:

1. One (1) single family dwelling per lot;
2. Home Occupations in accordance with Section 13.01;
3. Bed and Breakfasts;
4. Utility service facilities;
5. Off-grid Solar Energy Systems; (in accordance with Section 20)
(Resolution 2018-21, April 17, 2018)
6. Off-grid Wind Energy Systems; (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018) and,
7. Accessory buildings and uses customarily incidental to a permitted use.

7.03 Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in Section 26 of this Resolution:

1. Keeping, raising, boarding of livestock;
2. Communication towers (in accordance with Section 16); and,

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

7.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
(Resolution 2012-02, April 3, 2012)
3. **Minimum Setback:** 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.

SECTION 8. "C" COMMERCIAL DISTRICT

8.01 Intent: The intent of this district is to serve only those business uses which are frequently found near interchanges and busy highways. This district is not intended to serve all business activity since it then could detract from established business centers. This district should be used at interchanges and on limited locations within established communities on main highways. Tourist related businesses are the prime customers in this district. (Resolution 2012-02, April 3, 2012)

8.02 Permitted Uses:

1. Convenience Stores;
2. Self-Service Stations; (Resolution 2012-02, April 3, 2012)
3. Offices;
4. Restaurants;
5. Stores and shops which provide personal services;
6. Retail or wholesale trade; (Resolution 2012-02, April 3, 2012)
7. Motels, hotels and other places which provide temporary lodging;
8. Public, Semi-Public, or Governmental buildings, office, and facilities;
9. Public Parks;
10. Off-grid Solar Energy Systems; (in accordance with Section 20) (Resolution 2018-21, April 17, 2018)
11. Off-grid Wind Energy Systems; and, (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018)
12. Accessory uses and buildings that are clearly incidental to the permitted use.
(Resolution 2018-21, April 17, 2018)

8.03 Conditional Uses: The following conditional uses may be permitted in the "C" District subject to approval procedures outlined in Section 26 of this Resolution:

1. Warehousing and storage of items not displayed for purchase;
2. Communication towers (in accordance with Section 16);
3. Contractor office and equipment storage;
4. Grain Elevators;
5. Light manufacturing or fabrication establishments;
6. Ready-mix concrete and asphalt batch plants;
7. Sign painting and manufacturing;
8. Truck and rail terminals;
9. Welding and blacksmith shops;
10. Automobile repair facilities; and,
11. Family Entertainment Center. (Resolution 2012-02, April 3, 2012)

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

8.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size:** none
3. **Minimum Setback:** 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
 - A. No fence shall be constructed which will constitute a traffic hazard.
 - B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
 - C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 9: "IC" INTERSTATE HIGHWAY COMMERCIAL DISTRICT

9.01 Intent. The purpose of this zoning district is to provide and preserve the high access areas to provide services to Interstate Highway travelers.

9.02 Permitted Uses. In the "IC" Interstate Highway Commercial District, buildings, structures and land shall be used only for the following purposes.

1. Restaurants, cafes, drive-in restaurants and other dining establishments;
2. Motels and hotels;
3. Service stations, truck stops and other vehicle service stations; (Resolution 2012-02, April 3, 2012)
4. Retail shops that cater primarily to travelers or tourists;
5. Parks, Playgrounds and rest areas;
6. Off-grid Solar Energy Systems (in accordance with Section 20) (Resolution 2018-21, April 17, 2018)
7. Off-grid Wind Energy Systems; (in accordance with Section 18) ,(Resolution 2018-21, April 17, 2018)and;
8. Accessory uses and buildings that are clearly incidental to the permitted use.

9.03 Conditional Uses. The following conditional uses may be permitted subject to approved procedures outlined in Section 26 of this Resolution:

1. Structures used for wholesale distribution; and,
2. Family Entertainment Center. (Resolution 2012-02, April 3, 2012)

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

9.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

A. No fence shall be constructed which will constitute a traffic hazard.

B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.

C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 10. "I" INDUSTRIAL DISTRICT

10.01 Intent: The intent of this district is to provide for those activities which due to their nature require distance separation from more urbanized and/or residential land uses, or which must be located outside of urban areas due to special land volume and/or transportation access needs.

10.02 Permitted Uses:

1. Public or private incinerators;
2. Activities which are normally associated with a railroad operation, such as rail car repair;
3. Commercial storage units;
4. Contractor equipment storage yard;
5. Fertilizer plant;
6. Grain elevators;
7. Grain storage facilities;
8. Light indoor manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke;
9. Livestock auction facilities;
10. Manufacturing or storage of bulk oil or gas;
11. Offices;
12. Public utility and public service uses;
13. Ready-mixed concrete and asphalt mix plants;
14. Sign painting and manufacturing;
15. Truck Terminal;
16. Off-grid Solar Energy Systems; (in accordance with Section 20)
(Resolution 2018-21, April 17, 2018)
17. Off-grid Wind Energy Systems; and, (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018)
18. Accessory uses and buildings that are clearly incidental to the permitted use.
(Resolution 2018-21, April 17, 2018)

10.03 Conditional Uses: The following conditional uses may be permitted in the "I" District subject to approval procedures outlined in Section 26 of this Resolution:

1. Billboards (in accordance with Section 14);
2. Communication towers (in accordance with Section 16);
3. Kennels;
4. Manufacturing or fabrication establishments which are not allowed as a permitted use;
5. Salvage Yard or scrap metal processor (in accordance with Section 13); and,
6. Sexually Oriented Businesses (In accordance with Section 17).

PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this District as permitted, accessory or conditional uses shall be prohibited.

10.04. Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size:** none
3. **Minimum Setback:** 50 feet

4. Minimum Yard Requirements:

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

A. No fence shall be constructed which will constitute a traffic hazard.

B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.

C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 11. WPO WELLHEAD PROTECTION OVERLAY DISTRICT

(Resolution 2012-02, April 3, 2012)

11.01 Intent

The intent of this district is to overlay any of the primary zoning districts herein established in order to assist municipalities that maintain and operate public water wells in the county serving municipalities within or adjoining the county. In order to provide protection for such wells, the regulation of land uses having the potential for contamination of the groundwater source(s) is necessary near and adjacent to said wells. The intent of this district is also to protect existing and future agricultural uses which are in balance with the natural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of public water supply system wells, from over-regulation by said municipalities with regard to wellhead protection.

11.02 Prerequisite Requirements for Application of this District

Prior to the application of this overlay district to any lands in Kimball County, the municipality which maintains and operates water supply wells within the County shall make application to the County seeking application of this district to specified lands within the county. Prior to making such application and approval of any application of this district to any lands within the county by the County Board of Commissioners, the municipality making such application shall have first complied with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1501 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a 20 year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality.
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality.
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area(s), including identification of abandoned wells.
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area(s).
5. Formulation, adoption and enforcement of land use control regulations for those portions of the wellhead area within the corporate limits and zoning jurisdiction area of the municipality which are appropriated to minimize the potential for contamination to the water supply of the municipality.
6. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program.
7. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area(s).
8. The municipality shall execute an inter-local agreement with Kimball County for the administration and enforcement of the regulations of the lands within this Wellhead Protection District. In such agreement, the municipality shall agree to accept the regulations set forth in this District, agree to pay any administrative fees to the County which the parties involved agree, agree to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, and agree to hold the County harmless from any liability related

to the requirements of this district, except for proper administration and enforcement of the requirements of this district by the county, together with other terms and conditions which are acceptable to the parties involved in such agreement.

11.03 Limitation on Application of This District

This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of any such officially approved Wellhead Protection Areas do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-the-field determination of such boundaries.

11.04 Prohibited Uses and Structures

All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use is prohibited. These shall include both new and expanding uses. Furthermore the following uses and/or structures shall be specifically prohibited:

1. Concentrated animal feeding operations.
2. Waste handling facilities.
3. Landfills and refuse recycling centers.
4. Commercial or industrial uses that utilize or generate any materials determined by the United States Department of Environmental Protection, as hazardous materials, which store petroleum products or anhydrous ammonia or other fertilizers in excess of 50 gallons.
5. Domestic, irrigation and any other water wells closer than 1,000 feet to the water wells being protected in this Wellhead Protection Agricultural District(s).
6. Sanitary Landfills
7. Storage of Hazardous Waste

11.05 Wellhead Area Protection Requirements

The following restrictions shall apply to all uses within any land areas on which this Wellhead Protection Overlay District is applied:

1. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Titles 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or other land area, in excess of one thousand one hundred (1,100) gallons shall be prohibited, except when a conditional use for a commercial or industrial use is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Titles 126 and 159.
2. Fuel storage associated with any irrigation well engine shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.
3. Fuel storage, except when associated with a commercial or industrial use authorized as a conditional use and except for any fuel storage associated with any irrigation well engines shall not be permitted within one thousand (1,000) feet of any well protected under this wellhead protection overlay district.
4. Storage of fertilizers, herbicides, pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except for the

seasonal storage of quantities of such materials on a farm which are limited to quantities of such materials to be utilized on such farm per growing season and except when a conditional use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 119, 126, 128, 159 and 198, administered by the Nebraska Department of Environmental Quality and other agencies.

5. No septic tank, tile field or other on-site sewage disposal system, associated with any residential, commercial, industrial or other type of land use, shall be located within one thousand (1,000) feet of any public well protected under this wellhead protection overlay district, provided that existing septic tanks, tile fields or other on-site sewage disposal system may continue to be used and may be replaced, and further provided that if a lot of record exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) septic tank and tile field or other on-site sewage disposal system may be established, provided such tank, tile field or other system complies with the requirements of Title 123, 124 and 125 of the Nebraska Department of Environmental Quality.

6. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet of any public well protected under this wellhead protection overlay district, provided that if a lot of record exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) residential well may be established, provided such well shall be constructed in accordance with the rules and requirements of Title 178.

7. Any application of fertilizers, pesticides, or herbicides to the land through an irrigation system (chemigation) shall comply with the requirements of Title 195.

8. If any land area contained within a wellhead protection overlay zoning district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resources District(s).

11.06 Minimum Lot Area Requirements

The minimum lot area for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

11.07 Minimum Lot Width and Frontage Requirements

The minimum lot width and frontage for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

11.08 Minimum Building Setback Requirements

The minimum setback for all regulated structures and buildings in this overlay district shall be set forth in the primary district(s) on which this district is overlain, provided that the minimum setback requirements from protected wells shall also be complied with.

11.09 Maximum Height

The maximum height of any building or structure this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

SECTION 12 AHAO AIRPORT HAZARD AREA OVERLAY DISTRICT (Resolution 2013-6, November 19, 2013)

12.01 Intent

This district is established as an overlay district for application over all of the zoning districts from the adjacent boundaries of the Kimball Municipal Airport which are within the planning and zoning jurisdictional area of Kimball County, Nebraska. The intent is to prevent airport hazards and protect the public investment and utility of the airport, which is located in Section 18, Township 14 North, Range 55 West of the 6th P.M. in Kimball County, Nebraska. These regulations are adopted pursuant to the Airport Zoning Act (*Neb. Rev. Stat. §3-301 to 3-333*). In the event of any conflict between this district regulation and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall apply.

12.02 Definitions

The following are defined for the specific use of this section.

1. *Airport* means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.
2. *Airport hazard* means any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone.
3. *Airport hazard area* means any area of land or water upon which an airport hazard might be established if not prevented as provided in this section, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.
4. *Airport layout plan* means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.
5. *Approach zone* means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.
6. *Electric facility* means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Nebraska Revised Statute §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.
7. *Existing runway* means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.
8. *Instrument runway* means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or nonprecision instrument approaches reflected on the airport layout plan.
9. *Operation zone* means a zone that is longitudinally centered on each existing or proposed runway.
10. *Person* means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.
11. *Proposed runway* means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.
12. *Runway* means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
13. *Structure* means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

14. *Transition zone* means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally.
15. *Tree* means any object of natural growth.
16. *Turning zone's outer limit* means the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone.
17. *Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

12.03 Airport Hazards; public nuisance; prevention

1. It is hereby found that an airport hazard endangers the lives and property of the users of an airport and occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein.

2. Accordingly, it is hereby declared that (a) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question, (b) it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented, and (c) the prevention of airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

3. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

12.04 Establishment of Airport/Hazard Area Zones

In order to carry out the provision of this district, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, operation surfaces, transition surfaces and turning surfaces as they apply to the Kimball Municipal Airport. Such zones are shown on the Kimball County Zoning Map (Overlay) which is hereby made part of these Regulations. An area located in more than one of the zones is considered to be located only in the zone with the more restrictive limitation. The airport hazard area consists of Approach Zones, Operation Zones, Transition Zones and Turning Zones.

1. The **Approach Zone** dimensions are as follows:

A. For an existing or proposed instrument runway.

- 1) An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand feet wide at the end of the zone nearest the runway and expands uniformly to sixteen thousand eight hundred forty feet wide at the farthest end of the zone; and
- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway and elevation within three miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally and continues to the ten-mile limit.

B. For an existing or proposed visual runway.

- 1) An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is three thousand seven hundred feet wide; and
- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every forty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at that runway end.

2. The **Operation Zone** dimensions are as follows:

- A. For existing and proposed paved runways, the operation zone extends two hundred feet beyond the ends of the runways. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends.
- B. For existing and proposed instrument runways, the operation zone is one thousand feet wide, with five hundred feet on either side of the runway centerline.
- C. For all other existing and proposed runways, the operation zone is five hundred feet wide, with two hundred fifty feet on either side of the runway centerline.
- D. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.

3. The **Transition Zone** dimensions are as follow:

- A. The zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally.
- B. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty feet above the highest elevation on the existing or proposed runway.

4. The **Turning Zone** dimensions are as follows:

- A. The outer limits is the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone.
- B. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

12.05 Height Limitation

1. Except as otherwise provided in this regulation, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this regulation to a height in excess of the applicable height herein established for such zone.
2. All new structures that exceed a height of one hundred fifty feet (150') above the surface of the ground at point of installation must comply with all FAA and Nebraska Department of Aeronautics regulations.

12.06 Use Restriction; New or Changed Structure; Permit Required

1. No use may be made of land or water within any zone established by this regulation in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft or in any other manner constitute an airport hazard to anyone intending to use the airport.
2. Before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed, altered, or repaired, a conditional use permit shall be required.
3. Each application for a conditional use permit shall be accompanied by a determination from the FAA and the Nebraska Department of Aeronautics as to the effect of the proposed use or new structure on the operation of air navigation facilities, the safe, efficient use of navigable airspace and will not create an airport hazard.
4. In addition, no application for a conditional use permit may be considered unless a copy of the application has been furnished to the airport owner for recommendation.

12.07 Non-Conforming Uses and Structures; Permit Required

1. Before any nonconforming land use, structure or tree may be constructed, replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a conditional use permit authorizing any land use, construction, replacement, alteration, repair, reconstruction, growth, or replanting must be secured. A conditional use permit shall be granted if the applicant shows that the use, construction, replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted.
2. For nonconforming structures other than electric facilities, no conditional use permit shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent (60%) of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of these regulations may, without a conditional use permit, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a conditional use permit. The conditional use permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.
4. Marking of Nonconforming Structures
 - a. The owner and the lessee or lessor of the land on which such existing nonconforming structure or tree is located and such structure or tree constitutes an airport hazard shall within a reasonable time install, operate and maintain suitable lights or other signals designated and recommended by the Nebraska Department of Aeronautics. Such markers and lights shall be at the expense of the owner and lessee or lessor.

12.08 Variances; Board of Adjustment

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with these regulations may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the Board of Adjustment makes the same findings for the granting of variances generally as set forth in Section 27 Board of Adjustment.
2. Except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the Board of Adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of these regulations.
3. The Kimball County Board of Adjustment shall be designated as and shall exercise the power of the Board of Adjustment for airport zoning regulations as required by this section.
4. Each application for a variance shall be accompanied by a determination from the FAA and the Nebraska Department of Aeronautics as to the effect of the proposed use or new structure on the operation of air navigation facilities, the safe, efficient use of navigable airspace and will not create an airport hazard.
5. In addition, no application for a variance may be considered unless a copy of the application has been furnished to the airport owner for recommendation.

12.09 Judicial Review; petition; grounds

Any person aggrieved or taxpayer affected by any decision of the Board of Adjustment, which is of the opinion that a decision of the Board of Adjustment is arbitrary or capricious, illegal, or unsupported by evidence, may obtain judicial review of such decision by filing a petition in error in the district court of the county in which the structure or tree that is the subject of the decision is located. The filing of and proceeding on the petition in error shall be in accordance with Nebraska Revised Statute §25-1901 to §25-1937.

12.10 Administration

1. The Kimball County Planning Commission shall be designated as and shall exercise the power of the Airport Zoning Commission for airport zoning regulations as required by this section.
2. The Kimball County Zoning Administrator shall administer and enforce the airport zoning regulations in accordance with Section 29 Administration.

12.11 Violation; penalty; injunctions

Each violation of the Airport Zoning Act or any provisions of the Kimball County Airport Zoning Regulations shall constitute a Class IV misdemeanor. Each day a violation continues to exist shall constitute a separate offense. In addition, the County may institute, in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of the airport zoning regulations adopted or any order or ruling made in connection with the administration or enforcement of these regulations. The court in such proceedings shall adjudge to the County such relief by way of injunction, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of these regulations adopted and orders and rulings made pursuant thereto.

SECTION 13 SUPPLEMENTARY DISTRICT REGULATIONS

13.01 Home Occupations: Home occupations, where permitted, shall be subject to the following:

1. Restrictions and Limitations:

- A. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling or accessory structure in the case of a home business; (Resolution 2012-02, April 3, 2012)
- B. No outdoor storage of materials or equipment used in the home occupation shall be permitted; (Resolution 2012-02, April 3, 2012)
- C. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure or accessory building; (Resolution 2012-02, April 3, 2012)
- D. No equipment shall be utilized that creates a nuisance due to noise or electrical interference; and,
- E. Parking needs generated by the conduct of a home occupation shall be provided off-street/road. (Resolution 2012-02, April 3, 2012)

13.02 Temporary Uses: Temporary uses are established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. The following temporary uses shall be permitted:

- a. Seasonal Sales: Seasonal sales of farm produce. Structures incidental to the sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season, not to exceed 6 months, during which they are used.
- b. Christmas Tree Sales: Christmas tree sales for a period not to exceed sixty (60) days;
- c. Construction: Contractor's offices and equipment sheds accessory to an on-site construction project and to continue only during the duration of the project, not to exceed 6 months; and,
- d. Garage, Yard, Rummage Sales: The sale of tangible personal property consisting of household goods and personal effects by an individual at his or her residence, or if more than one individual's property is involved, at the residence of one of the individual's, not occurring at any residence for more than ten (10) days during the calendar year, and none of the individuals conduct or engage in a trade or business in which similar items are sold, and when such property was originally acquired for and used for personal use.

13.03 Salvage Yard or Scrap Metal Processor: Salvage yard or scrap metal processor operations and related facilities shall only be allowed by conditional use permit under the following conditions.

1. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
2. No materials shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.

SECTION 14 SIGN REGULATIONS

14.01. Signs/Billboards: All signs/billboards erected after the adoption of this Resolution shall comply with the following regulations:

1. Signs/Billboards shall only be allowed as a conditional use in the Agricultural, Commercial and Industrial Districts;
2. All signs/billboards along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads;
3. Outdoor advertising signs/billboards shall be located no closer than one-eighth mile to any other on-site or outdoor advertising sign;
4. No sign/billboard shall be erected without a conditional use permit from the County Board.
5. Agricultural and recreational directional signs and non-commercial informational signs are allowed without a permit;
6. Any sign/billboard that is not kept in good condition shall either be repaired or removed at owner's expense; and,
7. The County Board may implement conditions upon a sign/billboard to minimize the environmental or scenic impact of a billboard.

SECTION 15 CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

15.01 Intent

It is the purpose of this section to regulate concentrated animal feeding operations to promote the health, safety and general welfare of the citizens of the county, and to establish reasonable and uniform standards within the county. (Resolution 2018-21, April 17, 2018)

15.02 Definitions The following are defined for the specific use of this section. (Resolution 2018-21, April 17, 2018)

1. Animal Units (A.U.):

One A.U. = One Cow/Calf combination;

One A.U. = One Slaughter, Feeder Cattle;

One A.U. = One-half Horse;

One A.U. = Seven Tenths Mature Dairy Cattle;

One A.U. = Two and One-half Swine (55 pounds or more);

One A.U. = 10 Swine (less than 55 pounds);

One A.U. = 10 Sheep;

One A.U. = 55 Turkeys;

One A.U. = 30 Chickens-Laying hens, broilers with liquid manure system;

One A.U. = 82 Chickens-Laying hens with no liquid manure system;

One A.U. = 125 Chickens-Broilers with no liquid manure system.

For animals not listed, one animal unit is equal to the average weight of the animal divided by 1,000 lbs, then multiplied by the number of animals.

2. **Feeding Operation** shall be the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities.
3. **Nebraska Animal Feeding Operation Siting Matrix** shall mean the adopted matrix by the Nebraska Department of Agriculture. This matrix is a quantifiable result based on the scoring of objective criteria according to an established value scale. (Matrix can be found on county zoning website)
4. **DEQ** shall mean the Nebraska Department of Environmental Quality.
5. **Setback** shall mean the separation distance between the footprint of the concentrated animal feeding operation production facilities (e.g. buildings, open confinement lots, waste containment) and any occupied dwelling or public places.
6. **Occupied Dwelling** shall mean a dwelling not of the same ownership and not on the same premises as the concentrated animal feeding operation and shall be interpreted to mean that such dwelling is an occupied dwelling at least 120 days continuously prior to: 1) the submission of the inspection application to the DEQ; and, 2) the initial Planning Commission meeting in which the proposed Conditional Use is an agenda item.

15.03 Concentrated Animal Feeding Operation Development Standards: All new or newly expanded concentrated animal feeding operations shall conform to the following development standards: (Resolution 2018-21, April 17, 2018)

1. Any concentrated animal feeding operation shall submit the Nebraska Animal Feeding Operation Siting Matrix with the Conditional Use Permit Application.
2. Any concentrated animal feeding operation, as defined in this Resolution may not expand or locate within one-half mile of any residential estate zoning district or commercial zoning district, school, or public recreation area;
3. All concentrated animal feeding operations shall meet the environmental standards established by the DEQ.
4. All concentrated animal feeding operations shall be constructed and operated in conformance with applicable county, state, and federal regulations.
5. Setback shall be 1/8 mile.
 - a. Separation distances shall be measured from the concentrated animal feeding operation to the nearest eave of the occupied dwelling.
 - b. The owner of the proposed concentrated animal feeding operation that proposes to build closer than the allowed setback shall be required to obtain a Distance Waiver signed by all of the record title owners of the real estate where the occupied dwelling is located. The Distance Waiver shall be acknowledged before a Notary Public and filed in the office of the Kimball County Register of Deeds. The waiver, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required separation distance.
 - c. New occupied dwellings shall comply with the separation requirements from an existing concentrated animal feeding operation, except for the dwelling of the owner or operator of the CAFO, employee, or working tenant on the same property as the CAFO.

15.04 Exclusion: The following operations shall not be subject to the development standards:

1. The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.
2. Agricultural Operations of 2,499 A.U. and under do not require a Conditional Use Permit. (Resolution 2018-21, April 17, 2018)
3. Application of waste which in solid form to the surface of the land, the application of composted waste or the injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified. (Resolution 2018-21, April 17, 2018)

The Nebraska Animal Feeding Operation Siting Matrix can be found on the County's Zoning Page.

SECTION 16 COMMUNICATION FACILITY REGULATIONS

16.01 Intent (Resolution 2013-4, May 21, 2013)

The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. The County recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to the County and its residents.

This Section is intended to regulate telecommunication towers, facilities and antennas within the zoning jurisdiction of the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services; to avoid potential damage to property caused by telecommunication towers, facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.

16.02 Definitions: All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings: (Resolution 2020-25, July 7, 2020)

Antenna shall mean communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services. (§86-1204)

Antenna support structure shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving electromagnetic radio frequency signals.

Array shall mean a set of antenna for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

Cell on Wheels (COW) shall mean a portable mobile cellular site that provides network and wireless coverage.

Collocate or collocation means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole. Collocate or collocation does not include the installation of a new utility pole or new wireless support structure in the right-of-way. (§86-1210)

Communications facility means the set of equipment and network components including wires, cables, and associated facilities used by a cable operator as defined in 47 U.S.C. 522(5), as such section existed on January 1, 2019, a telecommunications carrier as defined in 47 U.S.C. 153(51), as such section existed on January 1, 2019, a provider of information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, or a wireless services provider, to provide communications services, including cable service as defined in 47 U.S.C. 153(8), as such section existed on January 1, 2019, an information service as defined

in 47 U.S.C. 153(24), as such section existed on January 1, 2019, wireless services, or other one-way or two-way communications service. (§86-1211)

Communications network means a network used to provide communications service. (§86-1212)

Communications service means a cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, a telecommunications service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, or a wireless service. (§86-1213)

Communications service provider means a cable operator as defined in 47 U.S.C. 522, a provider of information service as defined in 47 U.S.C. 153, or a telecommunications carrier as defined in 47 U.S.C. 153, as such sections existed on January 1, 2019. Communications service provider includes a wireless provider. (§86-1214)

Equipment Enclosure shall mean a structure, shelter, cabinet or vault to house and protect electronic equipment necessary for processing wireless communication signals and associated equipment.

Fall Zone shall mean the area on the ground within a prescribed radius from the base of the communications facility within which there is a potential hazard from falling ice, debris or collapsing material. This area is 1.1 times.

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

Small wireless facility means a wireless facility that meets each of the following conditions: (1) The facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019. (§86-1226)

Wireless facility, defined.

(1) Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (a) equipment associated with wireless communications and (b) radio transceivers, antennas, coaxial or fiber-optic cable, regular power supply, and small back-up battery, regardless of technological configuration. Wireless facility includes small wireless facilities.

(2) Wireless facility does not include (a) the structure or improvements on, under, or within the equipment which is collocated, (b) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to, or directly associated with, a particular antenna, or (c) a wireline backhaul facility. (§86-1229)

Wireless services means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether mobile or at a fixed location, provided to the public using wireless facilities. (§86-1232)

Wireless support structure means a structure such as a guyed or self-supporting tower, billboard, building, or other existing or proposed structure designed to support or capable of supporting wireless facilities other than a structure designed solely for the collocation of small wireless facilities. Wireless support structure does not include a utility pole. (§86-1234)

Wireline backhaul facility means an above-ground or underground facility used to transport communications services from a wireless facility to a communications network. (§86-1235)

16.03 General Standards: The following minimum standards shall apply to all communication facilities when seeking a conditional use permit:

1. The height of a communication facility shall not exceed the distance between the base of a tower and any permanent structure, utility line or road (fall zone); (Resolution 2013-4, May 21, 2013)
2. Communication facilities shall be located and designed to minimize any significant adverse effect on the adjoining property. (Resolution 2020-25, July 7, 2020)
3. Communication facilities shall not contain transmitters which interfere with public safety, commercial or residential radio or television signals; (Resolution 2013-4, May 21, 2013)
4. All communication facilities shall be in compliance with the standards, rules and regulations of other federal or state agencies that may regulate communication facility height, safety, location, structural design and construction; (Resolution 2013-4, May 21, 2013) (Resolution 2020-25, July 7, 2020)
5. All communication facilities must comply with FAA regulations
6. All communication facilities must comply with FCC regulations; (Resolution 2013-4, May 21, 2013)
7. All communication facilities must comply with the Nebraska Department of Transportation – Aeronautics Division; (Resolution 2020-25, July 7, 2020)
8. All communication facilities shall at its sole cost and expense, indemnify and hold harmless the County, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the facility; (Resolution 2020-25, July 7, 2020)
9. All communication facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the Conditional Use Permit in the amount of at least \$5 million per occurrence and \$5 million in the aggregate; and (Resolution 2020-25, July 7, 2020)
10. All communication facilities must comply with Section 26. (Resolution 2013-4, May 21, 2013)

16.04 Exceptions: The following exceptions shall apply when seeking a conditional use permit. All exceptions shall comply to the general standards. (Resolution 2013-4, May 21, 2013)

1. Small Wireless Facility. All Small Wireless Facilities must complete the Kimball County Application for permit to occupy Right-of-way and be approved by the Kimball County Board of Commissioners. (Resolution 2020-25, July 7, 2020)

2. Cell on Wheels used up to one year for: a) during special event where a large number of people will converge on one area; b) during an emergency if structure has been damaged; or c) while a permanent communication facility is being built in conjunction with the conditional use permit application. If use is over one year, a conditional use permit is required. (Resolution 2020-25, July 7, 2020)

16.05 Application Requirements: All applications for a conditional use permit for a communication facility shall contain the following items:

1. A vicinity map showing all permanent structures, roads, and utility lines within a one (Resolution 2013-4, May 21, 2013) mile radius of the proposed facility; and,

2. Written evidence that the communication facility meets the requirements listed in Section 16.02 or satisfactory proof that Section 16.03 Exception applies. (Resolution 2013-4, May 21, 2013)

SECTION 17 SEXUALLY ORIENTED BUSINESSES

17.01 Purpose and Intent.

It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the county. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented entertainment to their intended market, unless otherwise restricted by law.

17.02 General Standards

1. A sexually oriented business shall not be permitted to operate within one thousand (1,000) feet of:

- A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
- B. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- C. A residential district;
- D. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land;
- E. Auditoriums, convention centers, fairgrounds, visitor centers, tourist information areas, museums, art or music centers, and theaters;
- F. Other sexually oriented businesses;
- G. Commercial businesses that tend to cater to youth and adolescents including but not limited to fast food restaurants, hotels, convenience stores, and clothing stores; and,
- H. An established residential subdivision.

2. All sexually oriented businesses shall comply with the following sign requirements.

- A. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises; and,
- B. No merchandise or pictures of the products or entertainment on the premises shall be displayed on on-site or off-site signs or displays.

SECTION 18 WIND ENERGY SYSTEMS

18.01 Wind Energy Installation

A wind energy permit may be granted to allow wind energy systems, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section.

18.02 Off-Grid Wind Energy Systems

1. Purpose

It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of off-grid wind energy systems installed to reduce the on-site consumption of utility supplied electricity; and, 2) promote the supply of wind energy in support of increasing energy production from renewable energy sources.

2. Definitions

The following is defined for the specific use of this section.

Off-Grid Wind Energy System shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics that is not connected to an electric circuit served by an electric utility company. This system is accessory to the principal land use, designed to supply energy for the principal use. (Resolution 2018-21, April 17, 2018)

3. Requirements

Off-grid wind energy systems may be a permitted accessory use in the zoning districts. Certain requirements as set forth below shall be met:

A. Tower Height

Tower Height shall not exceed 80 feet. (Resolution 2018-21, April 17, 2018)

B. Setbacks

The center of the base of each WES shall be located no less than 1.1 times the total height (hub height + rotor diameter) from the adjacent property lines, public roads and road right-of-way, third party transmission lines and communication towers. (Resolution 2018-21, April 17, 2018)

C. Noise

1. Wind energy systems shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling.

2. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

D. Applicable Industry Standards

Wind energy systems shall conform to applicable industry standards, including the American Wind Energy Association.

E. Compliance with Building Codes

All components shall conform and be maintained in compliance with all federal, state and local requirements. (Resolution 2018-21, April 17, 2018)

F. Compliance with FAA Regulations

Wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

G. Utility Notification

No off-grid wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

18.03 Commercial Wind Energy Systems

1. Purpose

It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of commercial wind energy systems; 2) facilitate economic opportunities for local residents; and 3) promote the supply of wind energy in support of increasing energy production from renewable energy sources within Kimball County.

2. Definitions

The following are defined for the specific use of this section.

- A. *Decommissioning Security* shall mean a security instrument that is posted or given within 90 days of Board approval of the wind energy permit by the owner to ensure sufficient funding is available for removal of a wind energy system and reclamation at the end of the useful life of such a system. (Resolution 2018-21, April 17, 2018)
- B. *Fall Zone* shall mean the area, defined as the furthest distance from the tower base, in which a guyed or un-guyed tower will collapse in the event of a structural failure. This area is 1.1 times (hub height + rotor diameter).
- C. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy system.
- D. *Meteorological Tower* shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
- E. *Nonparticipating Property* shall mean real property on which there is no Wind Energy System or real property on which a WES is located but is owned, operated and managed separately on adjacent properties. (Resolution 2018-21, April 17, 2018)
- F. *Operator* shall mean the person, persons or entities responsible for the day to day operation and maintenance of any WES or Wind Farm, including any third party subcontractors.
- G. *Owner* shall mean the entity or entities with an equity interest in the WES, including their respective successors and assigns. Owner does not refer to the property owner from whom land is leased to locate WES, unless the property owner has an equity interest in the WES.
- H. *Participating Property* shall mean real property on which the WES is located or real property under lease for the purpose of locating WESs in a Wind Farm. (Resolution 2018-21, April 17, 2018)
- I. *Public Conservation Lands* shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands

upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

- J. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades.
- K. *Shadow Flicker* shall mean shadows on the ground and surrounding structures that may emanate from the rotating blades of a wind turbine.
- L. *Site Plan* shall mean documents, including a scale diagram describing the purpose, scope and details of a proposed Wind Energy System and/or Wind Farm. Requirements for the Site Plan are set forth in of this regulation. A Site Plan is intended as a general document that provides the County an overview of a proposed WES or Wind Farm. More specific information is required with the Wind Energy Permit.
- M. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines for interconnection with high voltage transmission lines.
- N. *Total Height* shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy System.
- O. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
- P. *Tower Height* shall mean the total height of the Wind Energy System exclusive of the rotor blades.
- Q. *Transmission Line* shall mean the electrical power lines that carry voltages and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- R. *Wetlands* shall mean the type as identified on the National Wetlands Inventory Mapper Legend. (Resolution 2018-21, April 17, 2018)
- S. *Wind Energy System (WES)* shall mean an electrical generating facility comprised of one 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. Equipment that converts and then stores or transfers energy from the wind into usable forms of electrical energy and includes any base, blade, foundation, generator, nacelle, accessory building, rotor, tower, transformer, turbine, vane, wire, or other components used in the system. Accessory facilities, including but not limited to: power lines, transmission lines, transformers, substations and meteorological towers. The WES is designed to provide energy to off-site users or export to the wholesale market. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)
- T. *Wind Energy System Project* shall mean all necessary devices that together convert wind energy into electricity, including but not limited to any wind energy system, towers, substations, rotors, nacelles, generators, electrical components, foundations, transformers, electrical cables, transmission poles and lines, roads, operation and maintenance buildings, and all other and associated or related support facilities.
- U. *Wind Energy Permit*: shall mean a document issued by the County Board that approves the specific construction of large wind energy conversion systems. Requirements for the Wind Energy Permit are set forth in Section 9 of this regulation.

V. *Wind Farm* shall mean multiple large wind energy conversion systems under a single operational control or ownership designed for the primary purpose of sale, resale or offsite use of energy produced. A Wind Farm may be located on more than one property.

W. *Wind Turbines* shall mean 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.

3. Applicability and Permit Requirement

This Regulation applies to all commercial wind energy systems, wind farms and/or substations that generate electricity to be sold to wholesale or retail markets. Each commercial wind energy system, wind farm and/or substation shall require both a site plan and a wind energy permit. Permanent Meteorological towers shall be considered part of the system. Temporary meteorological towers are exempt from this section.

WES Project facilities shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the WES Project is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the Planning Commission or the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations. (Resolution 2018-21, April 17, 2018) The applicant has the burden of proof that the requirements are met.

4. Site Plan Procedure

Applicant intending to construct and operate a commercial wind energy system, wind farm and/or substation shall submit a site plan as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval.

The Site Plan Approval is meant to consider the land use from a local zoning and land use perspective and puts Kimball County, adjacent counties, neighboring property owners and the general public on notice that a property is under consideration for a potential WES, wind farm and/or substation.

A. Site Plan Approval

The site plan must meet the requirements of the Site Plan Application. No wind energy permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the site plan, the Zoning Administrator shall have ten (10) business days to determine if the site plan is complete. An incomplete site plan shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Site Plan to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the site plan application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

B. The Site Plan Approval shall comply with all Federal, State and local regulations. A site plan approval shall expire three (3) years from the date of approval by the Board unless construction of the WES has been initiated. A site plan approval may be extended for a period of one (1) year upon written application filed at least 90 days prior to the expiration date.

C. The site plan approval shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A general description of the project including an overview of the project; the project location; the equipment manufacturer; the number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines. A summary description of the developer, applicant, owner and operator, including their respective business structures.
4. A general description showing the location of the property lines, existing utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project.
5. A general description of the proposed WES, including the estimate of total number of systems, lighting and estimate of total height of each WES.
6. A general location of each proposed wind turbine, electrical collection system, transmission/interconnection facility, substation and any related accessory buildings.
7. Identification of proposed county or municipal roads to be used for the purpose of transporting WES, substation parts, cement, and/or equipment for construction, operation or maintenance of the WES.
8. A general plan showing setback lines and layout of proposed structures and their distance from all property lines and existing structures.
9. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within the geographical boundaries of the proposed Wind Energy System. (Resolution 2018-21, April 17, 2018)

D. The following documents shall be provided with the Site Plan.

1. Documentation of land ownership or legal control of the property.
2. Statement that each WES will be installed in compliance with manufacturer's specifications.
3. Statement that the Owner will construct and operate each WES or Wind Farm in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.
4. Preliminary construction documents describing general plans for appropriate drainage, erosion control and infrastructure improvements. A preliminary stormwater pollution prevention plan shall be included. (Resolution 2018-21, April 17, 2018)
5. Decommissioning plan in accordance with of this Regulation and with all applicable State and Federal Regulations.
6. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met. The analysis shall include a mitigation plan.

7. An analysis on potential shadow flicker on any occupied structure on a property with direct line-of-sight to the WES. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at those locations from sun-rise to sun-set over the course of a year. The analysis shall include a mitigation plan.
 8. Certification that Applicant has provided the Kimball Airport Authority a copy of the site plan submitted to the County and a copy of the submitted FAA form for approval.
 9. A proposed phasing plan showing areas or location of WES for the purposes of permitting.
 10. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the site plan submitted to the County.
 11. A complete copy of the submitted FAA form(s) for approval. (Resolution 2018-21, April 17, 2018)
- E. Approval of the Site Plan shall not constitute approval of the Wind Energy Permit. Rather, it shall be deemed an expression of approval or conditional approval of the submitted site plan a guide for the preparation of the Wind Energy Permit. Any modifications to the Site Plan must be reported to the Zoning Administrator immediately.

5. Design and Installation

- A. Design Safety Certification
WESs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and National Electrical Commission ("NEC"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.
- B. Prior to granting of a Wind Energy Permit under these Regulations, a Professional Engineer licensed in the State of Nebraska shall certify, as part of the Zoning Certificate application, prior to construction that the foundation and tower design of the WES is within accepted professional standards, given local soil and climate conditions.
- C. All wind turbines shall be installed with a tubular, monopole type tower.
- D. Controls and Brakes
All WES shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- E. Electrical Components
All electrical components of the WES shall conform to applicable state, and national codes, and international standards.
- F. Color and finish
All wind turbines and towers that are part of a commercial/utility WES shall be white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
- G. Clearance
Clearance of rotor blades or airfoils must maintain a minimum of 25 feet of clearance between their lowest point and the ground.

H. Lighting

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.

I. Climb Prevention

All WES towers must be unclimbable by design or protected by anti-climbing devices such as: 1) fences with locking portals at least six feet high; or 2) anti-climbing devices 15 feet vertically from the base of the WES tower.

J. Safety Signs

All WES shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine and at the entrance to the site with the 911 address and with emergency contact information. A plainly visible warning sign regarding voltage be placed at the base of all pad-mounted transformers and substations. No other signage or logos of any type shall be installed on the towers except for signs related to safety, warning, emergency contact, and manufacturer's name or logo.

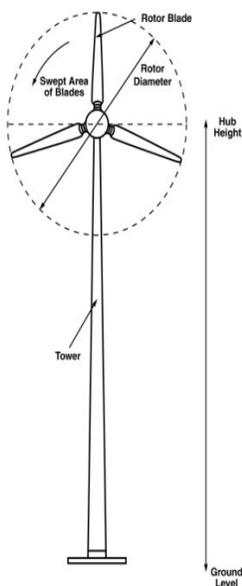
K. Height

The total height shall comply with all Federal, State and local regulations, including FAA guidelines. Applicants are strongly encouraged to contact the Kimball County Airport and the Nebraska Department of Transportation Aeronautics Division concerning airport operations and approaches to flying safety and airspace conflicts prior to submitting an application. Applicants must adhere to the Airport Hazard Overlay District found in Section 12 of these regulations. (Resolution 2018-21, April 17, 2018)

L. Feeder Lines

All communications and feeder lines installed as part of a WES shall be buried, where feasible.

M. Setbacks



1. The center of the base of each WES and permanent meteorological tower shall be located no less than 1.1 times the total height (hub height + rotor diameter) from the adjacent property lines, public roads and road right-of-way, third party transmission lines, and communication towers.

2. All WES towers shall be set back at least 1,000 feet from any occupied dwelling.

3. The setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).

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

5. The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within the same distance required for a commercial wind energy system.

- N. Soil Erosion and Water Quality
 1. The applicant shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the WES. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
 2. The applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.
- O. Federal Aviation Administration

The Applicant(s) for the WES shall comply with all applicable FAA requirements.
- P. Nebraska Department of Transportation Aeronautics Division

The applicant(s) shall comply with all applicable requirements. (Resolution 2018-21, April 17, 2018)

6. Use of Public Roads

Applicant shall:

- A. Identify all county roads to be used for the purpose of transporting WES, substation parts, cement, and/or equipment for construction, operation or maintenance of the WES and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- C. If during construction the road(s) and/or bridge(s) become unsafe for the posed speed limit or applicable weight limit, construction shall cease and applicant shall be responsible for restoring the road(s) and/or bridge(s) to preconstruction conditions.
- D. Be responsible for restoring the road(s) and bridge (s) to preconstruction conditions.
- E. A County Road Use, Repair & Maintenance Agreement shall be signed at the time of the wind energy permit is approved. (Resolution 2018-21, April 17, 2018)

7. Noise Levels and Shadow Flicker

A. A detailed description of the potential noise levels that would be generated by the proposed wind turbines at the proposed site including existing sound levels, projected sound levels to be generated by the operation of the proposed wind turbines, the methodology used to monitor and evaluate sound levels, the wind turbine manufacturer's technical documentation of the noise emission characteristics of the proposed wind turbines, and an analysis of compliance with the most current noise control regulations established by international, federal and state. Any proposed wind turbine shall produce sound levels that are no more than fifty (50) decibels as measured on the dB(A) scale with Sound Level Lden. Measurements shall be at the property line and at the nearest occupied dwelling. (Resolution 2022-29, June 21, 2022)

B. A detailed description of the potential shadow-flicker producing features of each of the proposed wind turbines at the proposed site, including, an analysis of conditions that may cause shadow flicker, the methodology used to evaluate shadow flicker and the manufacturer's technical documentation relating to shadow flicker. Calculations shall be from each proposed wind turbine at the proposed site to each occupied dwelling. Calculations shall be based on Scottsbluff-Gering National Climate Data Source. Shadow flicker on any occupied structure on a property shall not exceed thirty (30) minutes per day and thirty (30) hours per year. (Resolution 2022-29, June 21, 2022)

C. The Applicant, as part of the site plan approval application process, shall appropriately demonstrate compliance with the above noise and shadow flicker requirements.

8. Compliance with Additional Laws and Regulations

Nothing in these regulations is intended to preempt other applicable State and Federal laws and regulations.

9. Wind Energy Permit Procedure

Upon approval of the site plan, the Owner may submit a wind energy permit application to the Zoning Administrator. No wind energy permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the permit application, the Zoning Administrator shall have ten (10) business days to determine if the application is complete. An incomplete application shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Wind Energy Permit Application to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the permit application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

A. The wind energy permit application shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A narrative description of the project including an overview of the project; the project location; the equipment manufacturer; the number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines. A summary description of the developer, applicant, owner and operator, including their respective business structures, shall be included.
4. A final site plan for the installation of the wind energy systems, showing the location of property lines, utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project. The final site plan shall show the location, layout and setback lines of each tower, guy lines, and anchor base where required, electrical collection system, transmission/interconnection facility, substation, construction area and all related accessory structures within the geographical boundaries of the project. Identification of roads for construction access shall be included. All temporary and permanent accessory buildings and/or ancillary equipment shall be included. This site layout shall include distances and be drawn to scale.
5. A narrative description of the WES, including the estimate of total number of systems, lighting and estimate of total height of each WES.
6. Certification by a professional Engineer competent in disciplines of WES regarding the safety of the design, specifications and compatibility of the tower structure with the rotors and other components of the WES.
7. Certification by a professional Engineer for the footing design for the towers.
8. The latitude and longitude of the individual WES. Included will be an area or zone in close proximity and meets the required setbacks.

9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WES not owned by the applicant, within 10 rotor distances of the proposed Wind Farm or WES.
10. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within the geographical boundaries of the proposed WES. (Resolution 2018-21, April 17, 2018)
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
12. Evidence that there will be no interference with any commercial and/or public safety communication towers. A copy of the letter(s) notifying all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the proposed WES location or Wind Farm. A list of all recipients of the letter shall be included. (Resolution 2018-21, April 17, 2018)
13. A Copy of a "letter of intent to interconnect" or interconnection agreement signed by the utility company.
14. Decommissioning Security and Plan as required by this regulation and with all applicable state and federal regulations.
15. Analysis that certifies that the shadow flicker requirements within this regulation can be met. (Resolution 2018-21, April 17, 2018)
16. Final Stormwater Pollution Prevention Plan approved by the Nebraska Department of Environmental Quality. (Resolution 2018-21, April 17, 2018)
17. A complete copy of approval from the FAA. (Resolution 2018-21, April 17, 2018)
18. A complete copy of permit to build from the Nebraska Department of Transportation Aeronautics Division. (Resolution 2018-21, April 17, 2018)
19. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

10. Operation

A. Interference

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WES. The applicant shall notify all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the proposed WES location upon application to the county for permits.

B. Coordination with Local Fire Department

The Applicant, Owner or Operator shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and/or the Emergency Management Coordinator, the Owner or Operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WES shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
2. All hazardous materials related to the construction, operation and maintenance of the WES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.

11. Liability Insurance

The Owner or Operator of the WES Project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$10 million in the aggregate. The Applicant shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the WES shall provide proof of insurance to the County Board annually. (Resolution 2018-21, April 17, 2018)

12. Discontinuation and Decommissioning Security

A. Each Commercial WES shall have a Decommissioning plan outlining the anticipated means and cost of removing WES at the end of their serviceable life or upon being discontinued use. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment.

B. The Decommissioning Plan shall include:

1. All WES and accessory facilities shall be removed to 4 feet below ground level within 180 days of the discontinuation of use.
2. Roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
3. Owner shall post, at the time of the wind energy permit approval, a Decommissioning Security in an amount determined by the County Board. The Security may be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the County Board. (Resolution 2020-25, July 7, 2020)

C. A WES shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WES to service.

SECTION 19 MOTOR SPORT FACILITY (Resolution 2012-02, April 3, 2012)

19.01 Purpose

It is the purpose of this regulation to: 1) promote the health, safety, comfort and general welfare of the present and future residents of Kimball County; 2) promote the safe, effective and efficient land use of all motor sport facilities; and, 3) to protect neighboring land from impacts such as noise, dust, traffic, safety concerns and environmental damage.

19.02 Definitions

The following are defined for the specific use of this section.

1. *Drag Strip* shall mean the site of a drag race. A short, straight course or track for drag racing. A strip of pavement with a racing area.
2. *Facility* shall mean a building, structure or place consisting of a circumscribed area of land laid out for motor sports. Designed and created to serve a particular function for motor sports.
3. *Motorcross racing* shall mean a form of motorcycle or similar vehicles racing in which cyclist competes on a closed course or track marked out over natural or simulated rough terrain.
4. *Motor sports* shall include autocross, drag racing, motorcross, motorcycle racing, speedways, stock car racing, drag strip racing, scrambling, rally cross, off road, track racing, land speed racing, go karting, dirt biking, or similar motor sport for competition. Motor sports shall include the operation of all terrain vehicles, mud trucks and racecars.
5. *Operator* shall mean the person, persons or entities responsible for the day to day operation and maintenance of any motor sports activity including any third party subcontractors.
6. *Owner* shall mean the entity or entities with an equity interest in the motor sport facility including their respective successors and assigns. Owner also refers to the property owner from whom land is leased or owned.
7. *Racetrack* shall mean a circuit or course, usually oval, used for racing. Also includes racecourse, raceway, track, speedway.
8. *Speedway* shall mean a racetrack or course for motor sports.
9. *Site Plan* shall mean documents, including a scale diagram describing the purpose, scope and details of a motor sport facility. Requirements for the Site Plan are set forth in this regulation.

19.03 Applicability and Requirements

This Regulation applies to all motor sport facilities. All motor sport facilities shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the motor sport facility and motor sport is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations.

19.04 Site Plan Procedure and Requirements

Applicant intending to construct and operate a motor sport facility shall submit a site plan as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval. The site plan must meet the requirements. No permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the site plan, the Zoning Administrator shall have ten (10) business days to determine if the site plan is complete. An incomplete site plan shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Site Plan to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the site plan application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

The Site Plan is meant to consider the land use from a local zoning and land use perspective and puts Kimball County, adjacent counties, neighboring property owners and the general public on notice that a property is under consideration for a motor sport facility.

The site plan shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A narrative description of the project including an overview of the project; the project location; the area of dirt or paved surface; parking area; pit area and inspection area description; facility description; personnel description, safety description and insurance description. A summary description of the developer, applicant, owner and operator, including their respective business structures, shall be included.
4. A site plan for the motor sport facility showing the location of property lines, utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project. The site plan shall show the location, layout and setback lines of dirt and paved tracks, pit areas, inspection areas, buffer areas, burnout area, shutdown area, flag stations, staging area, barriers, control stands, light or flagman positions, spectator seating, scales, rest rooms, signs, fences, first aid stations, and emergency service areas. All construction areas and all related accessory structures within the geographical boundaries of the project shall be included. Identification of roads for construction access shall be included. All temporary and permanent accessory buildings and/or ancillary equipment shall be included. This site layout shall include distances and be drawn to scale.
5. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within one mile of the proposed motor sport facility.
6. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
7. Evidence that there will be no interference with any commercial and/or public safety communication towers.
8. Statement that the Owner/Operator will construct and operate each motor sport facility in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.

9. Construction documents describing general plans for appropriate drainage, erosion control and infrastructure improvements.

10. Certification that Applicant has provided the Kimball Airport Authority a copy of the site plan submitted to the County and a copy of the submitted FAA form for approval. No permit shall be issued until written approval from the FAA has been received.

11. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the site plan submitted to the County. No permit shall be issued until written approval from Warren Air Force Base has been received.

12. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

13. Any modifications to the Site Plan and revisions to any of the provided documents must be reported to the Zoning Administrator immediately. The Site Plan shall comply with all Federal, State and local regulations.

19.05 Design

A. Design Safety Certification

All motor sport facilities shall conform to applicable industry standards, including but not limited to, those of the National Fire Protection Association (NFPA), American Motorcyclist Association and National Hot Rod Association (NHRA). Applicants shall submit certificates of design compliance.

All motor sport facilities including all accessory buildings shall comply with industry accepted regulations for safety features including but not limited to hub rails, fences, light or flagman positions and spectator seating. All motor sport facilities and accessory buildings shall comply with all fire fighting equipment, fire inspections in accordance with the State Fire Marshall and the National Fire Protection Association. All motor sport facilities and accessory buildings shall comply with the Nebraska Department of Environmental Control regulations. This includes but is not limited to the storage, handling and/or use of liquefied petroleum gases, flammable and combustible liquids, and disposal of regulated waste.

B. Electrical Components

All electrical components of any motor sport facility shall conform to applicable state, and national codes, and international standards. All lines shall be buried.

C. Lighting

Lighting, including lighting intensity shall adhere to but not exceed requirements established by the FAA permits and any state and federal regulations.

D. Federal Aviation Administration

The Applicant shall comply with all applicable FAA requirements.

19.06. Setbacks and Access

1. Must front on a state-maintained highway.
2. Receive approval from the State Department of Roads for each entrance and exit.
3. Have all accessory buildings set back at least 500 feet from adjoining property lines.
4. Have motor sport facilities and all accessory building set back at least 500 feet from adjoining property lines.

5. The setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).
6. Racing surfaces must be set back up to 1,000 feet from property lines.
7. The setback shall be measured from any present and future road or right-of-way if a planned change or expanded road or right-of-way is known.

19.07. Soil Erosion and Water Quality

1. The applicant shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the motor sport facility. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
2. The applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.

19.08. Vehicle Noise Emission Levels

1. No motor sport shall exceed 90 dBA 500 feet from any property line.
2. The Applicant, as part of the site plan approval application process, shall appropriately demonstrate compliance with the above noise requirements.

19.09 Compliance with Additional Laws and Regulations

Nothing in these regulations is intended to preempt other applicable State and Federal laws and regulations.

19.10. Operation

1. Interference
The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any motor sport facility. The applicant shall notify all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the motor sport facility location upon application to the county for permits.
2. Coordination with Local Fire Department
The Applicant, Owner or Operator shall submit to the local fire department and the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and the Emergency Management Coordinator, the Owner or Operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
3. Materials Handling, Storage and Disposal
 - A. All solid wastes related to the construction, operation and maintenance of the motor sport facility shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
 - B. All hazardous materials related to the construction, operation and maintenance of the motor sport facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.

4. Premise Requirements

- A. All litter must be cleaned up within twenty-four (24) hours from the end of each racing event.
- B. Maximum overnight camping is limited to three (3) nights.
- C. The premises may be inspected at any reasonable time without notice or consent.
- D. Accumulation of junk on the property is prohibited.

19.11. Liability Insurance

The Owner or Operator of the motor sport facility shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. The Applicant shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the motor sport facility shall provide proof of insurance to the County Board annually.

19.12. Discontinuation

Any motor sport facility shall be considered a discontinued use after one year.

SECTION 20 SOLAR ENERGY SYSTEMS (Resolution 2018-21, April 17, 2018)

20.01 Purpose

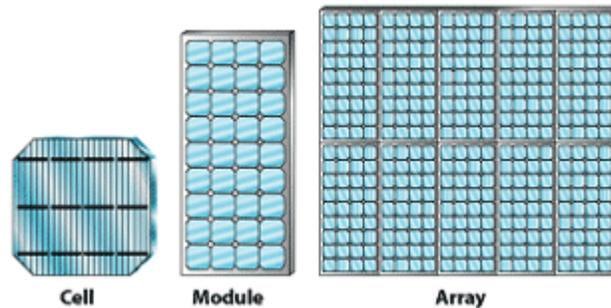
It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of solar energy systems; 2) facilitate economic opportunities for local residents; and 3) promote the supply of solar energy in support of increasing energy production from renewable energy sources within Kimball County.

20.02 Definitions

The following are defined for the specific use of this section.

1. **Glare:** The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
2. **Off-grid Solar Energy System:** A solar energy system that is not connected to an electric circuit served by an electric utility company. This system is accessory to the principal land use, designed to supply energy for the principal use.
3. **Operator:** The person, persons or entities responsible for the day to day operation and maintenance of any Solar Energy System project, including any third party subcontractors.
4. **Owner:** The entity or entities with an equity interest in the Solar Energy System, including their respective successors and assigns. Owner does not refer to the property owner from whom land is leased to locate the SES, unless the property owner has an equity interest in the SES.
5. **Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).
6. **Solar Energy:** Radiant energy (direct, diffuse and/or reflective) received from the sun.
7. **Solar Energy System (SES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.
8. **Solar Farm:** A commercial large-scale solar energy system facility for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal use of the land for the parcel on which it is located. It is designed for providing energy to off-site users or export to the wholesale market.
9. **Solar Panel:** That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.
10. **Solar Related Equipment:** Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

- A. SOLAR ARRAY: A grouping of multiple solar modules with purpose of harvesting solar energy.
- B. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed light.
- C. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.



20.03 Off-grid Solar Energy Systems

It is the intent of this regulation to: 1) promote the safe, effective and efficient use of a solar energy system installed to reduce the onsite consumption of utility supplied electricity; and, 2) promote the supply of solar energy in support of increasing energy production from renewable energy sources.

1. General Standards

Off-grid solar energy systems may be a permitted accessory use in the zoning districts. Certain standards as set forth below shall be met:

- A. SES's shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"), National Electrical Commission ("NEC"), Underwriters Laboratories ("UL"), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SPCC), or an equivalent third party.
- B. All electrical components of the SES shall conform and be maintained in compliance with all Federal, State and local requirements.
- C. Setbacks shall be equivalent to the performance standards in the underlying zoning district. The SES shall not be located in the front yards.
- D. All ground mounted SES in the Residential Estate District shall be installed either in the side or rear yard to the extent practicable.

20.04 Commercial Solar Energy Systems

1. Applicability and Permit Requirement

This Regulation applies to all solar energy systems and/or substations that generate electricity to be sold to wholesale or retail markets. Each solar energy system and/or substation shall require a site plan.

Solar energy systems shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the SES is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the Planning Commission or the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

2. Site Plan

Applicant intending to construct and operate a solar energy system, and/or substation shall submit a site plan as required by and specified by this Regulation.

The Site Plan shall contain the following information and documentation:

- A. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
- B. The legal description and address of the project.
- C. A general description of the project including an overview of the project; the project location; the equipment manufacturer; and name plate generating capacity.
- D. A general description showing the location of the property lines, existing utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project.
- E. A general description of the proposed SES, including any changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
- F. A general location of the proposed SES, electrical collection system, transmission/interconnection facility, substation and any related accessory buildings.
- G. Identification of proposed county or municipal roads to be used for the purpose of transporting SES, substation parts, cement, and/or equipment for construction, operation or maintenance of the SES.
- H. A general plan showing setback lines and layout of proposed structures and their distance from all property lines and existing structures.
- I. Location of wetlands, scenic, natural areas (including bluffs) public conservation lands, easements, and government and/or military areas within geographical boundaries of proposed SES.
- J. Blueprint of the solar energy system signed by a professional engineer showing the proposed layout of the system and any potential shading from nearby structures.
- K. Electrical diagram detailing the solar energy system, associated components, and electrical interconnection methods, with all National and State Electrical Code compliance disconnects and overcurrent devices.
- L. Documentation of the major system components to be used, including the PV panels, mounting system and inverter.
- M. Name, address and contact information for proposed system installer.
- N. Documentation of land ownership or legal control of the property.
- O. Statement that the SES will be installed in compliance with manufacture's specifications.
- P. Certification that applicant has provided the Kimball Airport Authority a copy of the site plan and conditional use permit application.
- Q. Certification that applicant has provided Warren Air Force Base a copy of the site plan and conditional use permit application.
- R. Statement that the Owner will construct and operate the SES in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.
- S. Proof of Liability Insurance.
- T. The owner of a SES shall provide written confirmation that the public utility company to which the SES will be connected has been informed of the intent to install a grid connected system and approved of such connection.
- U. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Nebraska.

3. Compliance with Laws, Ordinances and Regulations

The construction and operation of all solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar energy system shall be constructed in accordance with the State Building Code.

4. Design and Installation

A. *Design Safety Certification*

SES's shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and National Electrical Commission ("NEC"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SPCC), or an equivalent third party. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

B. *Electrical Components*

All electrical components of the SES shall conform to applicable federal and state codes and standards.

C. *Lighting*

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.

Lighting of solar energy systems shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

D. *Safety Signs*

All SCS shall have a sign or signs posted at the base of all pad-mounted transformers and substation, warning of high voltage. Other signs shall be posted at the entrance to the site with the 911 address and with emergency contact information. A plainly visible warning sign regarding voltage be placed at the base of all pad-mounted transformers and substations. No other signage or logos of any type shall be installed except for signs related to safety, warning, emergency contact, and manufacturer's name or logo.

E. *Safety*

All electrical control devices associated with the SES shall be locked to prevent unauthorized access or entry. Ground-mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

F. *Feeder Lines*

All communications and feeder lines installed as part of a SES shall be buried, where feasible.

G. *Glare*

1. All SES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

H. *Land Clearing, Soil Erosion and Habitat Impacts*

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws.

I. Setbacks

1. Setback from the property line shall be 50 feet.
2. Setback from any occupied dwelling shall be 100 feet.
3. Setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).
4. The setback shall be measured from any future road or right-of-way if a planned change or expanded road or right-of-way is known.
5. The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within the same distance required for a Solar Energy System.

J. Soil Erosion and Water Quality

1. The owner or operator shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the SES. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
2. The owner or operator shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.

5. Operation

Materials Handling, Storage and Disposal

- A. All solid wastes related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
- B. All hazardous materials related to the construction, operation and maintenance of the SES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.
- C. The owner or operator shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and/or the Emergency Management Coordinator, the owner or operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

6. Maintenance Plan

The owner or operator shall submit a plan for the operation and maintenance of the solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the SES.

7. Liability Insurance

The owner or operator of the SES shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$10 million in the aggregate. The owner or operator shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the SES shall provide proof of insurance to the County Board annually.

8. Discontinuation and Decommissioning Security

- A. Each SES shall have a Decommissioning plan outlining the anticipated means and cost of removing the SES at the end of their serviceable life or upon being discontinued use. A SES shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the SES to service. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment.

B. The Decommissioning Plan shall include:

1. All SES and accessory facilities shall be removed no more than 180 days after the date of discontinued operations. (of the discontinuation of use).
2. Stabilization or re-vegetation of the site as necessary to minimize erosion. Owner may leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
3. Roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
4. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

C. Owner shall post, at the time of the conditional use permit approval, a Decommissioning Security in an amount determined by the County Board. The Security may be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the County Board.

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SECTION 25 NON-CONFORMING USES

25.01 General: Within the zoning districts established by this Resolution or future amendments to such districts, there exist 1) lots, 2) buildings or structures, 3) use of land and buildings or structures, and 4) characteristics of use which were lawful prior to the adoption or future amendment of this Resolution, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival.

Nonconforming uses are declared by this Resolution to be incompatible with permitted uses in the districts involved. It is further the intent of this Resolution that nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title. (Resolution 2017-16, May 2, 2017)

If such nonconforming use is in fact discontinued or abandoned for a period of twelve consecutive months, such right to the nonconforming use shall be forfeited and any future use of the building or structure, land and a building or structure or land shall conform to these regulations or amendment thereto. (Resolution 2017-16, May 2, 2017)

1. **Nonconforming Lot of Record:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and the lot does not comply with the lot area or width requirements of the district in which it is located;
2. **Nonconforming Buildings or Structures:** A building or structure that lawfully existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located;
3. **Nonconforming Use of Land and Buildings or Structures:** A use of land and a building or structure that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located; and,
4. **Nonconforming Use of Land:** A use of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

25.02 Nonconforming Lots of Record: In any zoning district, primary and customary accessory buildings of the type permitted in each zoning district may be erected on any single lot of record after the effective date of this Resolution or amendment thereto notwithstanding limitations imposed by this Resolution or amendment thereto subject to the following conditions:

1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations;
2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations; and,
3. The lot can meet all yard regulations for the district in which it is located.

25.03 Nonconforming Structures:

1. **Authority to Continue:** Any existing building or structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful;
2. **Enlargement and Alterations:** Any nonconforming building or structure may be enlarged, extended or structurally altered if such changes comply with the minimum requirements as to the applicable yard and height regulations and shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the building or structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof;
3. **Damage or Destruction:** In the event that any nonconforming building or structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located.
4. **Moving:** No nonconforming building or structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved;
5. **Change of Ownership:** A nonconforming building or structure may be continued, but not increased, by a new owner of such property; and,
6. **Ordinary Repair and Maintenance:**
 - A. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; and,
 - B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

25.04 Nonconforming Use of Land and Building or Structure:

1. **Authority to Continue:** Any lawfully existing use of land and building or structure which existed prior to the adoption of these regulations and does not comply with the requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
2. **Enlargement and Alterations:** Any nonconforming building or structure may be enlarged, extended or structurally altered if such changes comply with the minimum requirements as to the applicable yard and height regulations and shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the building or structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof;
3. **Damage or Destruction:** In the event that any nonconforming building or structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located;

4. **Moving:** No nonconforming building or structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved;

5. **Change of Ownership:** A nonconforming use may be continued, but not increased, by a new owner of such property; and,

6. **Ordinary Repair and Maintenance:**

A. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; and,

B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

25.05 Nonconforming Use of Land:

1. **Authority to Continue:** Any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with the requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

2. **Extension:** A nonconforming use shall not be extended, expanded, enlarged or increased in land area without first having received a Conditional Use Permit.

3. **Change in Use:** If no alterations are made which will expand the area or land use, any nonconforming use of the land use may be changed to another nonconforming use, provided that the County Board, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting a change, the County Board, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.

4. **Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed, and any later use or occupancy of the land shall comply with the regulations of the zoning district in which the land is located.

5. **Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.

6. **Change of Ownership:** A nonconforming use may be continued, but not increased, by a new owner of such property.

SECTION 26 CONDITIONAL USES

26.01 Conditional Use Permits: Conditional uses are those types of uses which, due to their nature, are determined to be more intense than the normal uses permitted within a given zoning district or where the product, process, mode of operation or nature of business may prove detrimental to the health, safety, welfare or property value of the immediate neighborhood and its environment. Within the various zoning districts, conditional uses that are specifically listed in the district regulations may be permitted only after additional requirements are complied with as established within this section.

Prior to consideration of a conditional use application, the Planning Commission shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard. (Resolution 2020-25, July 7, 2020)

At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public and shall review the conditional use request in accordance with the requirements set forth in this Section. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth in this Section. If the Planning Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendation of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall be forwarded in writing to the County Board of Commissioners within 10 days after the recommendation has been made. (Resolution 2020-25, July 7, 2020)

Prior to consideration of a conditional use application, the Kimball County Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing as described in Section 30 of this resolution and shall be an agenda item. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

At public hearing, the Kimball County Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public and shall review the conditional request in accordance with the requirements set forth in this Section. The Kimball County Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in this Section. Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be transmitted to the applicant within seven calendar days of the date of such approval. If the Kimball County Commissioners disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven calendar days of the date of such disapproval.

26.02 Application requirements for a Conditional Use Permit: An application for a Conditional Use Permit shall be in writing and signed by the owner of the lot, tract of land, building or structure for which the permit is being requested.

The application, which shall consist of forms and information required by Kimball County and which may be amended from time to time by the Kimball County Planning Commission, shall be filed with the Kimball County Clerk along with the appropriate filing fee. The applicant has the burden of proof that the requirements are met. (Resolution 2020-25, July 7, 2020) At a minimum the application shall include the following:

1. General Information:
 - A. Name, address, email and telephone number of the applicants;
 - B. Name, address, and authorization of the owner of the property proposed for the conditional use if different from above;
 - C. Legal description of the property under consideration;
 - D. Total acreage of the parcel under consideration;
 - E. Existing land use of the parcel under consideration;
 - F. Existing land uses of all the properties adjacent to said property; and,
 - G. Signatures of the applicant and fee owners or their authorized legal agent.
2. A detailed description of the proposed operation and use shall be provided including the following:
 - A. Type of use for which the application is being made;
 - B. Proximity of the proposed use to residential structures;
 - C. The proposed use is consistent with the Kimball County Comprehensive Plan; and,
 - D. The proposed use is consistent with the intent of the district in which the use is located.
3. A vicinity map depicting the location of the proposed use related to roads, surrounding land uses and structures.
4. A site plan of the conditional use area depicting the location and extent of the proposed use and measures to lessen the impact of the use. The number, location, size and use of buildings and structures proposed shall be included.
5. A drainage, erosion and storm water management plan.

26.03 Minimum Requirements. A Conditional Use Permit shall not be granted unless specific written findings of fact directly based upon the particular evidence presented support the following conclusions:

1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
2. The proposed conditional use complies with all applicable federal and state regulations;
3. The proposed conditional use complies with the Kimball County Comprehensive Plan;
4. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public.
5. The proposed conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted;
6. The proposed conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
7. The nature, size and scope of the conditional use and its location in relation to transportation systems will not dominate the immediate neighborhood so as to prevent development and use of the neighboring property in accordance with applicable zoning regulations; The conditional use shall not involve any activity substantially increasing the movement of traffic on public roads unless procedures are instituted to limit traffic hazards and congestion.
8. Off-street parking and loading is adequate for the use proposed and will not create any safety hazards relative to public roads;
9. Adequate utility, drainage, and other necessary facilities have been or will be provided;

10. Adequate access to roads, or entrance and exit driveways, will be provided and shall be so designed to prevent traffic hazards and to minimize congestion in public roads and highways; and,
11. The proposed conditional use shall have adequate water, sewer, and drainage facilities.

26.04 Additional Requirements:

1. In granting a conditional use, the Planning Commission shall recommend, and the County Board may impose certain conditions, safeguards and restrictions upon the premises benefited by the conditional use which may be necessary to reduce or minimize any potential injurious effect of conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any additional requirements set by the County Board shall be filed with the application;
2. Any expansion or enlargement of a Conditional Use shall be treated as a new use and shall require a new application under the provisions of this section;
3. Ordinary repairs and maintenance may be performed upon structures associated with a Conditional Use so long as such repairs and maintenance do not have the effect of expanding or enlarging the use; and,
4. If the Conditional use has not commenced within twelve months from the date of approval or is discontinued for a period of twelve consecutive months it shall be presumed inactive. Kimball County shall initiate an administrative hearing to consider whether to grant an extension of time to commence the use or revoke the Conditional Use. If the Conditional Use is revoked, it shall be necessary to follow the procedures and requirements of this Section in order to re-establish any Conditional Use.

26.05 Conditional Use Decisions, Appeals: Any person or persons, jointly or severally, aggrieved by any decision of the County Planning Commission or the County Board of Commissioners has the right to appeal to the district court. The procedure for appeal to the district court shall be the same as for appeals from the county court to the district court in civil actions. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

SECTION 27 BOARD OF ADJUSTMENT (Resolution 2022-29, June 21, 2022)

27.01 Members

The County Board of Commissioners shall appoint five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and be removable for cause by the appointing authority upon written charges and after public hearing. No member of the board of adjustment shall be a member of the county board of commissioners. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the board of adjustment shall be appointed by the county board from the membership of the county planning commission, and the loss of membership on the planning commission by such member shall also result in his immediate loss of membership on the board of adjustment and the appointment of another planning commissioner to the board of adjustment. §23-168.01 (1)

27.02 Meetings:

The Board of Adjustment shall adopt rules in accordance with the provisions of these regulations. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the County Clerk and shall be a public record. §23-168.01 (2)

27.03 Powers and Duties:

A. The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board, have only the following powers and duties:

1. To hear and decide appeals when it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures. The board of adjustment shall have no authority to hear and decide appeals regarding conditional use permits or special exceptions which may be granted pursuant to section §23-114.01; §23-168.03 (1) (a)
2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and, §23-168.03 (1) (b)
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under the requirements of this Regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulations.

No such variance shall be authorized unless the board of adjustment finds that:

- (a) the strict application of the resolution would produce undue hardship;
- (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- (d) the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. §23-168.03 (1) (c)

B. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations. §23-168.03 (2)

C. In exercising the powers granted in this section, the board may, in conformity with the provisions of sections reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. §23-168.03 (3)

27.04 Appeal Procedure:

A. An appeal to the board of adjustment may be taken by any person or persons aggrieved, or by any officer, department, board, or bureau of the county affected by any decision of an administrative officer or planning commission. Such appeal shall be taken within 10 days from the date of decision by any county officer or department by filing with the Kimball County Clerk, along with the appropriate filing fee, a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

B. The board of adjustment shall set a hearing date within 30 days of receipt of the appeal. The time, date place of hearing, and description of the request shall be published in a local newspaper of general circulation ten days (10) prior to the actual hearing. The County Clerk shall also notify the interested parties in the case of the hearing date, time and place. Any party may appear at the hearing in person, by agent, or by attorney. §23-168.02

27.05 Decisions; Appeal; Procedure:

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any officer, department, board, or bureau of the county, may seek review of such decision by the district court for the county in the manner provided by the law of the state and particularly by Chapter 23, Laws of Nebraska Section 23-168.04.

SECTION 28 AMENDMENTS TO ZONING RESOLUTION TEXT AND MAP

28.01 Amendment to the Zoning Resolution Text and Map.

Authority: The Board of County Commissioners may, by Resolution, amend, supplement, change, modify or repeal these regulations and district boundaries. No amendment, supplement, change, modification or repeal shall be adopted by the County Board until the Planning Commission has held a public hearing and submitted its recommendations.

Proposal of Amendments: Only the Board of County Commissioners, the Kimball County Planning Commission or the fee owner of a property in the unincorporated area of Kimball County may request an amendment. When the fee owner of the property requests an amendment to the regulations or the district boundaries, an Application for Amendment shall be completed and filed with the County Clerk along with any required fees so that a public hearing can be set.

Purpose of Amendments: The Planning Commission and the County Board of Commissioners shall consider the purpose of the Comprehensive Plan when considering an Amendment.

28.02 Application Requirements

The applicant has the burden of proof that the requirements are met. At a minimum the application shall include the following:

- A. The existing uses of land and zoning classifications of property in the area that will be affected by the proposed amendment.
- B. The appropriateness of the property in question to the new zoning classification.
- C. The effect of the proposed amendment on the use of land.
- D. That the zoning district map amendments or regulations are consistent with plans and policies of Kimball County and the Kimball County Comprehensive Plan.
- E. That there have been changes of an economic or physical nature within the surrounding area involved which altered the basic character of such area.

28.03 Planning Commission:

Public Hearing: The Planning Commission shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Planning Commission itself. The Planning Commission shall hold the public hearing within sixty (60) days from the date on which the proposed amendment is referred to, filed with or initiated. The Planning Commission may request a report on any proposed amendment from any governmental official or agency. A copy of the report shall be made available to the applicant and any other interested persons and shall be available for review in the office of the County Clerk at least three days before the date set for the public hearing.

Notice of Hearing: Prior to consideration of an Amendment application, the Planning Commission shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing as described in Section 30 of this Resolution and shall be an agenda item.. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property within one mile to the property effected by such action at least 10 days prior to the date of such public hearing. Notice may include posting of the site in question. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

Conduct of Hearing: At the public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public. The Planning Commission shall also review any report submitted from any governmental official or agency. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval of the application.

Recommendation: The Planning Commission shall forward its recommendation in writing, and the official record and case file to the County Board within ten days after the recommendation has been made.

28.04 Board of Commissioners

Public Hearing: The Board of Commissioners shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Planning Commission. The Board of Commissioners shall hold the public hearing not less than fifteen (15) days and not more than forty-five (45) days after receipt of the Planning Commission recommendation;

Notice of Hearing: Prior to consideration of an Amendment application, the Kimball County Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing as described in Section 30 of this Resolution and shall be an agenda item. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

Conduct of Hearing: At the public hearing, the Kimball County Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public and shall review the request in accordance with the requirements set forth in this Resolution. The Kimball County Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in this Section. Upon approval, notice of the approval shall be transmitted to the applicant within seven calendar days of the date of such approval. If the Kimball County Commissioners disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven calendar days of the date of such disapproval.

28.05 Amendment Approval:

All amendments shall be approved by Resolution of the County Board. Any change shall be made to the Text and/or Map. If such amendment shall affect the boundaries of any district, the Resolution shall define the change or the boundary as amended, shall order the Official Zoning Map to be changed to reflect such amendment, and shall amend the section of the Resolution incorporating the same and reincorporate such Map as amended.

The applicant shall be advised that the land must be developed in accordance with the designated zoning classification within one year of approval. Failure to complete or substantially commence development within one year may result in revocation of the amendment.

28.06 Similar Amendments: A proposed amendment request for a similar classification and/or area to one already acted upon by the County Commissioners shall not be reconsidered within twelve months of the date of such County Commissioners' action. Submission by a different applicant or minor changes in boundaries shall not be adequate reason to circumvent this requirement.

SECTION 29 ADMINISTRATION

29.01 Administrative Procedure: The County Board shall designate a Zoning Administrator, with the recommendation of the Planning Commission, who shall be responsible for the administration of this Resolution. The County Board shall consult the Planning Commission's recommendation prior to acting on the following powers and duties. The Zoning Administrator shall have the following powers and duties:

1. To provide assistance in the application process;
2. To receive and maintain all applications as required by these regulations;
3. Conduct field inspections when necessary to the performance of the Zoning Administrator's duties;
4. Receive and record all complaints; and,
5. Any other duties and responsibilities as may be deemed necessary by the Planning Commission or County Board of Commissioners.

29.02 Permit Fees: Fees shall be as established by the Kimball County Board of Commissioners.

29.03 Liability for Damages: This Resolution shall not be construed to hold the County responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect of by reason of issuing a permit as herein provided.

SECTION 30 NOTICES

30.01 References to Notice Requirements: Where reference is made in this Resolution to notice being given as required by this Resolution, then the notice shall be given as provided for in section 30.02 below.

30.02 Method of Giving Notice: Notices required pursuant to this section shall be given as follows:

1. **Publication:** Notice of the date, time, place and subject of the hearing shall be published once in a newspaper of general circulation in the County at least ten (10) days prior to the hearing;
2. **Posting:** A notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. The posted notice shall be placed upon the premises so that it is easily visible from the street/road nearest to the premises and shall be posted at least ten (10) days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change the posted notice prior to the hearing. Any person doing so shall be guilty of a misdemeanor; and,
3. **Mailing:** If the record title owners of any lots included in the proposed change be nonresidents of the County, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last-known address at least ten (10) days prior to the hearing.
4. **Failure to receive notice, however, shall not invalidate any subsequent action taken by the Planning Commission or the County Board so long as such notice was in fact published and mailed in accordance with these provisions.**

30.03 Exceptions to Notice Requirement: Notice by posting or mailing shall not apply if:

1. The proposed change is to apply throughout the entire area of an existing zoning district, or
2. Additional or different types of zoning districts are proposed, whether or not the additional or different districts are made applicable to areas or parts of areas already within a zoning district of the County.

SECTION 31 ENFORCEMENT

31.01 Zoning Violations: Kimball County may enforce the Kimball County Zoning Resolution through methods included in this Resolution or through other methods adopted by the Board of County Commissioners.

31.02 Violations and Penalties: Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint, investigate the complaint and take appropriate action thereon in accordance with the regulations and requirements of this Resolution. Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approval of variance and conditional uses, shall constitute a misdemeanor. Any person, partnership, limited liability company, association, club, or corporation violating any provision of this Resolution is guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to offender may be deemed a separate offense. Whenever a violation exists in these regulations, the County may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine and penalty imposed, enter an order of abatement as a part of the judgment in the case.

31.03 Enforcement Procedure: Whenever the Kimball County Zoning Administrator, whether through personnel knowledge or through members of the Board of Commissioners, Planning Commission or county employees, has knowledge of any violation of the Kimball County Zoning Resolution, it shall give written notice to the violator to correct such violation within thirty (30) days after the date of such notice. Should the violator fail to correct the violation within such thirty (30) day period, the Kimball County Board of Commissioners may request that the Kimball County Sheriff's Department issue a citation and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The citation and complaint shall require that the violator appear in court at a definite time and place stated therein to answer and defend the charge.

1. One (1) copy of said citation and complaint shall be served upon the violator by the Kimball County Sheriff's Department in the manner provided by law for the service of a criminal summons. One (1) copy each shall be retained by the Sheriff's Department and the Kimball County Planning Commission and one (1) copy shall be transmitted to the clerk of the court.

31.04 Attorney: It is the responsibility of the Kimball County Attorney to enforce the provisions of this Resolution. In the event the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint a Special Acting Attorney to perform such enforcement duties in lieu of the Kimball County Attorney.

31.05 Civil Action: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of any provision of the Kimball County Zoning Resolution, the Kimball County Attorney, or where the Board of Commissioners deems it appropriate, a Special Acting Attorney, in addition to the other remedies provided by law, resolution, or regulation, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or use.

31.06 Failure to Comply: The County Board may after notice and hearing to the owner and operator suspend or revoke a plan approval or permit issued upon the basis of failure to comply with the requirements set forth in any of the sections or the conditional use permit as set forth in Section 26, incorrect information supplied or performing or taking action which is determined by the County Board to be in violation of any of the provisions of this regulation. (Resolution 2012-02, April 3, 2012)

SECTION 32. SUBDIVISION REGULATIONS (Resolution 2022-29, June 21, 2022)

32.01 PURPOSE AND INTENT

The purpose of these regulations are to consider subdivision plats as part of a plan for the orderly, efficient and economical development of land in Kimball County. They are intended to: provide for orderly, efficient integrated development in accordance with the Comprehensive Plan; establish minimum uniform standards for subdivision design, construction of roads and improvements, drainage and soil erosion; provide for the coordination of roads and utilities; provide for the distribution of population and traffic in a manner which will create conditions favorable to safety; and, promote and protect the health, safety, and general welfare of the County.

32.02 AUTHORITY AND GENERAL PROVISIONS

Authority: These subdivision regulations are hereby adopted and enacted under authority of R.R.S., Nebr. 1943, Chapters 23-372 thru 23-377, and amendments thereto, and comprise requirements, standards and specifications with respect to provisions for the proper location and width of roads, building lines, open spaces, safety; and, for the manner in which roads will be graded and improved; and, the extent to which water, sewer and other utility services shall be provided; and, to provide for the approval of preliminary plats and final plats and endorsement thereof by the Kimball County Planning Commission and the County Board of Commissioners.

Applicability: Any plat, hereafter made, for each subdivision or part thereof lying within the jurisdiction of this County Resolution, shall be prepared for approval and recorded as herein prescribed. All lots approved in any subdivision shall conform to the requirements of the Zoning Regulations of Kimball County for the zoning district where located. The regulations contained herein shall apply to the subdivision of a lot, tract, parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the re-subdivision or re-platting of land or lots. No lot in a subdivision may be sold, transferred, no building may be erected in a subdivision unless a final plat has been approved by the County Board and recorded with the Kimball County Register of Deeds.

These Regulations shall apply not only to subdivision as herein set forth but shall also apply to those subdivisions, or parts thereof, already platted and approved, which are undeveloped, wholly or partially.

Relation of Regulations to Private Agreements: Certain properties in Kimball County will have covenants affecting how the land may be used or developed. Such covenants constitute a private agreement between the property owner imposing the covenant and subsequent owners. Kimball County does not have the power to enforce such recorded covenants.

Exemptions: The following shall be exempt from subdivision regulations:

1. The subdivision of burial lots in cemeteries;
2. The division of land into parcels of the size exempted by Nebraska State Statute;
3. The subdivision of land whereby the smallest parcel created or remaining is more than ten (10) acres;
4. The combining of two or more lots for one principal use or a change in the boundary between adjoining lands where the lot sizes after the boundary change comply with all applicable subdivision and zoning regulations; and,
5. The division of land into four contiguous lots or less, and in which the lots are ten (10) acres or more in size and no new county road is created.

Application of Overlapping Regulations

Whenever provisions of this Resolution and any other provisions of this Resolution or any provision in any other law, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

32.03 DEFINITIONS:

The following definitions are relevant to this Section.

COUNTY ROAD: A public road or highway established in accordance with Nebraska Department of Transportation. A County Road is managed and maintained by the County at the discretion of the Board of County Commissioners. All public roads are not necessarily county roads.

COVENANT (RESTRICTIVE COVENANT): A limitation contained in a deed or other document that restricts or regulates the use of the real property.

DESIGN: The location of roads, alignment of roads, grades and widths of roads, alignment of easements, grades and widths of easements, alignment and rights-of-way for drainage and sanitary sewers, topographical changes and the designation of minimum lot area, width and length.

EASEMENT: A permanent or temporary grant of right by a property owner to the public, a corporation, or other person(s), for the use of a strip or parcel of land for specified purposes. Ownership shall remain with the property owner.

FRONTAGE ROAD: Minor roads parallel to and adjacent to county/arterial roads and highways, which reduce the number of access points to the county/arterial road or highway for the purpose of increased traffic safety.

IMPROVEMENT: The road, road pavement or surfacing, road lights, road signs, flood control and storm drainage facilities, utility lines, utility meters, landscaping, and other related matters normally associated with the development of raw land into building sites.

MONUMENT: An identification marker established by a certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, road centerline, or other point.

OPEN SPACE: A parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

PLAT, FINAL: The map or plan or record of a subdivision, and accompanying documents and materials, as described and defined in the subdivision regulations.

PLAT, PRELIMINARY: The preliminary drawings and information which indicate the proposed layout of a subdivision, as described and defined in the subdivision regulations.

PUBLIC ROAD: A public thoroughfare established by dedication, or as a County Road. A public road not established as a County Road is not maintained by the County nor is it a County Road.

RIGHT-OF-WAY: Land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway; (Nebraska Revised Statute §39-1302) The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a plat is

to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

32.04 PROCEDURES

Any person, partnership, or corporation intending to subdivide land within Kimball County's planning jurisdiction shall submit plans and plats as required by and specified by this Resolution to the Planning Commission and the County Board for review and approval. All plats, preliminary and final, shall be prepared in conformance with the provisions of these regulations and in conformance with the Comprehensive Plan and Zoning Resolution. Subdivision proposals straddling county and municipal jurisdictions are discouraged.

A. Change of Zoning District

The subdivider shall apply for an amendment to the Zoning Map as outlined in the Kimball County Zoning Regulations. The amendment approval shall be contingent on completion of the subdivision procedure.

B. Preliminary Plat Specifications

The Preliminary Plat shall, at a minimum, meet the design standards set forth in these regulations. The Preliminary Plat shall be drawn to a scale of one inch to 100 feet; contour lines at intervals not exceeding two feet; shall be plainly marked "Preliminary Plat" and shall include date prepared, north arrow, scale and legend. The Preliminary Plat shall include, show, or be accompanied by the following information:

1. The names, addresses, emails and phone numbers of the owner, subdivider, engineer, surveyor and applicant responsible for the subdivision layout.
2. The proposed name of the subdivision.
3. A copy of a deed or legal instrument identifying the applicant's interest in the property under consideration. All applications shall contain the signature(s) of each person possessing a present ownership interest in the property and proof of such legal interest shall be required.
4. The certified survey of the legal description of the area being platted, boundary lines and dimensions, the location of monuments found or set, section lines, and the acreage of the proposed subdivision.
5. A vicinity map showing the general location of the proposed subdivision in relation to surrounding land uses, structures, easements and roads/highways.
6. A site location map showing the proposed lot layout. Lot lines and dimensions. The area of each lot shall be shown in acres. Lots shall be numbered consecutively.
7. The location and width of proposed roads, rights-of-way, easements, open spaces and any other proposed improvements. All roads shall be named and shall conform to the E911 numbering system.
8. Topographical map showing contours with intervals of two feet.
9. The physical features of the property including the location, size, and use of all existing structures, utility lines, roads, right-of-ways, pipelines and easements.
10. A description of the proposed utility systems.
11. A description of the drainage system proposed for the subdivision. Non-buildable flood prone areas shall be indicated.
12. A description of soil types and permeability rates.
13. The existing and proposed zoning classification and proposed use(s) of land within the proposed subdivision and land adjacent to the proposed subdivision.
14. Proposed easements and reservations of land.
15. Proposed covenants and restrictions for the subdivision.
16. A description of the type of water system proposed for the subdivision.
17. A description of the type of wastewater (sewer) system proposed for the subdivision.

18. Written evidence that there are no delinquent taxes on the property.
19. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the preliminary plat submitted to the County.

C. Preliminary Plat Approval

The Preliminary Plat Approval is meant to consider the land use from a local zoning and land use perspective and puts Kimball County, adjacent and neighboring property owners and the general public on notice that a property is under consideration for a potential subdivision. Applicant intending to subdivide shall submit an application and preliminary plat as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval.

The subdivider shall be responsible for all fees, including but not limited to, application, review and inspection regarding a subdivision.

1. A total of 20 hard copies of the Preliminary Plat and required supplementary material as specified in these regulations with the application shall be submitted to the County Clerk at least 30 days prior to the Planning Commission meeting at which it is to be considered. The Zoning Administrator shall distribute one copy to appropriate federal, state, and local agencies for their review and recommendations.
2. The Planning Commission shall act on the preliminary plat as submitted. The Planning Commission shall consider the Preliminary Plat at a public hearing, after proper notice, and will (a) review the Preliminary Plat and other material submitted for conformity to these regulations and (b) review any recommendations of the appropriate agencies.
3. The subdivider shall be in attendance at the Planning Commission hearing when the Preliminary Plat is discussed.
4. The Planning Commission shall act to recommend approval or disapproval of the preliminary plat, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth. If the Planning Commission recommends disapproval of the preliminary plat, it shall state the reason(s) for such disapproval. The recommendation of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall be forwarded in writing to the County Board of Commissioners within 10 days after the recommendation has been made. The action of the Planning Commission shall be noted on or attached to three copies of the Preliminary Plat. One copy shall be returned to the subdivider, one to the County Board of Commissioners and the other retained by the Planning Commission.
5. Upon a Planning Commission recommendation of approval or disapproval, the Clerk shall set a date and time for a public hearing before the County Board of Commissioners along with proper notice thereof. The County Board of Commissioners shall act on the Preliminary Plat as submitted, and may (1) concur with the Planning Commission's recommendation; (2) reverse the Planning Commission's recommendation; or (3) refer the Preliminary Plat back to the Planning Commission for reconsideration with specific instructions.
6. The subdivider shall be in attendance at the Board of Commissioners hearing when the Preliminary Plat is discussed.
7. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, the Preliminary Plat shall be deemed an expression of approval of the general design concept and serves as an acceptable guide for the preparation of the Final Plat.

D. Final Plat Specifications

The Final Plat shall, at a minimum, meet the design standards set forth in these regulations. The final plat shall be submitted with the information identified in the preliminary plat and in addition the following information:

1. Date, title, name and location of subdivision.
2. A detailed summary explaining how the subdivider addressed any problems or concerns that were identified in the preliminary plat plan.
3. An accurate boundary survey of the property, with bearings and distances, referenced to half section lines, section lines and adjacent property. The boundary survey shall meet or exceed the "Minimum Standards for Surveys", as established by the Professional Surveyors Association of Nebraska.
4. All dimensions, linear and angular, necessary for locating the lines of lots, tracts, or parcels of land, roads, right-of-way lines, easements and the boundaries of the subdivision. The linear dimensions are to be expressed in feet and decimals of feet. The plat shall show all curve data necessary to reconstruct on the ground all curvilinear boundaries and lines and radii of all rounded corners.
5. A legend that define the line symbolism and the location and description of all permanent monuments set.
6. Copies of permits of all regulatory agencies.
7. The original, signed and notarized Declaration of Covenants & Restrictions and Required Improvements for the subdivision in form for recording with the Kimball County Register of Deeds.
8. The original, signed and notarized Homeowner's Association documents, (Articles of Incorporation) pertaining to the Improvements maintenance in form for recording with the Kimball County Register of Deeds.
9. A copy of a Nebraska Department of Roads access permit if a new road intersects with a state highway.
10. Accurate boundaries and legal descriptions of all easements and right-of-ways, the area to be dedicated for public use, with the purpose indicated thereon, and of any area to be reserved by deed or covenants for the common use of all property owners shall be recorded on the plat.
11. All easements and encumbrances that affect the total subdivision shall be shown, together with the recording information, and dedicated right of ways to the subdivision.
12. A notarized owner's certification statement signed and acknowledged by all parties having any titled interest in, or lien upon the land to be subdivided, consenting to the Final Plat.
13. A surveyor's certification signed and sealed by a registered land surveyor.
14. A signature block for the Kimball County Treasurer stating there are no regular or special taxes due or delinquent taxes against the platted land.
15. A signature block for the approval of the Planning Commission, to be signed by the Chair and attested to by the County Clerk.
16. A signature block for the approval of the County Board of Commissioners, to be signed by the Chair and attested to by the County Clerk.
17. A signature block for the Kimball County Register of Deeds.
18. When individual on-lot water wells are proposed, the words "NO PROPOSED DOMESTIC WATER SOURCE" in bold capital letters placed in a conspicuous location.
19. When individual on-lot septic systems are proposed, the words "NO PUBLIC SEWAGE DISPOSAL SYSTEM" in bold capital letters placed in a conspicuous location.
20. The words "NO PUBLIC MAINTENANCE OF ROADS" in bold capital letters placed in a conspicuous location.

E. Final Plat Approval

The preliminary plat must be approved by the County Board before a final plat can be submitted. - The final plat shall be submitted for approval within one year of the date the preliminary plat has been approved by the County Board. Prior to the deadline, the owner may request, in writing, a six (6) month extension of time by the County Board.

The final plat shall conform to the approved preliminary plat as approved and to the requirements of the Zoning Regulations and all applicable local, state and federal laws. The Board may approve a modified final plat if changes reflect improvements in design.

The subdivider shall submit an application and final plat as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval. All fees regarding the subdivision procedure shall be set by a separate Resolution. The subdivider shall be responsible for all review and inspection fees regarding a subdivision.

1. A total of two original Mylar (black waterproof ink) and 20 hard copies (5 of blackline), along with two electronic versions (one being a USB memory drive and one in AutoCAD format for the County Information Systems (GIS Section), of the Final Plat and required supplementary material as specified in these regulations with the application shall be submitted to the County Clerk at least 30 days prior to the Planning Commission meeting at which it is to be considered. The Zoning Administrator shall distribute one copy to appropriate federal, state, and local agencies for their review and recommendations.

2. The Planning Commission shall consider the Final Plat at a public hearing, after proper notice, and will (a) review the Final Plat and other material submitted for conformity to these regulations and (b) review any recommendations of the appropriate agencies.

3. The subdivider shall be in attendance at the Planning Commission hearing when the Final Plat is discussed.

4. The Planning Commission shall act to recommend approval or disapproval of the final plat, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth. If the Commission recommends disapproval of the final plat, it shall state the reason(s) for such disapproval. The recommendation of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall be forwarded in writing to the County Board of Commissioners within 10 days after the recommendation has been made.

5. Upon a Planning Commission recommendation of approval or disapproval, the Clerk shall set a date and time for a public hearing before the County Board of Commissioners along with proper notice thereof. The County Board of Commissioners shall act on the Final Plat as submitted, and may (1) concur with the Planning Commission's recommendation; (2) reverse the Planning Commission's recommendation; or (3) refer the Final Plat back to the Planning Commission for reconsideration with specific instructions.

6. The subdivider shall be in attendance at the Board of Commissioners hearing when the Final Plat is discussed.

7. No changes, erasure, modification or revisions shall be made on the plat after approval and execution of signatures by the Planning Commission and the Board of Commissioners.

32.05 Standards

Subdivision design shall conform to standards of the Comprehensive Plan and to the County Zoning Regulations.

These standards are general guidelines and minimum standards for evaluating all plans of proposed subdivisions.

A. General Standards

1. Drainage, Erosion and Storm Water Management

All subdivisions shall be developed in accordance with Section 4.03 of the Zoning Regulations.

2. Water and Wastewater

No water supply system or waste water system shall be located in flood prone areas.

a. All potable water systems shall meet the criteria issued by the Nebraska Department of Environment and Energy (NDEE), the Nebraska Department of Natural Resources and the Nebraska Department of Health and Human Services (NHHS).

b. All wastewater system shall meet the criteria as defined by "Rules and Regulations for the Design, Operation and Maintenance of On-Site Wastewater Treatment Systems ", as issued by the Nebraska State Department of Environment and Energy.

c. When private individual domestic water and/or sewage systems are proposed, the subdivider shall put a legend on the plat of the subdivision, on all advertisements and solicitations for the subdivision and on all offers, contracts or agreements for the sale and purchase of lots within the subdivision showing in bold capital letters: **"NO PROPOSED WATER SOURCE"** and/or **"NO PROPOSED PUBLIC SEWAGE DISPOSAL SYSTEM"**.

3. Access Roads

a. In the interest of public safety and for the preservation of the traffic-carrying capacity of the road system, the County Road Superintendent and County Board of Commissioners shall have the right to restrict and regulate points of access to the subdivision from the county public road system.

b. Access roads shall intersection county roads at as near to right angles as topography and good design allows.

c. Where a lot abuts a railroad, highway or county road right-of-way, a frontage road may be required parallel and adjacent to the boundary of such right-of-way(s). Lots shall back or side to such right-of-way(s).

d. The cost of installing all access roads including culverts shall be the responsibility of the subdivider.

4. Easements & Right-of-Way

a. All subdivisions shall have an access easement to a public road/highway in accordance with the requirements of the Nebraska Department of Transportation.

b. No building or structure shall be placed or erected on, under or over any utility easements, except for structures associated with such utility easements.

c. Easements shall be provided for all public utilities if utilities cannot be placed in the road right-of-way.

d. The dedications of rights-of-way for new roads measured from lot line to lot line shall be shown on the plat.

5. Utilities

All utility facilities, wherever practical, shall be located underground throughout the subdivision. Utilities shall be located in the road right-of-way.

The subdivider shall be responsible for all construction or installation charges required by the service utilities, except those installed at the expense of the utility company involved. Utilities are subject to all other applicable County, State and Federal Regulations.

B. Design Standards

Roads

1. Roads, right-of-way, road grade, tangent sight, traveled width of the road, shoulder width and design shall be in conformance with the Nebraska Public Roads Classification and Standards. Subdivider shall install gravel roads in compliance with the Nebraska Local Road minimum specifications with the necessary drainage facilities.
2. All roads shall be properly integrated with the existing and proposed system of roads and highways. The road arrangement shall not be such as to cause hardship to owners of adjoining property.
3. No subdivision shall prevent the extension of roads through and beyond the subdivision in a direction away from the center of a nearby City or Village.
4. Roads shall be designed to conform to the topography and provide safe, convenient travel routes to and from and within the subdivision.
5. Cul-de-sac roads shall be used to serve irregular areas of a tract due to topography and drainage. Cul-de-sacs shall not be used excessively nor as a primary design feature. Cul-de-sac roads shall not exceed 600 feet in length and shall be posted as a non-through road. The terminating end of a cul-de-sac shall have a turn-around with a minimum property line radius of 50 feet.
6. Curves in Roads (Horizontal and Vertical) and sight distance requirements shall be in compliance with the Nebraska Public Road Standards.:
7. Dead-end roads shall terminate with a cul-de-sac bulb to allow for grading and ditches within the platted right-of-way.

Intersection of Roads:

- 1 Roads shall be laid out so as to intersect as nearly as possible at right angles.
2. The number of roads converging at one intersection shall not be more than two. The "T" intersection is generally preferable to the crossroad intersection.

Lots:

1. The size, shape, and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use proposed.
2. Lot sizes shall meet or exceed the requirement of the Zoning Regulations.
3. Each lot shall have legal and physical access to a road within the subdivision.
4. Corner lots shall be designed with adequate width to permit appropriate building setback distances and orientation to both roads.
5. The depth of the lot shall not exceed 3 times its width.
6. Side lot lines shall be designed as close as possible to be perpendicular to road right-of-way lines or radial to cul-de-sac center points.

32.06. Required Improvements

The cost of all improvements are the subdividers.

1. Permanent monuments shall be set at each corner at the perimeter of the subdivision, the corner of each block, the corner of each lot, angle points, points of curves in roads within the subdivisions shall be required by the Engineer. The monuments shall be of such material, size, and length as may be approved by the Engineer.
2. All roads shall be constructed and graded to the standards as described in Section 32.05.
3. At least one road sign shall be installed at each road intersection within the subdivision and within the road right-of-way or easement area.
4. Utility and road right-of-way shall be provided in each new subdivision in accordance with the requirements stated herein.

C. Approval of Kimball County Planning Commission

APPROVAL OF THE PLANNING COMMISSION OF KIMBALL COUNTY, NEBRASKA

This plat of

_____ was approved by the Kimball County Planning Commission on this _____ day of _____, 20_____.

Chairperson, Kimball County Planning Commission

D. Acceptance by Kimball County Board of Commissioners

ACCEPTANCE BY THE COUNTY BOARD OF COMMISSIONERS OF KIMBALL COUNTY, NEBRASKA

This plat of

_____ was approved by the County Board of Commissioners of Kimball County, Nebraska on this _____ day of _____, 20_____, in accordance with the State Statutes of Nebraska.

Chair
ATTEST:

(Kimball County SEAL)

County Clerk

E. Kimball County Treasurer’s Certification

KIMBALL COUNTY TREASURER’S CERTIFICATION

This is to certify that I find no regular or special taxes due or delinquent against the property described in the Surveyor’s Certificate and embraced in this plat as shown by the records of this office.

Kimball County Treasurer Date _____
(SEAL)

F. Owners Certification, Dedication and Maintenance

OWNERS CERTIFICATION

I/we, the undersigned owner(s) of the real estate shown and described herein, do hereby certify that I/we have laid out, platted and subdivided, and do hereby lay out, plat and subdivide, said real estate in accordance with this plat.

This subdivision shall be known and designated as _____, all private roads shown and noted herein.

Clear title to the land contained in this plat is guaranteed. Any encumbrances or special assessments are _____ explained _____ as _____ follows:

There are strips of ground shown on this plat and marked easement, reserved for the use of public utilities and subject to the paramount right of a public utility to install, repair, replace and maintain its installations.

(Additional covenants or restrictions, public right-of-way and enforcement provisions therein may be inserted here and attached to the plat).

Signature of Owner Signature of Owner

Printed name Printed name

Date Date

The foregoing dedication was acknowledged before me this ____ day of _____, 20____.

Notary _____

Witness my hand and seal

My Commission expires _____

32.09 Vacation of Plat

An owner(s) of a plat may vacate a plat under the following conditions: 1) the plat to be vacated is a duly recorded Final Plat; and, 2) the vacation of the subdivision will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties, utility services or other improvements.

The owner(s) shall comply with the procedures in accordance with Section 32.04 C & E.

32.10 Administration and Enforcement

It shall be the duty of the Zoning Administrator to administer and enforce these regulations as outlined in Section 29 and Section 31.

32.11 Amendments

Any provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed in accordance with Section 28.

32.12 Acceptance of Public Roads and Lands

Approval of a subdivision by the Board of Commissioners shall not constitute an acceptance by the County of the roads or public lands for maintenance by the County. This may only be accomplished by a separate and specific action of the Board.

SECTION 33 MISCELLANEOUS

33.01 Invalidity in Part: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid by any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Resolution.

33.02 Conflicting Resolution: Where this Resolution may conflict with any other Local, State or Federal Resolution or regulation, the most restrictive Resolution shall apply.

33.03 Effective Date: This Resolution shall take effect and be in force from and after the date of its passage, approval and publication as required by law.

33.04 Publication: Publication of this Resolution shall be in pamphlet form.

Appendix

Resolution Number	Adoption Date	Amendment (s)	Specific Description
2010-10	October 5, 2010		Adoption of Kimball County Zoning and Subdivision Regulations
2011-01	July 9, 2011	Official Zoning Map	Approximately 1 acre part of 10.119 acre tract in SE/4 30-15-57 to "C" Commercial District

Resolution Number	Adoption Date	
2012-02	April 3, 2012	
Amendment(s)	Specific Description	
Section 3.04	Added WPO Wellhead Protection Overlay District	
Section 4.02 Definitions	Amended: Bed and Breakfast; Conditional Use; Conditional Use Permit; Home Occupation; and Mining. Added: Acreage; Compatible Use; Convenient Store; Industrial; Manufacturing; Motor Sport Facility; Nursery; Oil and Gas Production; Family Entertainment Center; Hazardous Waste; Overlay District; Owner; Public Use Area; Public Uses; Recreational Facilities; Recreational Purposes; Restaurant; Restaurant, Drive-in; Restaurant, Fast Food; Retail Trade; Self-Service Station; Service Stations; Sewer & Waste Water Treatment Operation; Solid Waste; Storage; Truck Wash Services; Wastes; and, Wholesale Trade.	
Section 5.01	Amended Intent	
Section 5.02	Amended Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production. Deleted Public parks and public recreation facilities; recreational tourist services; and tourist information area.	
Section 5.03	Amended Churches to Place of Worship; Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production; and, Indoor or outdoor sporting and recreational facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc. to Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. Added Nurseries. Deleted Race Tracks; Salvage Yard or Scrap metal processor; Solid Waste disposal sites and facilities; and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-1 District.	
Section 5.04	Amended #2 from 5 acres to 10 acres	
Section 6.01	Amended Intent	
Section 6.02	Amended Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production. Deleted Public parks and public recreation facilities; recreational tourist services; and tourist information area.	
Section 6.03	Amended Churches to Place of Worship; Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production; and, Indoor or outdoor sporting and recreational facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc. to Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. Added Nurseries, Salvage Yard or Scrap Metal Processor, Motor Sport Facility. Deleted Schools and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-2 District.	
Section 7.02	Deleted Public Parks and recreation areas	
Section 7.03	Deleted churches and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RE District.	

Section 7.04	Amended #2 from 5 acres to 10 acres	
Section 8.01	Amended Intent	
Section 8.02	Amended Gas stations to Self-service stations; and, Stores and shops which sell retail or wholesale merchandise trade to Retail and Wholesale Trade. Deleted Commercial and public recreation and entertainment.	
Section 8.03	Deleted Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the C District. Added Family Entertainment Center.	
Section 9.02	Amended Gas stations, truck stops and other vehicle service stations to Service stations, truck stops and other vehicle stations. Deleted Public or private tourist, recreation, and entertainment.	
Section 9.03	Deleted Retail Uses not listed as permitted uses; Services not listed as permitted uses; and, Offices not listed as a permitted use. Added Family Entertainment Center.	
Section 10.03	Added (in accordance with Section 12) for Salvage Yard or scrap metal processor.	
Section 11	Added Section: WPO Wellhead Protection Overlay District	
Section 12.01	Amended A, B, D and E. with the deletion of "operated in a residential district" or "in a residential district".	
Section 18	Added Section: Motor Sport Facility	
Section 25.06	Added Failure to Comply	
Section 26.04	Amended #4D from five acres to ten (10) acres	
Resolution Number	Adoption Date	
2013-04	May 21, 2013	
Amendment(s)	Specific Description	
Section 2.01	Added #14.	
Section 15	Added 15.01 Intent. Amended General Standards #1 and #3; and added #4, #6 and #7. Added 15.03 Exception. Amended Application Requirements.	
Section 20.02	Amended 1. H	
Section 22.01	Amended #4.	
Resolution Number	Adoption Date	
2013-06	November 19, 2013	
Amendment(s)	Specific Description	
Section 3.04	Added AHAO Airport Hazard Area Overlay District	
Section 12	Amended Section 12. Deleted Section 12.04 Airport Requirements. (Nebraska Airport Zoning Act)	
Official Map	Added Airport Hazard Area Overlay District	
	Sections were renumbered after amending Section 12. All references to these Sections were changed. Page numbers and Table of Contents were changed. Sections 19, 20, 21, 22, and 23 were intentionally left blank for future use.	

Resolution Number	Adoption Date	
2014-09	July 1, 2014	
Amendment(s)	Specific Description	
Section 5.02	Amended 5.02 #10 to include pipeline and pipeline facility	
Section 6.02	Amended 6.02 #9 to include pipeline and pipeline facility	

Resolution Number	Adoption Date	
2017-15	May 2, 2017	
Amendment(s)	Specific Description	
Section 4.02	Added borrow pit and excavation, Amended commercial use	
Section 5.02.07	Deleted Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project, Amended with A non-commercial borrow pit for personal uses.	
Section 5.03.14	Removed "of minerals"	
Section 5.03.15	Removed "and borrow pits"	
Section 6.02.6	Deleted Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project, Amended with A non-commercial borrow pit for personal uses.	
Section 6.03.13	Removed "of minerals"	
Section 6.03.14	Removed "and borrow pits"	
Resolution Number	Adoption Date	
2017-16	May 2, 2017	
Amendment(s)	Specific Description	
Section 4.02	Added Grandfather Rights	
Section 25.01	Amended General	
Resolution Number	Adoption Date	
2018-21	April 17, 2018	
Amendment(s)	Specific Description	
Section 4.02	Added Solar Energy System, Amended Wind Energy Conversion System	
Section 5.02	Added Off-grid Solar Energy System and Off-grid Wind Energy System	
Section 5.03	Removed Conversion in #10. Added Solar Energy Systems, Offices incidental to the operation of the listed conditional uses and Accessory buildings and uses customarily incidental to a conditional use.	
Section 6.02	Off- Added grid Solar Energy System and Off-grid Wind Energy System	
Section 6.03	Removed Conversion in #8. Added Solar Energy Systems, Offices incidental to the operation of the listed conditional uses and Accessory buildings and uses customarily incidental to a conditional use.	
Section 7.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 7.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 8.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 8.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 9.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 9.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 10.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 10.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 15	Amended 15.01 to Intent; Added 15.02; Amended 15.03#2 and added #1,#4 and #5; Amended 15.04 with #2 and #3 added. LIVESTOCK SITING MATRIX – COUNTY ZONING WEBSITE	
Section 18	Amended to read Wind Energy System. Amended 18.02 to Off-Grid. Amended 18.02#3. Amended 18.03 to Wind Energy System. Amended 18.03 #2 #3 #4-C9,D3. Added 4-D#11. Amended #5-B, K and added P. Added 6.E. Amended 9.10 and 12. Added 9.15- 9.18. Amended 11. Amended 12.B. Removed 13.	
Section 20	Added Solar Energy Systems	

Resolution Number	Adoption Date
2020-25	July 7, 2020
Amendment(s)	Specific Description
Section 3.09	Deleted 1 and 2
Section 16.02	Added Definitions
Section 16.03	Renumbered. Amended 1, 2,4,5,6 and 10. Added #7, 8, and 9.
Section 16.04	Renumbered and Amended #1 and #2.
Section 16.05	Renumbered and amended tower to facility.
Section 18.03	#12 B. 3. Amended to "at the time"
Section 26.01	Amended "mailed to the applicant" to "transmitted to the applicant". Amended recommendation forwarded in writing to the County Board of Commissions from immediately to within ten days after recommendation has been made.
Section 26.02	Amended "filed with the zoning administrator" to "filed with the Kimball County Clerk". Added "The applicant has the burden of proof that the requirements are met."

Resolution Number	Adoption Date
2022-29	June 21, 2022
Amendment(s)	Specific Description
Section 2.01	Added #15 and #16
Section 3.09	Amended #1
Section 4	Added: AND STANDARDS PERTAINING TO ALL KIMBALL COUNTY
Section 4.02	Added: Abut, Abutting; Access; Agricultural and Farm Buildings and Structures; Airport Hazard Zone; Buffer; Building Setback Line; Frontage; Lot, Corner; Lot, Depth; Lot, Width; Road; Setback, Front; Setback, Rear; Setback, Side; Sign. Deleted: Dwelling Unit, Mobile Home Park and Sight Triangle Amended: Alley; Dwelling; Dwelling, Two Family; Dwelling, Multiple Family; Easement; Hotel or Motel; Mobile Home; Right-of-way; Setback; Subdivider; Subdivision.
Section 4.03	Added
Section 5.03	Deleted #18 & 19 Added Prohibited Uses and Structures
Section 6.01	Amended
Section 6.03	Deleted #17 and 18 Added Prohibited Uses and Structures
Section 7.01	Amended
Section 7.02	#1, deleted "unit"
Section 7.03	Deleted #3 Added Prohibited Uses and Structures
Section 8.03	Deleted #12 Added Prohibited Uses and Structures
Section 9.03	Amended #2
Section 9.04	Deleted #3 Added Prohibited Uses and Structures
Section 10.02	Deleted #12
Section 10.03	Deleted #7 Added Prohibited Uses and Structures
Section 13.02	Amended

Section 18.02	Deleted "unit"
Section 18.03	Deleted "unit", Amended 3, 4D6 and 7
Section 20.04	Deleted "unit"
Section 26.01	Deleted " in attendance"
Section 26.02 1.A	Added email and deleted H.
Section 26.02,2 & 4	Amended
Section 26.02 5	Added
Section 26.03	Amended
Section 27	Rewrite
Section 28.01	Amended Authority and Proposals of Amendments Deleted Application, Ownership List and Disposition of Amendment Proposals Added Purpose of Amendments
Section 28.02	Added Application Requirements
Section 28.03- 06	Amended
Section 30.02	Amended #1 and added #4
Section 32	Rewrite

Kimball County Wind Energy Permit Application

INSTRUCTIONS: A. **This application must be complete. An incomplete application will be returned.** Please print or type.
 B. Please sign and date the application form.
 C. Filing fee is \$350 plus \$1,000 per turbine. Make check payable to Kimball County Clerk / Planning & Zoning
 D. The Kimball County Comprehensive Plan, Energy Element, Zoning Regulations and Zoning Map can be found on the County's website at: www.kimballcountyne.gov
 E. If questions, please contact the Kimball County Zoning Administrator at kcpz71@actcom.net.
All applications must be in accordance with Section 18 of the Kimball County Zoning & Subdivision Regulations
Submit ten (10) originals of the application and all attachments.

A. Owner Information (Energy Company)

Owner Name	
Owner Address	
Owner Phone	
Owner Email	

B. Applicant Information

Applicant Name	
Applicant Address	
Applicant Phone	
Applicant Email	

C. Developer Information (if different than Owner)

Developer Name	
Developer Address	
Developer Phone	
Developer Email	

D. Project Operator Information

Name of Project	
Project Operator Name	
Project Operator Address	
Project Operator Phone	
Project Operator Email	

E. Development Information

Legal Description	
Site Address	
Site Location Description	
Site Area (Total Acres)	
Current Zoning	
Current Land Use	

F. Location Information:
Please attach a list of all participating property owners' contact information.

G. Required Information

Attach the following project information.

1. A narrative description of the project including an overview of the project; the project location; the equipment manufacturer; the number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.
2. A summary description of the developer, applicant, owner and operator, including their respective business structures.

Attach the following WES information.

3. A narrative description of the WES, including the total number of systems, lighting and total height of each WES.
4. The latitude and longitude of the individual WES. Included will be an area or zone in close proximity and meets the required setbacks.

Attach the following Final Site Plan information.

5. A final site plan for the installation of the wind energy systems, showing the location of property lines, utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project. The final site plan shall show the location, layout and setback lines of each tower, guy lines, and anchor base where required, electrical collection system, transmission/interconnection facility, substation, construction area and all related accessory structures within the geographical boundaries of the project. Identification of roads for construction access shall be included. All temporary and permanent accessory buildings and/or ancillary equipment shall be included. This site layout shall include distances and be drawn to scale.

Attach the following Maps. All maps shall be 11" X 17" and drawn to scale.

6. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WES not owned by the applicant, within 10 rotor distances of the proposed Wind Farm or WES.
7. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within geographical boundaries of the proposed Wind Farm or WES.

Attach the following Certifications.

8. Certification by a professional Engineer competent in disciplines of WES regarding the safety of the design, specifications and compatibility of the tower structure with the rotors and other components of the WES.
9. Certification by a professional Engineer licensed in the State of Nebraska that the foundation/footing and tower design for the WES is within accepted professional standards, given local soil and climate conditions.
10. An Acoustical Analysis that certifies that the noise requirements can be met.
11. A Shadow Flicker Analysis that certifies that the shadow flicker requirements can be met.
12. Evidence that there will be no interference with any commercial and/or public safety communication towers. A copy of the letter(s) notifying all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the proposed WES location or Wind Farm. A list of all recipients of the letter shall be included.

Attach the following information.

13. Final Stormwater Pollution Prevention Plan approved by the Nebraska Department of Environmental Quality.
14. A complete copy of approval from the FAA.
15. A complete copy of permit to build from the Nebraska Department of Transportation Aeronautics Division.
16. A Copy of a "letter of intent to interconnect" or interconnection agreement signed by the utility company.
17. Decommissioning Security and Plan as required by this regulation and with all applicable state and federal regulations.
18. Evidence of Liability Insurance.
19. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

I hereby certify that I have familiarized myself with the rules and regulations with respect to the filing of this **wind energy permit application** and that the foregoing statements and answers contained on the application and attached map are true and accurate to the best of my knowledge. The undersigned do hereby agree to pay all fees associated with this application.

This authorizes the County Zoning Administrator to enter upon the property during normal working hours for the purpose of becoming familiar with the proposed site. The Zoning Administrator may be accompanied by members of the County Board of Commissioners or the County Planning Commission.

This application includes _____pages of attachments. (Total number of pages attached)

Signature of Owner/Agent: _____

Printed Name: _____

Date: _____

Signature of Applicant: _____

Printed Name: _____

Date: _____

Signature of Developer: _____

Printed Name: _____

Date: _____

I hereby certify that I have familiarized myself with the rules and regulations with respect to the filing of this **wind energy permit application** and that the foregoing statements and answers contained on the application and attached map are true and accurate to the best of my knowledge. The undersigned do hereby agree to pay all fees associated with this application.

This authorizes the County Zoning Administrator to enter upon the property during normal working hours for the purpose of becoming familiar with the proposed site. The Zoning Administrator may be accompanied by members the County Board of Commissioners or the County Planning Commission.

I hereby certify that I have entered into a lease of other agreement with the owner/developer of this project for the purpose of siting a wind energy system or wind farm. **(If more than one property owner, please attach additional paper for more signatures.)**

Signature of Participating Property Owner:

Printed Name: _____

Date: _____

CUSTER COUNTY NEBRASKA

RESOLUTION No. 67Z-22 (DECEMBER 13, 2022)

ADOPTED BY CUSTER COUNTY, NEBRASKA

Prepared By
The Custer County Planning Commission

and



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COUNTY OF CUSTER, NEBRASKA
ZONING RESOLUTION

A resolution, consistent with the Comprehensive Development Plan, adopted for the purpose of promoting health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the County of Custer, Nebraska, to regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, including tents, cabins, house trailers, and automobile trailers; the percentage of lot areas which may be occupied, building setback lines; size of yards, courts, and other open spaces; the density of population; the uses of buildings; and the uses of the land for agriculture, forestry, recreation, residence, industry, and trade, after considering factors relating to soil conservation, water supply conservation, surface water drainage and removal, or other uses; to divide the County into districts of such number, shape, and area as may be best suited to carry out the purposes of this resolution to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration or use of non-farm buildings or structures, and the use, conditions of use or occupancy of land in the unincorporated areas of the County; to provide for the adoption of a zoning map; to provide for a board of adjustment, its members, powers, and duties; to provide for off-street parking and loading area requirements; to provide for conditional uses by conditional use permit; to provide for the proper subdivision and development of land, as provided in the Subdivision Regulations; to provide for non-conforming uses, to provide for the administration and the enforcement of these provisions, and for the violations of its provisions and the prescribed penalties, and including among others such specific purposes as:

1. Developing both urban and non-urban areas;
2. Lessening congestion in the streets or roads;
3. Reducing the waste of excessive amounts of roads;
4. Securing safety from fire and other dangers;
5. Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters;
6. Providing adequate light and air;
7. Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation;
11. Securing economy in governmental expenditures;
12. Fostering the County's agriculture, recreation, and other industries;
13. Encouraging the most appropriate use of land in the County; and
14. Preserving, protecting, and enhancing historic buildings, places, and districts, all in accordance with the comprehensive plan.

WHEREAS Nebraska Revised Reissued Statutes, 1943, Sections 23-114 through 23-114.05 and 23-164 through 23-174.06 as amended, empowers the County to adopt a zoning and subdivision resolution and to provide for its administration, enforcement, and amendment; and

WHEREAS, the County Board of Supervisors of the County of Custer, Nebraska, deem it in the interest of the public health, safety, morals, convenience, order, prosperity, and welfare of said County and its present and future residents; and

WHEREAS, the County Board of Supervisors of the County of Custer, Nebraska, has adopted a Comprehensive Development Plan pursuant to Neb. R. S. 1943, Sections 23-114 through 23-114.03, as amended, and known as Custer County Comprehensive Development Plan, 2012, as amended; and

WHEREAS, the Planning Commission of the County of Custer, Nebraska, has recommended the division of the unincorporated areas of the County into districts and recommended regulations pertaining to such districts consistent with the adopted Comprehensive Development Plan based on a future land use plan designed to lessen congestion on roads and highways, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to conserve agricultural land and values, to facilitate sewerage, schools, parks, and other public needs; and

WHEREAS, the Planning Commission of the County of Custer, Nebraska, has given reasonable consideration, among other things, to the prevailing agricultural and rural characteristics now predominant in the County, to the character of the districts and their peculiar suitability for the particular permitted uses, with a reasonable understanding of the objective to conserve the value of lands and improvements while encouraging the development of the most appropriate uses of land throughout the County; and

WHEREAS, the Planning Commission of the County of Custer, Nebraska, has made a preliminary report, held public hearings, submitted its recommended final report to the County Board of Supervisors; and the County Board of Supervisors have given due public notice of hearings relating to the Comprehensive Development Plan, to the zoning districts, regulations, subdivision regulations, and restrictions, and has held such public hearing; and

WHEREAS, The County Board of Supervisors of the County of Custer, Nebraska, have deemed it necessary to adopt the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations, and restrictions for the purpose of the conservation of the existing rural agricultural developments and land uses, of providing for the harmonious development and orderly expansion of urban areas radiating outwardly from existing rural communities, for the orderly extension and planned arrangements of county roads, utilities, for adequate sanitary facilities, for safe and healthy drinking water, and for reducing flood damage potentials; and

WHEREAS the requirements of Neb. R.R.S. 1943, Section §23-114 through 23-124.05, Sections 23-164 through 23-174, and Section 23-174.02, as amended, with regard to the recommendations of the Planning Commission, the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations and restrictions and the subsequent action of the County Board of Supervisors have been met;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF CUSTER, NEBRASKA.

ARTICLE 1: TITLE, INTENT AND PURPOSE

Section 1.01 Short Title

This Resolution shall be known, cited, and referred to as the "Zoning Regulations of the County of Custer, Nebraska."

Section 1.02 Purpose and Intent

In pursuance of and in compliance with the authority conferred to Nebraska counties by Section 23 of the Nebraska Statutes as amended, this Resolution is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Custer County and for implementation of the duly adopted Custer County Comprehensive Plan. This Resolution is also enacted to preserve and protect the customs and culture of the people of the County and the following specific purposes:

- 1) Developing both urban and non-urban areas and lessening congestion in the streets or roads and reducing the waste of excessive amounts of roads;
- 2) Securing safety from fire and other dangers and lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
- 3) Protecting light and air and preventing excessive concentration of population and excessive scattering of population or settlement;
- 4) Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
- 5) Protecting the tax base and protecting property against blight and depreciation;
- 6) Securing economy in governmental expenditures;
- 7) Fostering the state's agriculture, recreation, and other industries;
- 8) Encouraging the most appropriate use of land in the County, and;
- 9) Preserving, protecting, and enhancing historic buildings, places and districts.

Section 1.03 Jurisdiction

These regulations shall be known and cited as the regulations approved and adopted in the Zoning Regulations of the County of Custer, Nebraska. The area of jurisdiction shall be all the area within the limits of the county of Custer, Nebraska, not including the jurisdiction explicitly granted to a municipality by the Nebraska Reissue Revised Statutes, 1943.

Section 1.04 Highest Standard

Whenever the regulations of this Resolution impose or require higher standards than are required in any other statute, local Regulations, or regulation, the provisions of the regulations made under authority of this Resolution as provided by the cited Nebraska R. R. S., 1943 sections shall govern.

Section 1.05 Comprehensive Development Plan Relationship

These zoning regulations are designed to implement various elements of the Comprehensive Development Plan as required by state statutes. Any amendment to the district regulations or map shall conform to the Comprehensive Development Plan adopted by the governing body.

Section 1.06 Planning Commission Recommendations

Pursuant to Section 23-114.01 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board of Supervisors shall not hold its public hearings or take action until it has received the final report of the Commission.

ARTICLE 2: CONSTRUCTION AND DEFINITIONS

Section 2.01 Construction and General Terminology

1. For the purpose of these Regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Words or terms not herein defined shall have their ordinary meaning in relation to the context.
2. Unless the context clearly indicates to the contrary:
 - A. The phrase "Custer County" or "Custer County, NE" shall also be deemed the same as "The County of Custer, NE".
 - B. The word "Assessor" shall mean the County Assessor of Custer County, NE.
 - C. The word "Board" shall mean the Board of Supervisors of Custer County, NE.
 - D. The words "Board of Supervisors" shall mean the Board of Supervisors of Custer County, NE.
 - E. The term Zoning Administrator shall mean the zoning administrator and/or Zoning Administrator for Custer County, NE.
 - F. The word "Building" includes the word "Structure," but shall not include "Temporary Structures".
 - G. The word "Commission" shall mean the Planning Commission of Custer County, NE.
 - H. The word "County" shall mean "The County of Custer, Nebraska".
 - I. The words "Register of Deeds" shall mean the County Register of Deeds of Custer County, NE.
 - J. The word "Federal" shall mean the Government of the United States of America
 - K. Words used in the present tense include the future tense.
 - L. Words used in the singular include the plural and words used in the plural include the singular.
 - M. The word "shall" is always mandatory; the word "may" is always permissive.
 - N. The word "Regulations" means the Regulations approved and adopted in the Zoning Regulations of The County of Custer, NE, and all amendments thereto.
 - O. "Person" shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
 - P. "Used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
 - Q. The word "permit" can apply to any and all required permits by Custer County.

Section 2.02 Abbreviations and Acronyms

For purposes of this Resolution, this section contains a listing of abbreviations and acronyms used throughout this document.

1. AU Animal Unit
2. CAFO Confined Animal Feeding Operation
3. CUP Conditional Use Permit
4. FAA Federal Aviation Administration
5. FCC Federal Communication Commission
6. FEMA Federal Emergency Management Agency
7. FT Foot or Feet
8. GIS Geographic Information System
9. kV Kilovolt
10. kW Kilowatt
11. LFO Livestock Feeding Operation
12. NDEE Nebraska Department of Environmental and Energy or successor department
13. NSFM Nebraska State Fire Marshall or successor department
14. NHHS Nebraska Department of Health and Human Services or successor department
15. NDNR Nebraska Department of Natural Resources or successor department
16. NDOT Nebraska Department of Transportation or successor department
17. R.O.W. Right-of-Way or Rights-of-Way
18. SF Square Feet
19. SY Square Yard
20. USDA United States Department of Agriculture
21. YD Yard

Section 2.03 Definitions

A

Abandonment: To cease or discontinue a use or activity without demonstrated intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

Abut, Abutting: To border on, being contiguous with or have property or district lines in common, including properties separated by an alley, but not those separated by a roadway.

Access or Access Way: The means or way pedestrians and/or vehicles have safe, adequate and usable ingress and egress to a property or use as required by these regulations.

Accessibility Ramp: A slope surface used for moving individuals with disabilities from one level to the next; provided the slope of the ramp meets the requirements found in the Americans with Disabilities Act. Said ramp may be attached to any type of land use.

Accessory Apartment: A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provisions within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the main dwelling.

Accessory Building: A detached building which is clearly incidental or subordinate to the principal building which is located on the same premises as the principal building. These shall not include buildings used as part of an agricultural operation.

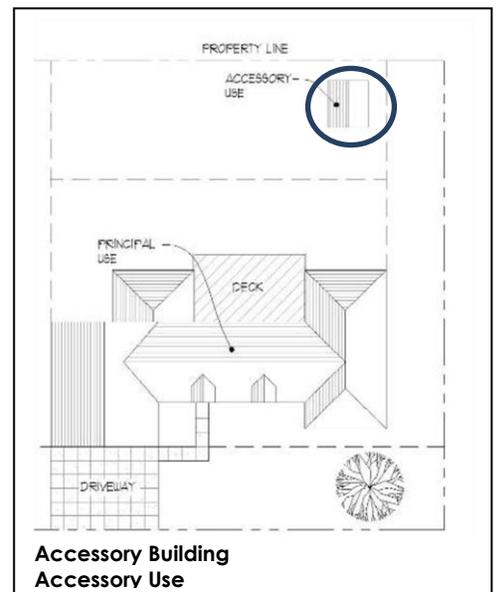
Accessory Agricultural Buildings: One or more buildings defined as accessory to the primary use of an agricultural operation. These may include machine sheds, grain bins, and others.

Accessory Irrigation Equipment: Equipment used with any irrigation system including gravity flow, center pivot or others. This shall include pivot points, well head, irrigation motors, etc. but does not include any structures over a motor or well head.

Accessory Living Quarters: Living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

Accessory Structure: A detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

Accessory Use: A use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.





Acres: A full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

Acresage: Any tract or parcel of land that does not qualify as a farm or development.

Active Recreation: A recreational activity requiring physical exertion such as swimming, tennis, soccer, baseball, softball, running and playgrounds.

Addition: Any construction which increases the size of a building or structure.

Adjacent: Near, close, or abutting; for example, an industrial district across the street or highway from a residential district shall be considered as "adjacent".

Adult Care Homes: A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

Advertising Structure: Any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such advertising structure.

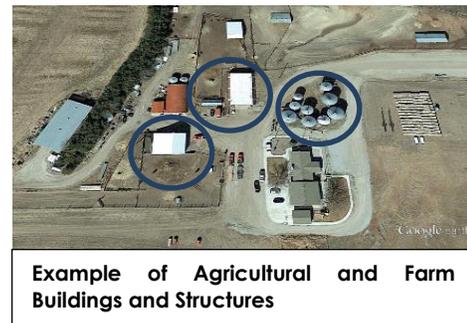
Agricultural Accessory Equipment: This includes such things as well motors, well heads, pivot pads, open sided structures covering wells.

Agricultural Cooperative Production/Distribution Facility: Any facility owned and operated by a cooperative or other corporation for the purpose of manufacturing, distributing, and storage of fertilizers, herbicides and grain. This includes the offices, scales and parking areas necessary for trucks and other vehicles.

Agricultural and Farm Buildings and Structures: Any structure which is necessary or incidental to the normal conduct of a farm including but not limited to barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain seed, hay and other crops, silos, windmills and water storage tanks.

Agricultural Irrigation System: An artificial means for the delivery of water-via ditches, pipes, streams, hose, etc. to supply water to dry lands that are used primarily in the production of crops- corn, beans, beets, sorghum, etc., that may include, but not limited to, pivot point systems, center point systems, gravity (furrow) systems, subsurface drip irrigation systems (SDI), and/or irrigation wells.

Agricultural Operations: A farmstead of 20 acres or more which produces \$1,000 or more of farm products each year.



Agricultural Processing: The processing of crops after harvest, to prepare them for on-site marketing or processing and packaging elsewhere. Includes the following: alfalfa cubing; corn shelling; cotton ginning; custom grist mills; custom milling of flour, feed and grain; dairies (but not feedlots); drying of corn, rice, hay, fruits, and vegetables; grain leaning and custom grinding; hay baling and cubing; pre-cooling and packaging of fresh or farm-dried fruits and vegetables; sorting, grading, and packing of fruits and vegetables, tree nut hulling and shelling, and the distillation of grains, fruits and vegetables. Any of the above activities performed in the field with mobile equipment not involving permanent structures are included under the definition of "crop production."

Agriculture: The use of a tract of land for the growing of crops, pasturage, nursery, or the raising of livestock, including the structures necessary for carrying out farming operations, the residence or residences of those owning or operating the premises, a member of the family, or persons employed thereon, as well as their family.

Agritourism Enterprise: Activities conducted on a working farm or ranch and offered to the public for the purpose of recreation, education, or active tourism related involvement in the farm or ranch operation. These activities must be incidental to the primary agricultural operation on the site or related to natural resources present on the property. This term includes farm tours, hayrides, corn mazes, pumpkin patches, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above.

Agronomic Rates: The application of plant nutrients, from all sources, to meet, but not exceed, the estimated annual nutrient needs of the crop being produced, based upon past or projected yields, so as to avoid build-up of nutrients including, but not limited to, nitrate, chloride, and phosphorus. Determination of the agronomic rate shall include the available nutrients in the soil, the nitrogen content of any irrigation water, and the nutrient content of any waste, sludges and commercial or other fertilizers to be applied.

Airport: Any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.

Airport Hazard Zone: Consists of operation zones, approach zones, turning zones and transition zones. The outer boundary of the hazard zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the approach and turning zones.



All-Terrain Vehicle: For purposes of this Resolution this shall comply with sections §§ 60-6,355 to 60-6,362 of the Nebraska Revised Statutes. An all-terrain vehicle shall mean:

- (a) All-terrain vehicle means any motorized off-highway vehicle which
 - (i) is fifty inches or less in width, (ii) has a dry weight of twelve hundred pounds or less, (iii) travels on three or more nonhighway tires, and (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger.
- (b) (i) Utility-type vehicle means any motorized off-highway vehicle which (A) is seventy-four inches in width or less, (B) is not more than one hundred eighty inches, including the bumper, in length, (C) has a dry weight of two thousand pounds or less, (D) travels on four or more nonhighway tires. (ii) Utility-type vehicle does not include all-terrain vehicles, golf car vehicles, or low-speed vehicles.
- (c) All-terrain vehicles and utility-type vehicles which have been modified or retrofit

Alteration: As applied to a building or structure, a change or rearrangement in the structural components, or an enlargement, whether by extending on a side or by increasing in height, or the moving of one location or position to another, shall be considered as an alteration.

Amendment: A change in the wording, context, or substance of these regulations, an addition or deletion or a change in the district boundaries or classifications on the zoning map. "Amendment" does not include correction of typographical errors.



Example of an Animal Confinement Building

Anaerobic Digestion: A biological process that occurs in the absence of oxygen. In very large animal production operation, it is sometimes used to produce biogas (a low energy gas which is a combination of methane and carbon dioxide) from the biodegradable organic portion of manure. This gas can be used as an energy source. After anaerobic digestion, the remaining semi-solid (which is relatively odor free but still contains most of its nutrients) can be used as a fertilizer.

Animal Confinement Building: Walled facilities where animals have been, are, or will be stabled or confined, fed and maintained.

Animal Hospital or Clinic: An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine.

Animals, Farm: Livestock commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

Animal Units (A.U.):

Type of Animal	Animal Unit(s)
Beef Animal (500 - 1,200 pounds).....	1.00
Buffalo.....	1.00
Beef or Dairy Calf (150 - 500 pounds).....	0.50
Young Dairy Stock (500 - 1,000 pounds)...	0.75
Replacement Heifers.....	1.00
Dairy Cow.....	1.40
Horse.....	2.00
Swine (55 pounds or heavier).....	0.40
Swine (less than 55 pounds).....	0.04
Swine (sow and litter).....	0.50
Sow or Boar.....	0.40
Sheep.....	0.10
Chicken.....	0.01
Turkey.....	0.02
Ostrich.....	0.40

Animal Waste: Any animal excrement, animal carcass, feed waste, animal water waste, or any other waste associated with animals.

Animal Waste Water: Any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding or other raw material or intermediate or final material or product used in or resulting from the production of animals or from products directly or indirectly used in the operation of a CAFO, or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control on the premises of a CAFO.

Antenna: Any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves.

Antenna Support Structure: Any building other than a tower which can be used for location of telecommunications facilities.

Apartment: A room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (See dwelling unit.)

Apartment Hotel: A multiple family dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, beauty parlor, shoeshine shop, cosmetologists' shop, cigar stand or newsstand. when such uses are located entirely within the building with no entrance from the street nor visible from any public sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use.

Apartment House (see Dwelling, Multiple Family)

Applicant: The owner or duly designated representative of land proposed to be subdivided, or for which a special permit, zoning amendment variance, building permit or certificate of occupancy has been requested.

Application: A process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the County concerning such request.

Appropriate: The sympathetic, or fitting, to the context of the site and the whole community.

Appurtenances: The visible, functional objects accessory to and part of buildings.

Aquaculture: Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.



Example of an Aquaculture

Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of bearing and producing usable amounts of water.

Aquifer, confined (artesian): Aquifers found between layers of clay, solid rock, or other material of very low permeability. Water in confined aquifers is often under pressure because the aquifer is confined between impermeable layers and is usually recharged at a higher elevation than the top confining layer.

Aquifer, unconfined (or water table): An aquifer where the top of the aquifer is identified by the water table. Above the water table, known as the zone of aeration, interconnected pore spaces are open to the atmosphere. Also known as a water table aquifer.

Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

Archery Range: A facility that may include buildings used for target practice with bows and arrows.

Area: A piece of land capable of being described with such definiteness that its location may be established, and boundaries definitely ascertained.

Areas of Contribution: The upland recharge area and cone of depression from which well water is drawn.

Areas of Influence: The two-dimensional area (as viewed on a map) of water table drawdown created by a pumping well, also see Cone of Depression.

Armor Coat: A bituminous liquid sprayed on road surfaces to provide a wear surface or dust control. Roads treated with armor coat are not considered as pavement.

Artisan Production Shop: A building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

Artist Studio: A place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

Asphaltic Concrete: a dark brown to black cement-like material in which the predominating constituents are bitumen, which occur in nature or are obtained in petroleum processing. Asphalt is a constituent in varying proportions of most crude petroleum and used for paving, roofing, industrial and other special purposes.

Assisted Living Facility: A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

Attached Permanently: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

Attractive: Having qualities that arouse interest and pleasure in the observer.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires and automotive accessories may be supplied and dispensed at retail, and where, in addition, servicing, repair, and replacement of parts may be done.

Automobile Sales-Retail: A retail business housed either in a structure or on a tract of land that sells or leases new or used automobiles, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. Retail automobile sales shall include any operation with three or more vehicles, as stated above, for sale at any time and/or a total of 10 sold during the course of a calendar year.

Automobile Sales – Wholesale: a wholesale business housed either in a structure or on a tract of land that sells new or used automobiles, trucks, vans, recreational vehicles, boats, or motorcycles or other similar motorized transportation vehicles to automobile sales retail outlets.

Automobile Wrecking Yard: Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

Awnings, Canopy and Marquee Sign: (see sign, architectural canopy)

B

Backgrounding: Growing program for feeder cattle from time calves are weaned until they are on a finishing ration in the feedlot.

Ballroom: A place or hall used for dancing, other than those listed under the definition of "Adult Cabaret". Ballrooms shall also be used for reunions, weddings and receptions.

Bar: Any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises.

Basement: That portion of a building which has more than one-half of its interior height, measured from floor to finished ceiling below the average finished grade of the ground adjoining the building.

Basin: A tract of land in which the ground is broadly tilted toward a common point. Water that falls onto any portion of the basin is carried toward the common point by a single river system.

Beacon: any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Bed and Breakfast Inn: A house, or portion thereof, where short-term lodging rooms and meals are provided. The owner/operator of the inn shall live on the premises.

Bedding: Material such as straw, sawdust, wood shavings, shredded newspaper, sand or other similar material used in animal confinement areas for the comfort of the animal or to absorb excess moisture. Bedding can drastically affect the characteristics of the manure and must be taken into consideration in the design of the storage facility.

Bedroom: A room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

Berm: A mound or embankment of earth, usually two to six feet in height.

Best Interest of the County: shall mean interests of the county at large and not of the immediate neighborhood.

Best Possible Management Practices: Livestock management techniques and practices as set forth by various agencies, including the Nebraska Department of Environmental and Energy, which encourage and protect the environment and public.

Bio-fuels Manufacturing: A facility constructed for the purpose of processing a natural product such as corn and soybeans into an alcohol-based fuel/additive.

Block: A parcel of land platted into lots and bound by public streets or by waterways, rights-of-way, unplatted land, city-county boundaries, or adjoining property lines.

Block Frontage: That section of a block fronting on a street between two intersecting streets or another block boundary.

Board of Adjustment: That board having been created by the County and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

Boarding and Lodging Houses: Any dwelling where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals are provided for more than three but less than 10 persons.

Borrow Pit: Any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

Brew-On Premises Store: A facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

Brew Pub: A restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 20,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.

Brewery, Manufacturer: An industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 40,000 barrels of beverage (all beverages combined) annually.

Brewery, Craft: A brew pub or a micro-brewery.

Brewery, Micro: A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 40,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

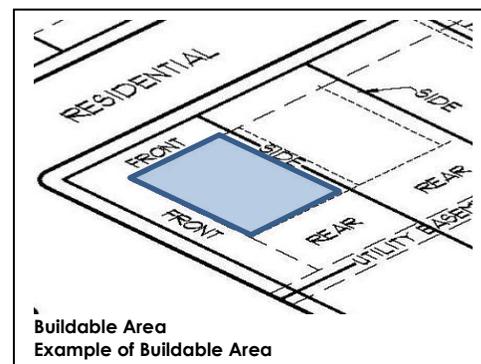
Broiler: Meat-type chicken typically marketed at 6.5 weeks of age. Live weight at market generally averages 4 to 4.5 pounds per bird.

Buffer: A strip of land established to protect one type of land use from another incompatible land use or to intervene between a land use and a private or public road. (See screening)

Buffer Zone: An area of land that separates two zoning districts and/or land uses to soften or mitigate the effects of one use on the other.

Buildable Area: That portion of a lot remaining after required yards have been allocated.

Buildable Lot: A lot that meets all of the minimum size requirements of a specific zoning district and shall apply to area not submerged under water of any kind (lakes, creeks, river).



Building: Any structure built for the support, shelter or enclosure of: persons, animals, chattels, or movable property of any kind, and including any structure.

Building Area: The sum, in square feet, of the area occupied by all buildings and structures on a lot.

Building Envelope: That area shown on a lot that encompasses all building development including but not limited to storage, structures, decks, roof overhangs, porches, patios and terraces, pools, access ways and parking. Approved plantings of landscape materials on natural grade and approved walkways may occur outside of a building envelope. Otherwise, all areas outside of a building envelope shall remain in pristine and untouched condition unless stated in the conditions of approval the subdivision plat.

Building Height: The vertical distance above grade to the highest point of the coping of a flat roof or to the highest point of a gable, hip, mansard or shed roof.

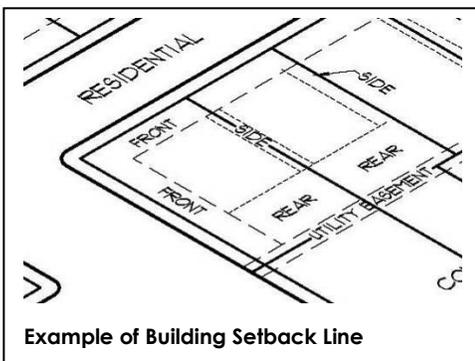
Building, Portable: A structure that may be attached to skids and can be easily moved without disconnecting it from a concrete slab or foundation.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Building Setback Line: The minimum distance as prescribed by these regulations between any property line and the closest point of the building line or face of any structure related thereto.

Bulk regulations: The prescribed requirements for lot area, lot area per dwelling unit, lot frontage, width, depth and height of buildings.

Business Services: Uses providing services to people, groups, businesses, dwellings and other buildings. Business services shall include janitorial services, carpet and upholstery cleaning, painting and decorating, building maintenance, swimming pool maintenance, security service, graphics/advertising agency, photocopying/duplication, quick print shops, printing, blueprinting, sign painting, non-vehicle equipment rental, photographic studios.

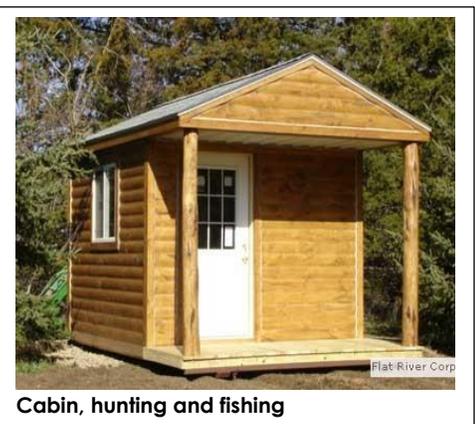


C

Cabin: A house built and designed for temporary use.

Cabin, hunting and fishing: Buildings used only during hunting and fishing season as a base for hunting and fishing, and outdoor recreation.

Calcium Chloride: a liquid solution consisting of various percentages of water and calcium chloride. This solution can be applied to the road surface to provide dust control or mix with the road base material in larger ratios to provide road base stabilization. Roads treated with calcium chloride are not considered as pavement.



Campground: Any premises where two or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping spaces, which include any buildings, structures, vehicles or enclosures used or intended for use for the accommodation of transient campers and camping vehicles.

Campground, Leased: (See "Leased Campground")

Camping: Temporary living in a camper, travel trailer, pick-up camper, camping bus, converted truck, tent trailers or camping tent or other non-building shelter or by sleeping in the open.

Car Wash: A structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

Car Wash, Industrial: A mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

Caregiver: Caregiver means a person nineteen years of age or older who is designated by a patient or a patient's legal guardian to provide aftercare.

Carport: A permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.

Cellar: A building space having more than two-thirds of its height below the average adjoining grade lines.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.

Centerline: The same meaning as "street or road center line".

Centralized Sewer: A sewer system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point of sanitary waste collection and processing.

Centralized Water: A water supply system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point(s) of supply with pressurized distribution from said supply points.

Certificate of Zoning Compliance/Certificate of Occupancy: A written certificate issued by the zoning administrator, stating that the premises has been inspected after erection, construction, reconstruction, alteration or moving of a building or structure or after a change in the use of land stating that the premises complies in all respects with the requirements of this Resolution and may be occupied for the use declared.



Example of Cemetery (Foreground)

Change of Use: The replacement of an existing use type by a new use type.

Channel: The geographical area within either the natural or artificial banks of a watercourse or surface drain.

Charitable: A public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

Child Care Center: An establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

Child Care Home: An operation in the provider's place of residence, which serves at least four, but not more than eight children at any one time from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.



Example of Church (background)

Church: a place where religious worship is conducted including accessory uses as schools, day care centers, bingo parlors, and halls.

Clear View Zone: The area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (See Sight Triangle)

Club: An association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit and shall follow the expanded definitions in §53-103.09 of the Nebraska Revised Statutes.

Cluster Development: a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.

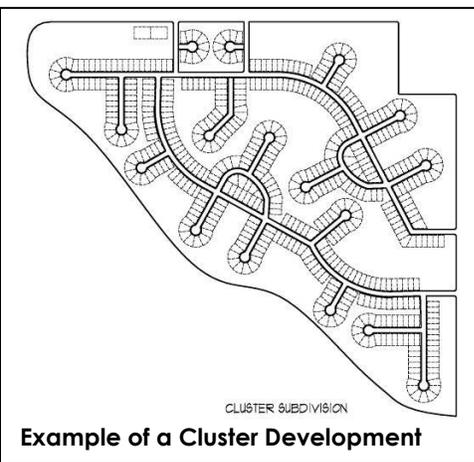
Commenced Work: The performing of substantial work, at the site, in relationship to the total project.

Commercial Building: A structure housing a use defined as commercial.

Commercial Uses: A business use or activity at a scale greater than a home business involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.

Commission: The Custer County Planning Commission.

Common Area or Property: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a planned development or condominium development.



CLUSTER SUBDIVISION

Example of a Cluster Development

Common Open Space: An area of land or water or combination thereof planned for passive or active recreational use by more than one homeowner or apartment dweller. Such space shall not include areas utilized for streets, parking, loading, alleys or driveways.

Common Sewer System: A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental and Energy for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.

Common Water System: A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis, and which is in public ownership.

Community Center: A place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

Community or Public Sanitary Sewer System: An approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

Community or Public Water Supply System: A public water supply system which serves at least 15 service connections used by year-round residents or uses, or regularly serves 25 or more year-round residents or uses.

Compatible Uses: A land use, which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, and contamination of surface or groundwater, aesthetics, vibration, electrical interference and radiation.

Compost: Decomposed organic material resulting from the composting process. Used to enrich or improve the consistency of soil.

Composting: Processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

Comprehensive Development Plan: The Comprehensive Development Plan of Custer County, Nebraska, as adopted by the County Board of Supervisors, setting forth policies for the present and foreseeable future community welfare as a whole, and meeting the purposes and requirements set forth in Chapter 23 of the Revised Statutes of Nebraska, as the same, from time-to-time, may be amended.



Example of Composted Manure

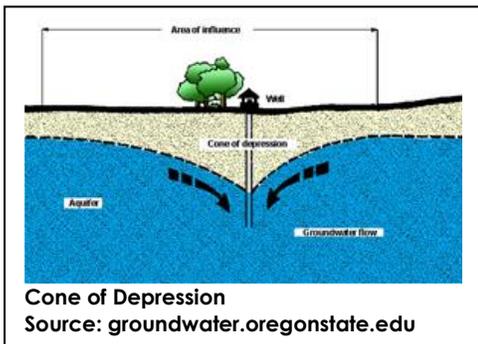


Example of an Outdoor Manure Composting Process Manure

Conditional Use: A use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

Conditional Use Permit: A permit, that authorizes the recipient to make use of property in accordance with the provisions of these regulations and in accordance with any additional conditions stipulated in the issued permit. A Conditional Use Permit may be a specific form called a "Conditional Use Permit" or by another name specifying a specific type of use such as a "Livestock Feeding Operation Permit".

Condominium: As defined in the Nebraska State Statutes Section 76-824 - 76-894, The Condominium Law, whereby four or more apartments are separately offered for sale.



Cone Of Depression: The three-dimensional area of water table created by a pumping well. The pumping well creates an artificial discharge area by drawing down (lowering) the water table around the well.

Confinement: Totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

Conflicting Land Use: The use of property that transfers over neighboring property lines, negative economic or environmental effects. Including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

Congregate Housing: A residential facility for people 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities. Said facilities might include meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room unit in the residential facility.

Conservation Areas: Environmentally sensitive and valuable lands (including but not limited to wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness) protected except for overriding public interest, from any activity that would significantly alter their ecological integrity, balance or character.

Conservation Easement: As defined by Nebraska RRS 76-2,111 a right, whether or not stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition. Assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality, or other natural resources, or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

Construction and Demolition Waste: Waste which results from land clearing, the demolition of buildings, roads, or other structures, including but not limited to, beneficial fill materials, wood (including painted and treated wood), land clearing debris other than yard waste, wall coverings (including wallpaper, paneling, and tile), drywall, plaster, non-asbestos insulation, roofing materials, plumbing fixtures, glass, plastic, carpeting, electrical wiring, pipe and metals. Such waste shall also include the above listed types of waste that result from construction projects. Construct and demolition waste shall not include friable asbestos waste, special waste, liquid waste, hazardous waste and waste that contains polychlorinated biphenyl (PCB), putrescible waste, household waste, industrial solid waste, corrugated cardboard, appliances, tires, drums, and fuel tanks as described herein or otherwise within NDEE Title 132.

Construction and Demolition Waste Disposal Area: Any area for the sole purpose of disposal of construction and demolition waste.

Construction Permit, Livestock: A permit required of an LFO by NDEE, prior to construction.

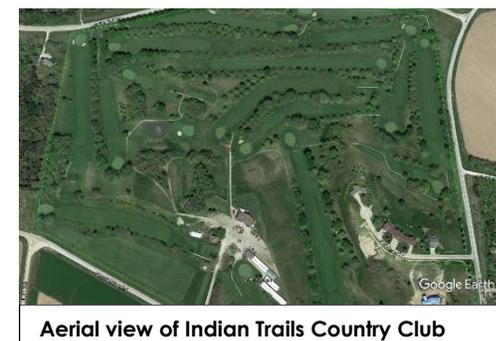
Containment: Structures used to control runoff of precipitation that comes into contact with manure, feed and other wastes on open feedlots. Examples of containment structures are lagoons and holding ponds.

Convenience Store: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket."), it is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.

Convent: A building or group of buildings designed to provide group housing for persons under religious vows or orders.

Conventional Subdivision: A subdivision which literally meets all nominal standards of the Land Development Resolution for lot dimensions, setbacks, street frontage, and other site development regulations.

Contiguous: Property adjoined at the property line and not separated by roads or alleys.



Country Club: Buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation.

County: The County of Custer, Nebraska.

County Board: The County Board of Supervisors of Custer County, Nebraska.

Cover Crop: A close-growing crop grown to protect and improve soils between periods of regular crops.

Creative Subdivision: A subdivision that, while complying with the Subdivision Resolution, diverges from nominal compliance with site development regulations in the Land Development Resolution. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and New Urban Residential Districts.

Crop Production: Commercial agricultural field and orchard uses including production of: field crops, flowers and seeds, fruits, grains, melons, ornamental crops, tree nuts, trees and sod, vegetables. Also includes associated crop preparation services and harvesting activities, such as mechanical soil preparation, irrigation system construction, spraying, crop processing, and sales in the field not involving a permanent structure.

Cul-De-Sac: A short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

Culvert: A pipe, conduit, or similar enclosed structure with appurtenant works which carries surface or stormwater under or through an embankment or fill, roadway, or pedestrian walk, or other structure.

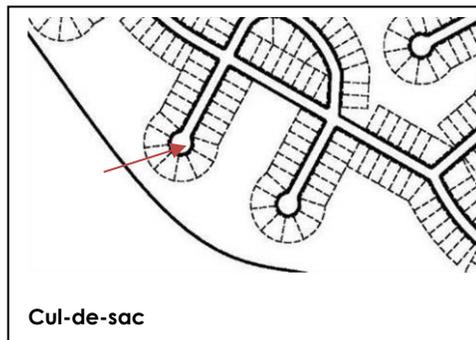
Curb Level: The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the higher.



Example of Cover Crop



Example of Crop Production



Cul-de-sac

D



Aerial view of Dairy Farm

Dairy Farm: Any place or premises upon which milk is produced for sale or other distribution.

Dead Animal Disposal: The disposal of dead animals by methods authorized by law such as rendering, composting, burial, and incineration.

Deciduous Screen: Landscape material consisting of plants which lose their leaves in winter and eventually will grow and be maintained at six feet in height, at least.

Deck: A flat, floored, roofless structure. Roofless does not include a roll-out awning or a canopy provided that all the vertical sides, other than the residential structure are open.

Density: Restrictions on the number of dwelling units or other structures that may be constructed per acre or per square feet of zoning lot area.

DEE Site Plan: The site plan or layout diagram on file at NDEE for construction of a Livestock Waste Control Facility.

Detached: Fully separated from any other building or not joined to another building in such a manner as to constitute an enclosed or covered connection.

Detention Basin: A facility for the temporary storage of stormwater runoff.

Developer: Any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning, conditional use, or sign permit.

Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations for which necessary permits may be required.

Development Area: An area of land that may or may not have been subdivided that contains three or more homes per nine acres.

Development Impact Fee: A fee imposed on developers to pay for the costs to the county of providing services to a new development based upon the impact of the development.

Development of Livestock Confinement Operation: Development of a confined livestock operation shall consist of but not be limited to contacting NDEE, an engineer, a contractor, and/or NRCS, or by doing dirt work, excavation, or construction.

Development Review: The review, by the county, of subdivision plats, site plans, rezoning requests, or permit review.

Dirt Surface: (as pertains to roads) roads typically found in non-residential areas as they only provide minimum design characteristics.

District: Any area designated on the zoning map for which detailed regulations are established herein pertaining to the uses permitted, the bulk of buildings and structures, and the size of yards and buildable area.

Dog Day Care Facility: A facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

Dog Park: A specifically designated and fenced off for the exercise of canines and other domestic animals.



Deciduous Screen



Detention Basin



Example of a Dog Park

Domestic Well: Well water used for human consumption and/or household purposes.

Dormitory: A building used as group living quarters for a student body, religious order, or other group as accessory use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use where group kitchen facilities may be provided to serve all residents.

Downzoning: A change in zoning classification of land to a less intensive or less restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

Drainageway or Surface Drain: Any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks.

Drive-through Establishment: A place of business operated for the sale and purchase at retail of food and other goods, services or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of any food or beverage in automobiles or on the premises but outside of any completely enclosed structure.

Driveway: Any vehicular access to an off-street parking or loading facility.

Dry Lot (dry operation): An operation using confinement buildings and handling manure and bedding exclusively as dry material, an operation using a building with a mesh or slatted floor over a concrete pit, or an operation scraping manure to a covered waste storage facility is referred to as a "dry" operation.

Dry Waste: Manure (urine or feces), litter, bedding, or feed waste from animal feeding operations.

Dry Waste Management System: A system where animal waste in the lots, pens and/or buildings of a CAFO is not removed by flushing out such waste by water but is removed by shoveling out such waste by hand and/or machinery.

Dude Ranch: A ranch operated wholly or in part as a resort offering horse riding related activities as outdoor recreation opportunities and offering only temporary rental accommodations for vacation use by nonresidents.

Duplex: The same as "Dwelling, Two Family".

Dwelling: Any building or portion thereof, other than a mobile home, which is permanently affixed to a foundation imbedded in the soil and used exclusively for residential purposes.



Example of a Drainageway or Surface Drain



Drive-through establishment



Example of a Dry Lot Operation/Dry Waste Management



Example of a Duplex

Dwelling, Manufactured Home: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development. However, the following criteria shall be met:

1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction.
2. The home shall have no less than an 18-foot exterior width.
3. The roof, unless covered by at least two feet of earth, shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run.
4. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction.
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. Metal roofs are acceptable only if they are non-reflective.
6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed.
7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district; and
8. Permanent foundation: Base on which building rests; to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 36 inches below the final ground level.

Dwelling, Mobile Home: Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks, blocks, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motor power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
2. Permanent Foundation: Base on which building rests; to be constructed from either poured concrete or laid masonry block or brick.



Example of a Dwelling, Manufactured Home

Source: <http://transportablehomesspecialist.com/>



Example of a Dwelling, Mobile

Dwelling, Modular: (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single-family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, any that do not meet the above criteria shall be considered a mobile home.



Dwelling, Single-family

Dwelling, Multiple Family: A building or portion thereof having accommodations for and intended to be used for occupancy by three or more families living independently from one another.

Dwelling, Seasonal: A dwelling designed and used as a temporary residence and occupied less than six months in each year. (Also see, Cabin and Cabin, hunting and fishing)

Dwelling, Single Family: A building having accommodations for or occupied exclusively by one family.

Dwelling, Single Family Attached: A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.



Example of Single-Family Attached

Dwelling Unit, Special Types: Any dwelling type consisting of single-family detached; single-family attached, multi-family, mobile home that is not meet the typical construction style of traditional stick framed structures.

1. **Cargo Container Dwelling:** a dwelling unit constructed of one or more new or used cargo containers used for multi-modal shipping and meeting the definition of dwelling unit above.
2. **Grain Bin Dwelling Unit:** A dwelling unit constructed of one or more grain bins, new or used meeting the definition of Dwelling Unit above.
3. **Quonset home:** A home constructed beneath and in a structure referred to as a Quonset.
4. **Shouse:** A combination of a dwelling unit and machine shed under a common or connect roofing system. For purposes of a Shouse, these structures when on a farm, agricultural operation, or acreage shall not be classified as a farm building. In addition, the residence portion of the facility shall meet the definition of Dwelling Unit above.
5. **Tiny House:** A structure containing living spaces including sleeping and kitchen areas which measure 500 square feet or less in area. Tiny houses can be either portable, on wheels similar to a recreational vehicle, or on a permanent foundation.
6. **Tree House:** A dwelling unit where the primary structure of the unit is based on one or more tree clusters.



Dwelling, Townhouse: A one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).

Dwelling, Two Family: A building having accommodations for and intended for use or occupancy by two independent families.

Dwelling Unit: A building, or part thereof, containing complete housekeeping facilities for a single family.

E

Earthen Home: A home built into a berm or hillside covered by earth on three sides and on the roof.

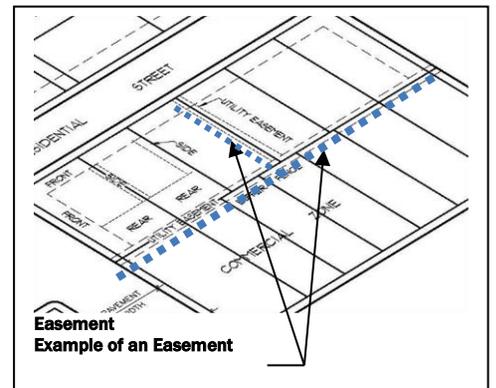
Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Educational Institution: A public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, or collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.

Effective Date: The date that this resolution shall have been adopted, amended, or the date land areas shall have become subject to the regulations contained in this resolution as a result of such adoption or amendment.



Earthen Home/Earth sheltered home



Electric Distribution Substation: An electric substation with a primary voltage of less than 161 KV, with distribution circuits served therefrom.

Electric Transmission Substation: An electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served therefrom.

Eleemosynary Institution: An institution supported by charity and designed to assist persons, for example, those recovering from mental or emotional illness.

Emergency Shelter Mission: A facility which provides temporary housing for one or more individuals who are indigent, needy, homeless or transient.

Enclosed: A roofed or covered space fully surrounded by walls.

Encroachment: An advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

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

Enlargement: The expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

Environmentally Controlled Housing: Any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which is roofed and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.

Equestrian Center: Commercial horse, donkey, and mule facilities including horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

Erected: Constructed upon or moved onto a site.

Exceptions: Uses that are not appropriate generally in a particular district without restriction, but which, if controlled as to number, area, location, relation to adjoining properties and other factors can be appropriate. Such uses that may be permitted in particular districts as exceptions are allowed only if expressly provided for herein.

Existing And Lawful: The use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process or being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.

Expressway: A street or road providing fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

Extraterritorial Jurisdiction: The area beyond the corporate limits, in which a city or village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

F

Facade: The exterior wall of a building exposed to public view from the building's exterior.

Factory: A structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

Family: One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit.

Family Child Care Home I: A childcare operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

Family Child Care Home II: A childcare operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

Farm: A tract of 20 or more acres of land or water producing at least \$1,000 in annual revenue of plants, animals or their products, which does not meet the criteria of a Livestock Feeding Operation.

Farm Operation, General: The current employment of land for the purposes of obtaining a profit in money by the raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or combination thereof. Farm use includes the preparation and storage of the products raised on such land for man's use and animal use and disposal by marketing or otherwise. It includes the construction and use of dwellings and other buildings customarily provided in conjunction with farm use. General farm operations do not include Concentrated Animal Feeding Operations as defined herein.

Farm Products: Usual products produced on an Agricultural Operation or Farm in the county such as hay, vegetables, fruit, grain, and plants as well as raising thereon the usual animal units (A.U.'s) as defined within these regulations.

Farm Winery: Any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least seventy-five percent of the finished products are grown in this state.

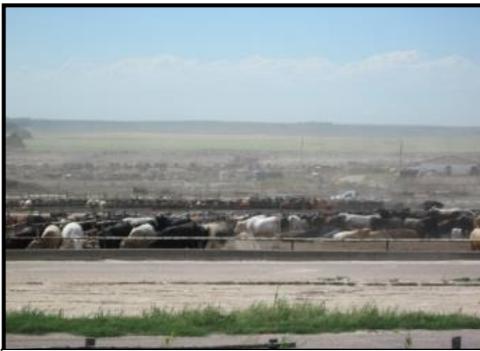


Example of a Farmer's Market
Copyright American Planning Association

Farmer's Market: The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Farming: The planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

Farmstead: In contrast to a farmstead dwelling, a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.



Example of a Feed lot

Feed Lot: Lot or building or a group of lots or buildings used for the confined feeding, breeding or holding of animals. This definition includes areas specifically designed for confinement in which manure may accumulate or any area where the concentration of animals is such that a vegetative cover cannot be maintained. Lots used to feed and raise poultry are considered to be feedlots. Pastures are not animal feedlots.

Feeder Cattle: Cattle past the calf stage that have weight increased making them salable as feedlot replacements.

Feeder Line: Any power line that carries electrical power from one or more energy sources to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

Fence: A free-standing structure of metal, masonry, composition or wood or any composition thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

Final Plat: The map or plan or record of a subdivision, and accompanying documents and materials, as described and defined in the subdivision regulations.

Finish Pig: To feed a pig until it reaches market weight.

Finishing Stage: Stage leading to and including full adulthood for swine is called the finishing stage. The pigs remain here until they reach market weight.

Flea Market: a building or open area in which stalls or sale areas are set aside, and rented or otherwise provided, and which are intended for the use by various unrelated individuals to sell articles that are either new, old, homemade, homegrown, handcrafted, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. This definition does not include informal or private garage or yard sales.

Flood: The water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainage way.

Flood Plain: The area adjoining a watercourse which has been or may be covered by flood waters.

Floodway: The channel of a watercourse or drainage way and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainage way.

Floor Area: Whenever the term "floor area" is used in these regulations as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

Food Sales: Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

Forty-acre tract: (see Quarter-quarter)

Freestanding Canopy: A permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

Frontage: That side of a lot abutting on a street and ordinarily regarded as the front of the lot.

Fuel Station: A designated facility offering the sale gasoline, diesel fuel, alternative fuel sources (electric, CNG, etc.) and propane.

Fuel Storage: Tanks used to storage fuel either above- or below-ground as part of an agricultural operation.

Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for (1) a funeral chapel; (2) embalming and the performance of other services used in preparation of the dead for burial; (3) the performance of autopsies and other surgical procedures; (4) the storage of caskets, funeral urns, and other related funeral supplies; (5) the storage of funeral vehicles; and (6) facilities for cremation.

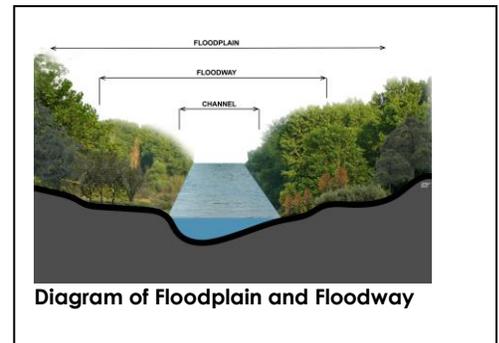
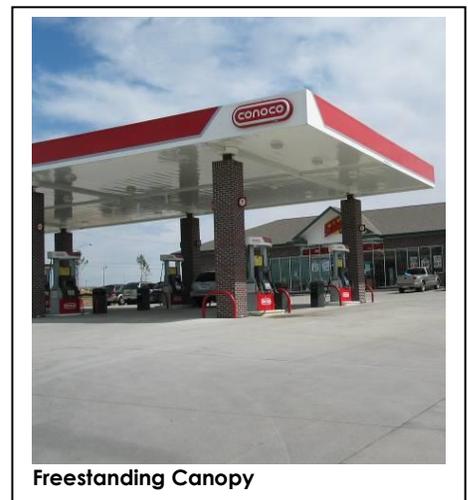


Diagram of Floodplain and Floodway



Freestanding Canopy

G

Garage: A building for the storage of motor vehicles.

Garage, Private: A detached accessory building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.

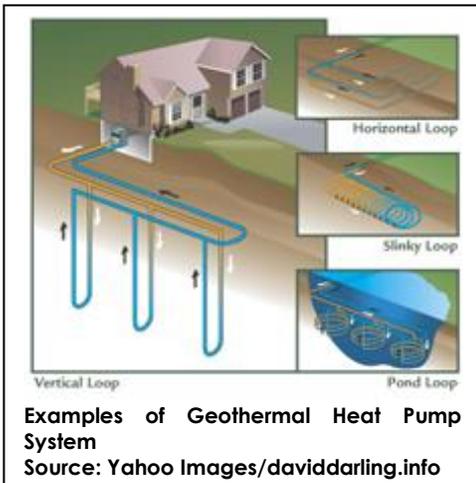
Garage, Public: Any garage other than a private garage designed or used for equipment, repairing, hiring, servicing, selling, or storing motor driven vehicles.

Garage, Repair: A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work for payment. (Also, see Service Station.)

Garage, Storage: A building or portion thereof, designed or used exclusively for housing four or more motor-driven vehicles.

Garbage: Any waste food material of an animal or vegetable nature, including waste that may be used for the fattening of livestock. Look for better definition)

Garden Center: A place of business where retail and whole-sale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouse, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.



Geothermal Heat Pump System: A well, constructed for the purpose of utilizing the geothermal properties of the earth.

1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground. For below ground discharge, refer to NDEE Title 122.
2. Closed Loop Heat Pump well shall mean a well, constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
3. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
4. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.

Governing Body: The Board of County Supervisors for Custer County Nebraska.

Government Facility: A structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

Grade: Except for Earthen Homes permitted under the Nebraska State Codes and Regulations, shall mean the following:

1. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be grade.
2. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in A. above) of all walls facing each street.
3. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be grade.
4. Any wall approximately parallel to and not more than 50 feet from a street line is considered as facing a street.

Grain Handling Systems: the moving, transferring, handling, storing, aerating and/or drying of grains by mechanical or natural means, which may include, but not limited to, stationary storage units (i.e. grain bins, hoppers, silos) grain-dump pits, fans, dryers, conveyors, augers, leg systems, and /or catwalks.

Granny Flat: (see "Accessory Apartment")

Gravel And Crushed Rock: (as pertains to roads) materials added to the surface of dirt roads to provide all weather travel. This type of road surface is usually found in the rural areas of the County and generally less traveled in nature.

Grassed Waterway: Grassed waterways are areas planted with grass or other permanent vegetative cover where water usually concentrates as it runs off a field. They can be either natural or man-made channels. Grass in the waterway slows the water and can reduce gully erosion and aid in trapping sediment.

Grazing Land: Pasture, meadow, rangeland, or other similar area where livestock are put to feed on the vegetation.

Greenhouse, Private: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of flowers or plants for personal enjoyment.

Greenhouse, Public or Retail: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of flowers or plants for subsequent sale.

Greenway: A parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridle path, or other similar access-way.

Grit: Grit includes sand, gravel, cinder, or other heavy solid materials that are "heavier" (higher specific gravity) than the organic biodegradable solids in the wastewater. This includes eggshells, bone chips, seeds, coffee grounds, and large organic particles, such as food waste.

Gross Acres: The total area of a site, inclusive of all street and/or road rights-of-way, plus, any required supporting facilities.



Groundcover: Plant material used in landscaping which remains less than 12 inches in height at maturity.

Groundwater: Water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

Groundwater Recharge: The filling of groundwater aquifers by rain and melting snow percolating into the ground and saturating the pores between rock and soil particles.

Group Care Home: A home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide 24-hour care for individuals in a residential setting.

Group Home for the Handicapped: A dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such impairment.

Group Housing: Two or more separate buildings on a lot, each containing one or more dwelling units.

Guest House: An attached or detached building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

Guest Ranch: A use incorporating two or more guest rooms, other than a boarding house, hotel or motel, and including outdoor recreational facilities, such as, but not limited to, horseback riding, swimming, tennis courts, shuffleboard courts, barbeque and picnic facilities intended primarily for use by the guests of the guest ranch. Bars and restaurants that cater primarily to those other than guests of the guest ranch are not permitted.

Guest Room: A room which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

Gun Club: Any organization whether operated for profit or not, and whether public or private, which caters to or allows the use of firearms.

Gun Range: An area designated for the firing of firearms at stationary or mobile targets within the area.

H

Halfway House: A licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

Hazardous Material: Materials, products, or substances that, by reason of their toxic, caustic, corrosive, explosive, abrasive, radioactivity, infectious properties, or other characteristics, that cause or may be detrimental or harmful to the health of any person or to the environment. For specific and more detailed information, current definitions, lists of hazardous material and quantities determined to pose a hazard, reference Title 40, Code of Federal Regulations, Parts 261 and 302, and /or any subsequent amendments thereto.

Hazardous Substances: Any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise coming into contact with such material or substance.

Hazardous Waste: Waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

Head Equivalent: (See Animal Feeding Operation)

Health Care Facilities: A facility licensed or approved by the state or an appropriate agency, if required. Health Care Facility may be any of the following:

1. Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital;
2. Convalescent or nursing home;
3. A facility for outpatient physical, occupational, or vocational therapy or rehabilitation;
4. Public health clinics and facilities; and
5. Ambulatory surgical care center which does not allow for overnight stay by patients. Unless an exception is made, health care facilities do not include doctors', or dentists', professional offices and private clinics.

Health Club: Privately-owned for-profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

Health Recreation Facility: An indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

Hedges: A row of closely planted shrubs, bushes, or any kind of plant forming a boundary or fence.



Helipport: Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

Helistop: An area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

Hemp: the plant *Cannabis sativa* L. and any part of such plant, including the viable seeds of such plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Hemp shall be considered an agricultural commodity. Notwithstanding any other provision of law, hemp shall not be considered a controlled substance under the Uniform Controlled Substances Act.

Hemp, USDA-licensed Hemp Producer: a person licensed by the United States Department of Agriculture to produce hemp as provided in 7 C.F.R. part 990, subpart C, as such regulations existed on January 1, 2020.

Highway, Major Inter-Regional: A "U.S." or "State" designated highway with 100 feet right-of-way or more on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through vehicular traffic.

Highway Setback Line: The future right-of-way line or plan lines of any highway.

Holding Pond: Means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots, trailer washouts and contributing drainage area.

Holding Zone: A zoning district, usually a very low-density district, placed on property for the purpose of temporarily holding back the development of land for a more intensive desired use as indicated by the comprehensive plan until such time as community facilities are economically available and thereby avoiding the "leap frogging" of land uses.

Home-based Business: An accessory use of a single-family or two-family residential structure which does not meet the definition of a home occupation. A home-based business would consist of service oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients coming to the residence. A Home-based Business typically will allow a minimum amount of employment from outside the individuals residing on the property.

Home Occupation: A business, occupation, trade or profession conducted for gain and carried on within a residential dwelling by the resident thereof.

Homeowners Association: A private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

Hoop Building: An anchored building erected for the purpose of storing materials, including but not limited to machinery and vehicles.

Hoop Building, Livestock: An anchored or freestanding building erected for the purpose of housing livestock. Floors are typically compacted dirt or concrete covered with dry bedding.

Hospital: An institution providing health and emergency services of medical or surgical nature to human patients and injured persons and are licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice.

Hospital, Animal: A place where animals or pets are given medical or surgical treatment and are cared for during the time of treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

Hotel or Motel: A building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.

House Trailer (see Dwelling: Mobile Home)

Household Pet: An animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

Housing for the Elderly: A building or group of buildings containing dwellings in which each dwelling unit is occupied by at least one person of 55 years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)

Housing For The Physically Handicapped: A building containing a dwelling or a group of dwellings in which each occupied dwelling unit is occupied by at least one physically handicapped person with a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises.



Example of a hoop building



Example of a hoop building for livestock

Impact Easement: An easement or deed restriction, recorded in the office of the Custer County Register of Deeds. Impact easements shall run with the land and is granted to the owner of a use.

Impervious Surface: A surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, sidewalks, parking lots, and driveways.

Incidental Use: A use that is subordinate to the main use of a premise.

Incompatible Use: A use which is unsuitable for direct association with certain other uses because it is contradictory, incongruous or discordant.

Individual Septic System: A wastewater treatment system for a dwelling that has a septic tank and absorption system.

Industrial Building: A structure designed and constructed to house an industrial use.

Industrial Park: A planned coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.

Industrial Uses: Shall mean a use or activity at a scale greater than home industry involving the manufacture and distribution of materials and/or products generated from raw materials or the assemblage of a product from several pre-manufactured pieces.

Industrial Waste: Any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

Industrial Waste Disposal: the discarding of any Industrial Waste in either a legal or illegal manner.

Industry: The manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

Inoperable Motor Vehicle: Any motor vehicle that:

1. Does not have a current state license plate; or,
2. May or may not have a current state license plate but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways.
3. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

Institutional Building/Use: A nonprofit or quasi-public use and building, such as a religious institution, library, public, or private school, cemetery, hospital, or government- owned or government-operated structure or land used for public purpose.



An Example of an Institutional Use/Building

Intensity: The degree of concentration or activity with which land is used. Agriculture and residential are considered low intensity uses. Heavy industrial is considered a high intensity use. High intensity uses normally generate high concentrations of vehicular traffic and daytime population.

Intensive/Confined Animal Feeding Use: The raising, feeding or management of more than 300 animal units at any one time in partial or total earthen pens or lots which are or used for confinement of animals where manure is or may be in contact with the earth and in roofed buildings or structures which may be open sided or totally enclosed and which may have hard surfaced, slatted or other type of surfaced floor, and/or on hard surfaced, non-earthen, outdoor pens or lots used for confinement of such animals. Confinement of an unrestricted number of ruminant animals for birthing, weaning or back grounding in lots or pens which are not used in three continuous months in May, June, July, August and September shall not be considered an intensive/confined animal feeding use. For purposes of this Resolution, intensive/confined animal feeding uses shall be classified and regulated with regard to the number of animal units confined as follows:

Class A - An intensive/confined animal feeding use with a onetime capacity of more than 300 animal units of swine, but less than 2,500 animal units of swine.

Class B - An intensive/confined animal feeding use with a onetime capacity of more than 300 animal units of ruminant animals, but less than 5,000 animal units of ruminant animals.

Class C - An intensive/confined animal feeding use with a one time capacity of more than 5,000 animal units of ruminant animals, but less than 30,000 animal units of ruminant animals.

Class D - An intensive/confined animal feeding use with a onetime capacity of more than 2,500 animal units of swine.

Class E - An intensive/confined animal feeding use with a onetime capacity of more than 30,000 animal units of ruminant animals.

Intent and Purpose: That the Commission and Board by the adoption of these regulations, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the regulations prescribed therein.

Interchange: A grade separated intersection providing transfer of motor vehicles from one roadway to another.

Intermittent Stream: Has flowing water only during certain periods of time, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall or snowmelt is a supplemental source of water for the stream flow.

Irrigation Accessory Equipment: Equipment used with any irrigation system including gravity flow, center pivot or others. This shall include pivot points, well head, irrigation motors, etc. but does not include any structures over a motor or well head.

J

Junk: Any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

Junkyard (Salvage Yard): An area of land with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building of used or discarded materials; used building materials, house furnishings, machinery, inoperable vehicles or parts thereof whether with or without the dismantling, processing, salvage, sale or other use or disposition of same.

K

Kennel, Commercial: An establishment where 10 or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age are groomed, bred, boarded, trained, or sold as a business.

Kennel, Private: Any premises used for the keeping of nine or less dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets. The dogs and cats shall belong to the owner/occupant or occupant and their keeping shall be accessory to the main use of the premises.

Kitchen Facilities: A room or area equipped for the preparation and cooking of food when it has all of the following:

1. Kitchen sink.
2. Burner, cook stove, or microwave oven.
3. Refrigerator.

L

Laboratory, Medical: An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.

Lagoon: A wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the NDEE and the NDHHS. All lagoons shall have the proper permits approved prior to starting construction.

Landscaping: The improvement of any parcel of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects and other natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

Laundry, Self Service: An establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

Law Enforcement Center: A governmental facility working directly with the enforcement of laws through a municipality or county. A law enforcement center may be the base of operations for a sheriff, police department, or state agency, or it may be an incarceration facility (temporary or long-term), or a combination of all.

Leapfrog Development: New development separated from existing development by vacant land.

Leased Campground: A single tract of land with or without individually leased lots used for camping by the lease holders only. No transient camping is allowed.

Life Care Facility: A facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (See Congregate Housing and Housing for the Elderly.)

Life Estate: is an interest in real property, including the right to use and occupy the property for the duration of the lifetime of the life estate holder. A life estate terminates upon the death of the holder. The owner of life estate is called a life tenant. After the death of the life tenant the estate either reverts back to the title holder or to the survivor or remaindermen mentioned in the deed bestowing life estate.

Liner: Any barrier in the form of a layer, membrane or blanket, naturally existing, constructed or installed to prevent a significant hydrologic connection between liquids contained in retention structures and waters of the United States.

Liquid Manure: That type of livestock waste that is in a liquefied state, collected in manure pits or lagoons in order to be sprayed/applied on the surface or injected beneath the surface.

Liquid Manure Storage Pits: Earthen, concrete or lined pits located wholly or partially beneath a semi or totally housed (ECH) livestock animal feeding operation or at some removed location used to collect waste production.

Liquid Waste Management System: A system where the majority of the animal waste in the lots, pens and/or buildings of a LFO is removed by flushing out such waste with water.

Livestock: Cattle, buffalo, horses, sheep, goats, swine, poultry, and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.

Livestock Lagoon: (see "Waste Handling System")

Livestock Pasturing Operation: Any livestock operation that uses pasture, as defined under this regulation, as the primary source of feed for the animals.

Livestock Sales Yard: An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means.



Example of a Livestock Feeding Operation



Example of a Livestock Sales Yard

Livestock Siting Matrix: A tool authorized in 2015 by the Nebraska Legislature via LB 106. The matrix is a tool for county officials to use to help determine whether to approve a conditional use permit or special exception application.

Livestock Wastes: Animal and poultry manure including associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

Livestock Waste Control Facilities or Facility or Facilities: (see "Waste Handling System")

Living Floor Area: The square foot area of a dwelling unit, excluding the garage, attics and areas within a full basement that do not have ground level access to the outside, as measured between the face of the interior walls.

Loading Space: An off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

Local Street or Local Highway: A street or road primarily for service to abutting property.

Long-Term Care Facility: A facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services and R.R.S Section 71-2017.01. These facilities include:

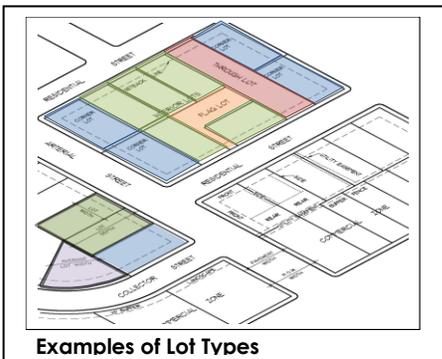
1. Nursing Facilities.
2. Boarding Home.
3. Adult Care Home.
4. Assisted Living Facility.
5. Center for the Developmentally Disabled.
6. Group Residence.
7. Swing Bed; and
8. Adult Day Care.

Lot: A parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of this Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Register of Deeds and abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

Lot, Corner: A lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot".

Lot, Curve: A lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.

Lot, Double Frontage or Through Lot: A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.



Lot, Flag: A lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

Lot, Frontage: A side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

Lot, Interior: A lot other than a corner lot, having a single frontage on a street.

Lot, Minimum Size: The minimum area required in a designated zoning district. The minimum lot size shall apply only to ground not covered by a waterway at the time of the application.

Lot, Nonconforming: A lot having less area or dimension than required in the district it is located and lawfully created prior to the zoning thereof and whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way, and which was lawfully created prior to the effective date of these regulations.

Lot Area: The total area, on a horizontal plane, within the lot lines of a lot.

Lot Coverage: The portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said structure is intended for human occupancy or not.

Lot Depth: The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and in the rear of the lot.

Lot Improvement: Any building, structure, or other object or improvement of the land on which they are situated constituting a physical betterment of real property.

Lot Line, Front: A street right-of-way line forming the boundary of a lot.

Lot Line, Rear: The lot line that is most distant from and is most nearly parallel to the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front lot line. If a lot has two or more front lot lines, the remaining yards will be rear yard or the remaining yards will be side yards and no rear lot line will exist.

Lot Line, Side: A lot line which is neither a front or rear lot line.

Lot of Record: A lot, which is part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds or a parcel of land the deed to which was recorded prior to adoption of these Regulations.

Lot Width: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

M

Machine Shop: A workshop, including tool and die shops, that turns, shapes, planes, laser metal cutting, mills or otherwise reduces or finishes metal by machine-operated tools.

Maintenance Guarantee: Any security, other than cash, that may be accepted by the County to insure that required improvements will be maintained. (Also, see Performance Guarantee.)

Major Recreational Equipment: Boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like and recreational vehicles.

Manufactured Home Park: A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

Manufactured Home Subdivision: Any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

Manufacturing: Uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

Manure: Fecal and urinary defecations of livestock and poultry; may include spilled feed, bedding, or soil.

Map, Official Zoning District: A map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Custer County Board of Supervisors for Custer County, Nebraska.

Massage Therapy: The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Medical or Dental Clinic: Any building or portion thereof, other than a hospital, used or intended to be used as an office for the practice of any type of medicine, including chiropractic, dentistry, or optometry.

Micro-distillery: A distillery located in Nebraska that is licensed to distill liquor on the premises of the distillery licensee and produces ten thousand or fewer gallons of liquor annually.

Milking Parlor: The area of a dairy where milking takes place.

Milking Parlor wash water: Water used to rinse the animals and equipment during the milking process to improve sanitation. The wash water typically includes manure, feed solids, hoof dirt along with detergents and disinfectants that are being used at the operation. The amount of wash water used each day depends upon the number of animals milked and the management practices followed.

Mini-Storage or Mini-Warehouse: (See "Self-service Storage Facility")

Mining and Mineral Extraction: The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; gases, such as natural gas. Mining also includes quarrying; groundwater diversion; soil removal; milling, such as crushing, screening, washing, and floatation; and other preparation customarily done at the mine location or as part of a mining activity.

Mobile Home: (See "Dwelling, Mobile Home")

Mobile Home Park: (See "Manufactured Home Park")

Mobile Home Subdivision: (See "Manufactured Home Subdivision")

Mobile Home Site: A plot of ground designed for accommodation of a single mobile home dwelling.

Monastery: A building or group of buildings designed to provide group housing for persons under religious vows or orders.

Motel: (See "Hotel")

Motor Freight Terminal: A facility for freight pick-up or distribution; may include intermodal distribution facilities for truck or rail transport.

Motor Vehicle: Every self-propelled land vehicle not operated upon rails, except mopeds and self-propelled invalid chairs.



An Aerial of a Mining and Mineral Extraction Site and Quarry
Source: Google Earth

N

Nature Center/Preserve: Areas intended to remain in a predominately natural or undeveloped state, with or without animals and other wildlife, to provide resource protection and possible opportunities for passive recreation and environmental education for present and future generations.

Nebraska Revised Reissued Statutes, 1943: and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

Net Acre: Total area exclusive of street or roadway and alley easement.

Nightclub: A commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided.

Non-Conforming Building: A building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

Non-Conforming Use: A use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

Non-Farm Buildings: Are all buildings except those buildings utilized for agricultural purposes on a farmstead of 20 acres or more which produces one thousand dollars or more of farm products each year.

Non-Farm Dwelling: Any dwelling that is not a part of a farm regardless of lot size.

Nonpoint Source: Diffuse pollution source (i.e. without a single point of origin or not introduced into a receiving stream from a specific outlet). The pollutants are generally carried off the land by storm water. Common non-point sources are agriculture, forestry, urban, mining, construction, dams, channels, land disposal, saltwater intrusion, and city streets.

No Till Farming: The soil is left undisturbed from harvest to planting except for nutrient and seed injection. Weed control is accomplished primarily with herbicides.

Normal Growing Season: The time period, usually measured in days, between the last freeze in the spring and the first frost in the fall. Growing seasons vary depending on local climate and geography. It can also vary by crop as different plants have different freezing thresholds.

Nuisance: A substantial invasion of or interference with another's interest in the private use and enjoyment of their property/land.

Nursery: The use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

Nursery School: (see "Preschool")

Nursing Home: A facility used or occupied by persons recovering from illness or suffering from infirmities of old age required skilled nursing care and related medical services and licensed by the appropriate state or federal agency or agencies.

Nutrient Application Levels: The levels of nutrients applied to the waste utilization area.



Occupied Dwelling: Any residence, church, school and/or business, which has been in use at any time during the 12-month period immediately prior to the date upon which an application for a conditional use permit to construct an LFO or expand or modify a LFO.

Off-road Vehicle: Any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, swampland, or other natural terrain, except that such terms exclude (a) registered motorboats, (b) military, fire, emergency, and law enforcement vehicles when used for emergency purposes.

Official Map: (See Map, Official Zoning District.)

Off-Street Parking Area or Vehicular Use: To all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

Open Lots: Pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

Open Space: A parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

Operating Permit: An operating permit as required for a LFO by the NDEE.

Other System Besides Liquid Manure Handling: An operation using confinement buildings with a mesh or slatted floor over a concrete pit, where the manure is scraped into a waste storage facility, or an operation using dry bedding on a solid floor. In this case the manure and bedding are not combined with water for flushing to a storage structure.

Outdoor Advertising: See the definitions of "Advertising Structure" and "Sign".

Outdoor Storage: The storage of any material for a period greater than 24 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

Overlay District: A district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change.

Owner: One or more persons, including corporations, who have title to the property, structure in question.



P

Paintball Course: An area of land typically designed around hillsides, trees, waterways, rocks, etc. for the purpose of allowing organized combat-like games using paintballs and the different mechanized equipment to fire the paintballs as ammunition. These facilities shall also include any buildings or structures for providing shelter to the participants.

Parcel: A lot or a contiguous group of lots in single ownership or under single control that may be considered as a unit for purposes of development.

Park: Any public or private land available for recreational, educational, cultural, or aesthetic use. For the purposes of establishing a setback for a Livestock Feeding Operation, a Wildlife Management Area (WMA) is not considered a park.

Parking Area, Private: An area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

Parking Area, Public: An area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

Parking Lot: Any open area used for the storage of motor vehicles which contains space rented to the general public.

Parking Space, Automobile: An area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than eight and one-half feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

Parkway: An arterial highway with full or partial control of access and located within a park or ribbon of park like development.

Pasture: An area where crops, vegetative forage growth, post-harvest residues are sustained for the purpose of grazing animals in that area.

Paunch Manure: Partially digested material taken from an animal at the time of slaughter.

Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by these Regulations will be completed in compliance with these regulations as well as with approved plans and specifications of a development (Also, see "Maintenance Guarantee")

Permanent Foundation: A base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a structure is permanently attached.

Permanently Attached: Connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

Permit: A document issued by Custer County, including a Conditional Use Permit, authorizing the applicant to undertake certain activities.

Permitted Use: Any land use allowed without condition within a zoning district.

Person: An individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Custer County, Nebraska.

Petroleum Distribution Pipeline: Transportation facilities for the conveyance of: crude petroleum, refined petroleum products such as gasoline and fuel; natural gas; mixed, manufactured, or liquified petroleum gas; or the pipeline transmission of other commodities. Also includes pipeline surface and terminal facilities, including pumping stations, bulk storage, surge and storage tanks.

Pipeline: A pipe used to transport, transmit, convey, or store liquid or gas for hire in Nebraska interstate commerce other than a major oil pipeline, a gathering pipeline, distribution pipeline, or service line.

Pipeline, Major Oil: A pipeline which is larger than six inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products or wastes, including crude oil or any fraction of crude oil, within, through, or across Custer County.

Pit System: Has a concrete floor and masonry or concrete side walls, is constructed 2–6 feet below the ground. The animal cages, if used, are then built 8 feet or more above the pit floor. Because the pit is built below ground level, care must be taken to ensure that surface and groundwater are not contaminated. Foundation drains and external grading to direct surface water away help to keep manure dry, so that natural composting might occur. The most important benefit of the deep pit is that manure can be stored for several months or more.

Pit (Shallow): The most frequently used pit system. The concrete pit is 4–8 inches deep and is located 3–6 feet below the main floor. The manure and other waste are mechanically scraped or flushed out with water to a storage area, or directly loaded into a spreader for direct field application.

Planned Unit Development: A zoning district providing flexible land development when planned and designed under the provisions of these regulations as a unit containing one or more land uses.

Planning Commission: The Custer County Planning Commission as established in accordance with Section §23-114 R.R.S. Neb. (1943) and with the powers and authority therein granted.

Plat: A map showing the location, boundaries, and legal description of individual properties.

Point Source: Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fixture, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged.

Policy: A statement or document of the county, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

Pollutant: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Portable Temporary Classroom: A temporary building, either stick-built or pre-manufactured (built off-site), installed on the grounds of a state approved school to provide additional classroom space where there is a shortage of capacity.

Portland Cement Concrete: An aggregate with cement binder, characterized by gray\white color. Relatively smooth, uniform concrete surface having few exposed aggregates. Each country has its own standard for Portland cement. The United States, including Custer County, uses the specification prepared by the American Society for Testing and Materials – ASTM C-150 Standard Specification for Portland cement.

Preliminary Plat: The preliminary drawings and information which indicate the proposed layout of a subdivision, as described and defined in the subdivision regulations.

Premises: A tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

Preschool: An early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

Prevailing Winds: Prevailing winds in Custer County are from the north, and northwest in winter months and south in summer months. Prevailing wind directions, using magnetic north as determined through use of a common compass, are defined as:

North - from forty-five degrees west of north to forty-five degrees east of north

South - from forty-five degrees west of south to forty-five degrees east of south

East - from forty-five degrees east of north to forty-five degrees east of south

West - from forty-five degrees west of north to forty-five degrees west of south

Private Club: A non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. A private club may include the serving of food and meals on said premises while providing adequate dining room space and kitchen facilities. A private club may include the sale of alcoholic beverages to members and their guests provided the activity is secondary and incidental to the promotion of some common objective by the organization; and, said sale of alcoholic beverages is in complete compliance with all municipal, state and federal laws.

Private Well: A well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.

Prohibited Use: Any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

Professional Office: Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.

Promotional Device: Any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping, shall be considered as a promotional device.

Public Conservation Lands: Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this Regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

Public Improvement: Any drainage facility, roadway, street, sidewalk, sewer or water facility or other improvement for which the government body may ultimately assume the responsibility of maintenance and operation.

Public Use Area: That portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time. Facilities include, but are not limited to, picnic grounds, campgrounds, lodges, shelter houses, playground equipment, lakes as listed in Table 2 at the end of this chapter, and swimming beaches.

Public and Private Utility: Any governmental entity or business which furnishes to the general public telephone service, electricity, natural gas, water, sewer and other services so affecting the general public interest as to be subject to the supervision or regulation of a State agency.

Public Water Supply: A water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

Pullet: Young female chicken between 10 and 32 weeks of age, usually this term denotes egg type birds.

Q



Quarry: See Mining and Mineral Extraction Site

Quarter Section: That portion of land approximately equal to 1/4 of a section of land (160 acres)

Quarter-Quarter Section: That portion of land approximately equal to 1/16 of a section of land (40 acres)

R

Racetrack: A measured course where machines (usually automobiles), dogs, horses or other animal, are entered in competition against one another or against time.

Railroad: The land use including the right-of-way (R.O.W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses or car yards.

Rangeland: An open region over which livestock may roam and feed. The plant cover is principally native grasses, grass like plants, and shrubs. It includes natural grasslands, savannahs, certain shrubs and grass like lands, most deserts, tundra, alpine communities, coastal marshlands, and wet meadows. It also includes lands that are re-vegetated naturally or artificially and are managed like native vegetation.

Raw Materials Storage Area: Includes but is not limited to feed silos, silage bunkers, and bedding materials.

Recharge Areas: The places where rain and snow melt percolate into the ground, refilling the groundwater aquifers.

Recharge Rate: The time that is required to add to or replenish water in an aquifer or water table.

Recreation, Active: Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites or fields.

Recreation Equipment: Play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures including tree houses, swimming pools, playhouses, or sheds utilized for storage of equipment. Also see ("Major Recreational Equipment")

Recreation, Passive: Leisure-time activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, chess, checkers and similar table games. This includes open space for nature, and areas for nature walks and observation.

Recreational Facility: Facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, racetracks (including all motor-powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

Recreational Vehicle (RV): A vehicular unit primarily designed as a temporary living quarter for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

Recreational Vehicle And Boat Repair Facility: A business/facility solely for the repair and servicing of Recreational Vehicles and Boats, to include the sale of related parts and supplies.

Recreational Vehicle (RV) Park Complex: A tract of land under single ownership developed for recreational use. The complex shall accommodate a minimum of seventy-five or more recreational vehicle sites established and maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. Complex may include the following services; restaurant, liquor sales, marina, RV and boat repair, fuel sales and convenience store.

Recycling Facility: A facility other than a junkyard in which recoverable resources such as paper, glass, metal cans, and plastics, are collected, bundled, stored, flattened, crushed, or reduced in some manner within a completely enclosed building, in preparation for shipment to others for reuse.

Recycling Collection Point: A drop-off point for temporary storage of recoverable resources such as paper, glass, cans, and plastics, and where no processing of such items takes place.

Recycling Plant: A facility other than a junkyard where recoverable resources such as paper products, glass, metal cans and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be reused for production.

Remodeling: Any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

Research Laboratory or Center: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, and not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residence: See Dwelling Unit.

Restaurant: A public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

Restaurant, Drive-In: An establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.

Retail Trade: Uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

Reverse Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.

Rezoning: An amendment to or change in the zoning regulations either to the text or map or both.

Rezoning, Piecemeal: The zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, road, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other similar use.

Riparian Buffer: A strip of vegetation planted along the bank of a body of water which slows the rate of flow of runoff from adjoining uplands, causing sediment and other materials to fall out onto the land before the runoff enters and pollutes the body of water.

Road, Improved: A street, county road, and/or State/Federal Highway that are graded, surfaced and maintained on a regular basis with an approved granular material or hard-surfacing material.

Road, Private: A way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also, see Right-of-Way and Street.)

Road, Public: All public right-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)

Road, Unimproved: An officially declared minimum maintenance road as well as any road that is not generally graded, crowned or contain a surfacing material of either a granular or hard-surfaced nature.

Roadside Stand: A temporary structure or vehicle used primarily for the sale of farm products produced on the premises or adjoining premises. Others basic crafts and drinks may be sold by the same vendor on-site.

Rodeo Grounds: A tract of land used for the public performance featuring ordinary rodeo contests. These grounds are often used for other public benefits and performances when sponsored by clubs and organizations of the community.

Room: An un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

Rooming House: Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire, with or without meals.

Runoff: That part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface-water. It can carry pollutants from the air and land into receiving waters.

S



Aerial of a Sand and Gravel Operation

Sand or Gravel Pit: Land used for the extraction of sand and/or gravel for public and/or commercial use.

Sandhills: The Sandhills is a region of mixed-grass prairie on grass-stabilized sand dunes in north-central Nebraska, covering just over one quarter of the state. The dunes were designated a National Natural Landmark in 1984. (Wikipedia)

Sanitary Landfill: A type of operation in which garbage and refuse, or garbage, or refuse is deposited by a plan on a specified portion of land, and is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of garbage and/or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished land fill.

Satellite Dish Antenna: 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.

Scenic Easement: An easement for the purpose of limiting land development in order to preserve a view or scenic area.

School, Day, Pre-, or Nursery: A school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.

School, Elementary, Junior High, or High: Public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

School, Private: An institution conducting regular academic instruction at kindergarten, elementary or secondary levels operated by a non-governmental organization in conformance with the Nebraska Statutes.

School, Trade: An institution offering extensive instruction in the technical, commercial, or trade skills and operated by a non-governmental organization.

Screening: A method by which a view of one site from another adjacent site is shielded, concealed, or hidden during all seasons of the year and may include fences, walls, hedges, beams, or other features. (Also, see Buffer.)



Example of Sandhills

Source: [Nebraska Sandhills NE97 Hooker County 3 - Sandhills \(Nebraska\) - Wikipedia](#)



Aerial view of a Sanitary Landfill

Sediment: Solid material that is in suspension, is being transported, or has been moved from its original location by air, water, gravity or ice.

Sedimentation: The addition of soils to lakes, a part of the natural aging process, making lakes shallower. The process can be greatly accelerated by human activities.

Self-Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

Self-Service Storage Facility: A building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

Semi-solid Manure: Contains little bedding and usually no extra water added. In most cases, little drying occurs before handling. During wet weather the manure scraped from open lots can also be semi-solid in nature.

Separate Ownership: Ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

Service Stations: Buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

Setback Line, Front Yard: The line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established. (See illustration under "Yards".)

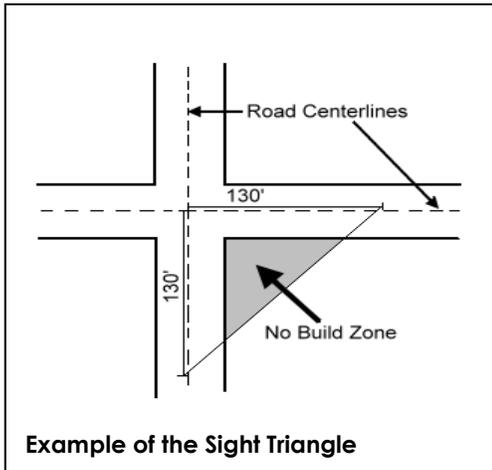
Setback Line, Rear Yard or Side Yard: The line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district. (See illustration under "Yards".)

Shooting Range, Outdoor: The use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as turkey shoots. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

Shopping Center: A grouping of retail business and service uses on a single site with common parking facilities.

Sight Triangle: An area at a street or road intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.

Silo: A structure or storage area to confine livestock feed.



Similar Use: The use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

Site, Septic: The area bounded by the dimensions required for the proper location of the septic tank system.

Sketch Plat: A sketch preparatory to preparation of the preliminary plat to enable a subdivider to reach general agreement with the Planning Commission at the earliest possible time.

Sludge: Solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

Soil Excavation, Commercial: The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated to be used on a private project for a fee.

Soil Excavation, Public: The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated by a governmental unit for a governmental purpose.

Solar Units: A device designed and used for the purpose of collecting solar energy and utilizing the energy to heat space or water, or for some other use, within a structure.

Solid Manure: Combination of urine, bedding, and feces with little or no extra water added. It is usually found in loafing barns, calving pens, and open lots with good drainage.

Solid Waste: Waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an up-zoning to a more intensive use classification.

Stable, Private: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

Stable, Riding: A structure in which horses or ponies, used elusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.

State: The State of Nebraska.

Stockpiling: The accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for the storage or holding for a period of not more than one year.

Storage: The keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.

Storage Containers: A standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for or capable of being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

Story: A space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

Story, One-Half: The same as "Half-Story".

Street: A public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in these regulations.

Street Arterial: A street designed with the primary function of efficient movement of through traffic between and around areas of a city, village, or county with controlled access to abutting property.

Street Collection: A street or highway that is intended to carry traffic from minor street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

Street, Curvilinear: Local streets that deviate from straight alignment and change direction without sharp corners or bends.

Street, Frontage Access: A street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties and being separated from the major street by a dividing strip.

Street, Local: A street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.

Street, Looped: A continuous local street without intersecting streets and having its two outlets connected to the same street.

Street, Major: A street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.

Streets, Private: An open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."

Street, Side: Street bounding a corner or reversed corner lot, and which extends in the same general direction as the line determining the depth of the lot.

Street Centerline: The centerline of a street right-of-way as established by official surveys.

Street Line: A dividing line between a lot, tract, or parcel of land and the contiguous street.

Structure: Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

Structure, Advertising: (see "Advertising Structure")

Structure, Temporary: A structure without any foundation or footing and removed when the designated time period for which the temporary structure was erected has ceased.

Structural, Alteration: Any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

Subdivision: The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or another instrument.

Subdivision Regulations: The official Subdivision Regulations of the County, together with all amendments thereto, adopted pursuant to Nebraska State Statutes.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either,

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or life safety codes or regulations.

Substations: Any electrical facility to convert electricity to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

Surface Water Class A -- Primary Contact Recreation: Surface waters which are used, or have a high potential to be used, for primary contact recreational activities. Primary contact recreation includes activities where the body may come into prolonged or intimate contact with the water, such that water may be accidentally ingested and sensitive body organs (e.g. eyes, ears, nose, etc.) may be exposed. Although the water may be accidentally ingested, it is not intended as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.

Surface Waters: Waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

T

Tavern: (See "Bar")

Taxidermy Service: The business of preparing, stuffing, and mounting the skins of animals.

Temporary Use: A use intended for limited duration to be located in a zoning district permitting such use.

Tower, Communication: A structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see "Antenna")

Tract: A plot or parcel of land shown by survey, other than a lot in a subdivision which is recorded in the Office of the Register of Deeds.

Trailer: A vehicle standing on wheels or on rigid supports which is used for transporting boats, cargo or property.

Transfer Station: A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

Transient: A person who is receiving accommodations for a price, with or without meals, for a period of not more than 180 continuous days in any one year.

Trailer, Automobile: A vehicle without motor power designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

Transitional Housing: A project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living. The housing is short-term, typically less than 24 months. In addition to providing safe housing for those in need, other services are available to help participants become self-sufficient.

Transitional Use: A permitted use or structure that, by nature or level and scale or activity, acts as a transition or buffer between two or more incompatible uses.

Transmission Line: The electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Transmissivity: The ability of an aquifer to yield a certain output of groundwater over a set period of time.

Tree Cover: The area directly beneath the crown and within the dripline of a tree.

Truck Repair: The repair, including major mechanical and body work, straightening of body parts, painting, welding or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one ton and buses but excluding pickups and other vehicles designed for the transport of under eight passengers.

Truck Terminal: A building or an area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored for a short time period.

U

Upzoning: A change in zoning classification of land to a more intensive or more restrictive district such as from residential district to commercial district or from a single-family residential district to a multiple family residential district.

Usable Open Space: That part of the ground area of a lot or development devoted to outdoor recreational space, but excluding private or public roadways, accessory off-street parking and loading and other uses and structures.

Use: Any purpose for which a structure or tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

Use, Best: The recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes the public health, safety and general welfare.

Use, Highest: An appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

Use, Principal: The main use of land or structure, as distinguished from an accessory use. (Also, see "Building, Principal")

Use Regulations: Regulations identifying permitted and exceptional uses, accessory uses, use limitations and use conditions.

Used Materials Yard: Any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yard" or "Automobile Wrecking Yards".

Utility Easement: (see "Easement")

V

Variance: A relaxation of the literal terms of the zoning regulations where applicable to avoid undue hardship to a property owner and where the public interest will be served.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

Vehicle, Motor: (See "Motor Vehicle")

Visual Obstruction: Any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

W

Warehouse: A building used primarily for the storage of goods and materials.

Warehouse and Distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Waste Handling System: Any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems.

1. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
2. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
3. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
4. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.
5. **Human disposal systems** shall comply with the requirements of Title 124 at the Nebraska Department of Environmental and Energy or subsequent agencies.

Waste, Industrial: Any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

Wastewater Lagoon: (See Lagoon.)

Waste Utilization Area: Land used or reserved for the application of animal wastes from a CAFO.

Watershed: The surrounding land area that drains into a lake, river or river system.



An example of the Waters of the State

Waters of the State: The waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

Water System, Regional: A water system which has been constructed for the expressed purpose of supplying potable water to densely populated areas. A regional system shall be an extension of an existing municipal system and shall not be dependent upon individual wellfields or other water source other than those serving the municipality.

Water District, Rural: shall mean a water district, as defined by the State of Nebraska, which has been constructed for the expressed purpose of supplying potable water to densely populated areas and/or rural residents. A rural system shall include independent wellfields, pressurization systems, and storage.

Water Table: The upper limit of the portion of the soil that is completely saturated with water. The seasonal high-water table is the highest level to which the soil is saturated.

Wellfield: A tract of land that contains a number of wells supplying water.

Wetland: An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

Wholesale Establishment: An establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

Wholesale Trade: A use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

X

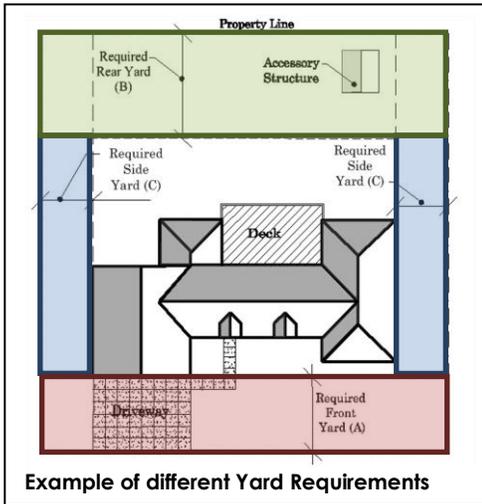
Xeriscaping: Landscaping characterized by the use of vegetation that is drought-tolerant or a low water use in character.



Example of Xeriscaping
Source: Google Images

Y

Yard: Open space on a lot which is unoccupied and unobstructed from the ground to the sky, except for permitted obstructions.



Yard, Front: A yard extending along the full length of the front lot line from said line to a line drawn parallel to it equal to the depth of the required front yard. On corner lots, the Zoning Administrator shall determine the front yard requirement subject to the limitation that at least one front yard shall have the required front yard depth and the other shall have no less than one-half of the required front yard depth.

Yard, Rear: A yard extending from the rear lot line to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Yard, Side: A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of the required minimum side yard, but excluding any area encompassed within a front yard or rear yard.

Z

Zoning Administrator: Person or persons authorized and empowered by the county to administer and enforce the requirements of these Regulations.

Zoning District: The same as "District".

Zoning District, Change of: The legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the County.

Zoning Board of Adjustment: The Board established in accordance with sections 23-168.01 through 23-168.04 R.R.S. Neb. (1943).

Zoning Regulations: The official Regulations as approved and adopted in the Zoning Regulations of the county of Custer, Nebraska, together with all amendments thereto, adopted pursuant to sections 23-114 through 23-114.05 R.R.S. Neb. (1943).

ARTICLE 3: GENERAL REGULATIONS**Section 3.01 General**

The zoning regulations set forth by this Resolution within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

In addition to all other requirements set forth in these regulations, all structures, including residences and conditional use projects must comply with all existing federal, state and Custer County Floodplain Management Plans. A valid floodplain application must be completed by the applicant and approved by the County's Floodplain administrator prior to the issuance of any zoning permit.

Section 3.02 Zoning Affects Every Building and Use

With the exception of the provisions of Sections 3.04 through 3.08 of this Resolution regarding non-conforming uses and structures, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with the regulations herein specified for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein required, or be in any other manner contrary to the provisions of this Resolution.

Section 3.03 Disclaimer of Building and Other Codes and County Liability

This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or other code which would regulate the design and construction of any building or structure within the jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements of this Resolution are solely for purpose of assuring compliance with the land usage regulations set forth in this Resolution for the purposes described in Section 1.02 of this Resolution. Custer County assumes no liability and shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit, certificate of compliance or other form of land usage approval may have been issued nor shall Custer County assume any liability for any noncompliance with any Federal, State or other code, regulation or requirement.

Section 3.04 Principal Uses

The principal uses of land or building as hereinafter listed in each Zoning District shall be permitted in the Districts indicated under the provisions of this Regulation. No land or buildings shall be devoted to any use other than the use permitted hereinafter in the Zoning District in which the land or building shall be located with the following exceptions:

1. Use lawfully established on the effective date of this Regulation and rendered non-conforming by the provisions thereof shall be subject to the provisions hereinafter set forth.
2. Conditional uses allowed in accordance with procedures or provisions set forth herein.

Section 3.05 Conditional Uses

The development of this provision is based upon the Zoning Districts, within which Districts, the use of land and buildings in relation to the land are substantially uniform. It is recognized; however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular Zoning District, without consideration, in each case, of the impact or influence of those uses upon neighboring land. Such conditional uses fall into two categories:

1. Uses publicly operated or traditionally affected with a public interest.
2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their influence or impact on neighboring property.

Section 3.06 Accessory Uses

Unless otherwise prohibited or restricted, a permitted use also allows uses, buildings, and structures incidental thereto if located on the same site or building plot.

Section 3.07 Nonconforming, General Intent

It is the intent of this resolution to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this resolution to be incompatible with permitted uses

in the districts involved. It is further the intent of this resolution that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

Section 3.08 Nonconforming Lots of Record

1. In any district where buildings and structures are permitted, notwithstanding limitations imposed by other provisions of this Resolution, use and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Resolution. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district; provided:
 - a. The yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located;
 - b. Such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and
 - c. Has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous Resolution would have prohibited creation of such lot.
2. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

Section 3.09 Nonconforming Structures

1. *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
2. *Enlargement, Repair, Alterations:* Any such structure described in Section 3.09 (1) may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
3. *Damage or Destruction:* In the event that any structure described in Section 3.09 (1) is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value:
 - A. Such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located, unless otherwise provided herein; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 3.06, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
 - B. When a building, the use of which does not conform to the provisions of the Custer County Zoning Regulation but is allowed to continue under said regulations per Section 3.06 (1), is damaged by fire, explosion, act of God, or the public enemy said building may be rebuilt within 24 months to its previous size, animal units and footprint. Said destruction shall not be an intentional act by the property owner or resident. Said building may be rebuilt within 500 feet of its previous area as long as it does not cause a violation to the Custer County Zoning Regulations that the original building was not in violation of. Notwithstanding, an extension to the 12 months may be granted by the Planning Commission not to exceed an additional 12 months.
4. *Moving:* No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 3.10 Nonconforming Uses

1. *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this resolution, lawful use of land exists that is made no longer permissible under the terms of this resolution as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this resolution;
 - B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this resolution; and
 - C. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this resolution for the district in which such land is located.
2. *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this resolution, that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
 - A. No existing structure devoted to a use not permitted by this resolution in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
 - B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this resolution, but no such use shall be extended to occupy any land outside such building;
 - C. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission through the conditional use process either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguard in accord with the provisions of this resolution;
 - D. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
 - E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located; and
 - F. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 3.11 Repairs and Maintenance

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic area of the building as it existed at the time of passage of amendment of this Resolution shall not be increased.
2. Nothing in this resolution shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 3.12 Uses Under Conditional Use Permit Not Nonconforming Uses

Any use for which a Conditional Use Permit has been issued as provided in this Resolution shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

Section 3.13 Interpretation

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, moral, prosperity, and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

Section 3.14 Scope of Regulations

No building, structure, or land within the jurisdiction of Custer County shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with the provisions of this Resolution herein specified for the district in which it is located and except after receiving a zoning permit from the Custer County Zoning Administrator and:

1. Every building hereafter erected shall be located on a lot of record.
2. Only one principal building will be permitted on one lot of record, unless otherwise allowed in this regulation.
3. After a county/township road has been classified as a **minimum maintenance** road or is an unimproved road, no zoning permits for livestock facilities, residential dwellings, mobile home, or manufactured home shall be issued on any property adjoining such classified road, unless an agreement is made between the applicant/county board/township board.

Section 3.15 Zoning Standards

No nonconforming building, structure, or part thereof shall hereafter be erected or altered if it does not meet the requirements described in section 3.09 and 3.10, unless a variance is granted:

1. To reduce any required yard setbacks
2. To exceed the height or bulk
3. To occupy a greater percentage of lot area
4. To erect or place any building, or structure, or part thereof into any zoning district to be used or occupied
5. To relocate or transport any building, structure, or part thereof into any zoning district to be used or occupied
6. To accommodate or house a greater number of families

No part of a yard or other open space required in connection with any building, occupancy, or use for the purpose of complying with these regulations shall be included in the calculations to determine the size of area necessary to accommodate the off-street parking and loading space requirements.

Section 3.16 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the County at least one time 10 days prior to such hearing.

Section 3.17 Right-of-Way Splits and Minimum Lot Requirements

In circumstances where a parcel of ground owned by one individual or party was split into two or more parcels by action taken by the NDOT, the township or Custer County and one or more of the resulting lots has been made a non-conforming tract(s) for development, the required minimum lot size may be less than required and may be approved administratively. However, in all circumstances, the minimum setback requirements shall be observed. In addition, said tract(s) was conforming prior to said action.

Section 3.18 Lot

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case, shall there be more than one principal building on a lot unless otherwise provided.
2. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances provided the Planning Commission approves the application through a Conditional Use Permit.
 - A. Institutional buildings,
 - B. Multiple residences attached to a farming or ranching operation.
 - C. Public or semi-public buildings,
 - D. Multiple-family dwellings,
 - E. Commercial or industrial buildings,
 - F. Housing for the Elderly

Section 3.19 Reductions in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of these Regulations are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose as discussed in Section 3.17.

Section 3.20 Yard Requirements

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with these regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

Section 3.21 Drainage

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the County or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 3.22 Allowable Obstructions in Required Yards

The following shall not be considered obstructions when located in the required yards:

1. All Yards:
 - A. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley;
 - B. Chimneys projecting 24 inches or less into the yard;
 - C. Recreational and laundry-drying equipment;
 - D. Approved freestanding signs;
 - E. Arbors and trellises;
 - F. Flag poles;
 - G. Window unit air conditioners projecting not more than 18 inches into the required yard;
 - H. Fences or walls subject to applicable height restrictions are allowed in all yards; and
 - I. Egress windows and bulkhead enclosure.
2. Front Yards:
 - A. Bay windows projecting three feet or less into the yard are allowed;
 - B. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area; and
 - C. Awnings and canopies provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area.
3. Rear and Side Yards:
 - A. Open off-street parking spaces;
 - B. Balconies or outside elements of central air conditioning systems; and
 - C. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch.
4. Double Frontage Lots:
 - A. The required front yard shall be provided on each street.
5. Building Groupings:
 - A. For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 3.23 Occupancy of Basements and Cellars

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

Section 3.24 Well Fields

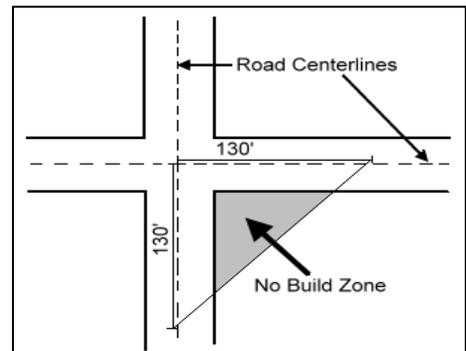
No development of any kind shall be located closer than 1,000 feet to any wellhead location as defined by the NHHS.

Section 3.25 Allowed Modifications of Height Regulations

1. The height limitations of this Regulation shall not apply to:
 - Air-Pollution Prevention Devices
 - Barns, silos and other ag. structures
 - Belfries
 - Chimneys
 - Church Spires
 - Conveyors
 - Cooling Towers and Ventilators
 - Cupolas
 - Derricks
 - Domes
 - Elevator Bulkheads
 - Grain Elevators
 - Masts and Aerials
 - Non-commercial wind turbines
 - Ornamental Towers and Spires
 - Observation Towers
 - Public Monuments
 - Smokestacks
 - Stage Towers or Scenery Lots
 - Tanks
 - Water Towers and Standpipes
 - Wind Energy Conversion System-Commercial / Utility grade
 - Commercial Elevator Penthouses
 - Fire Towers
 - Flag Poles
2. When permitted in district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet.
3. Any necessary mechanical apparatus usually required to be placed above the roof level and not intended for human occupancy may be erected to any safe height not in conflict with any other existing federal, state or local regulations, or any other County regulations. These structures shall require permits as required by the County.

Section 3.26 Corner Lots or County Road Intersections

On a corner lot or the intersection of two county roads or a county road and a Federal or State Highway in any district, nothing shall be erected, planted or allowed to grow in such a manner as to materially impede vision between a height of three feet and 10 feet above the grades of the centerline of the intersecting street or road, from the point of intersection 130 feet in each direction measured along the centerline of the streets or roads. This provision shall not apply to Irrigation Accessory Equipment. This does not apply to annually grown crops such as corn and soybeans.



Section 3.27 Building Setback

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest exterior wall of the existing or proposed structure, or
2. Where the centerline of a road is identified, said setback shall be from the centerline of the road to a point horizontally located at the required minimum distance.
3. All new non-farm residences shall locate no less than the corresponding distances provided in Section 7.09 from an Existing Agricultural Operation or LFO with more than 301 animal units located in any affected adjacent Zoning District.

Section 3.28 Temporary Structures

Temporary structures incidental to construction work, but only for the period of such work, are allowed in all districts. This does not include campers.

The following temporary uses of land are permitted subject to the specific regulations and time limits which follow, and to the other applicable regulations of the district in which the use is allowed:

1. Christmas tree sales in any district except a residentially zoned area for a period not to exceed 60 days; display of such trees need not comply with the yard and setback requirements of these Regulations provided that no tree shall be displayed within 30 feet of the intersection of the curb line of any two streets.
2. Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project, and to continue only during the duration of such project.
 - A. Such use shall continue only during the duration of the project and additionally that the contractor's office and equipment sheds are removed within 30 days after the project is complete.
3. Real estate offices (containing no sleeping or cooking accommodations) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
 - A. Such use shall continue only during the duration of the project and additionally that the real estate offices are removed within 30 days after the project is complete.
4. Seasonal sale of farm produce (including Christmas trees) grown on the premises in districts where permitted, to continue for not more than four months per year; structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
5. Promotional activities of retail merchants involving the display only of goods and merchandise that are for sale within the principal structure conducted outside of such structure for a period of not more than four days in any three-month period provided that:
 - A. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the County.
 - B. No required off-street parking or loading area will be utilized for such display, storage or dispensing.
 - C. No food or drink shall be displayed outside the building except in accordance with standards and prior written approval of Nebraska Health and Human Services and the Health Inspector
 - D. These provisions shall in no way be deemed to authorize the outdoor display of automobiles, trailers and equipment; rental or the sale of used furniture, appliances, plumbing, housewares, building materials or similar display or sale in any business district except as otherwise permitted by these Regulations.
6. Temporary occupancy, of a mobile home for residential purposes may be allowed during the actual construction or reconstruction of a dwelling.

Section 3.29 Screening

1. Junkyards (salvage or wrecking yards) shall be screened with an eight-foot-high opaque, solid fence, brick wall, or earth berm so as to provide visual and aural separation between such use and adjacent areas.
2. All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas.
3. All holding, or incineration areas of dead livestock shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas. No storage or incineration of dead livestock shall be located in road right-of-way or on any other land not owned or leased by the livestock operation.

Section 3.30 Fences, Walls, Hedges and Trees

Nothing in this resolution shall be deemed to prohibit the erection and maintenance of any fence in connection with agricultural uses or any retaining wall in association with any use in any zoning district and any ornamental fence, wall or structural screen fence shall be permitted in any yard. Nothing in this Resolution shall be deemed to prohibit the installation of living screens consisting of trees, shrubs or other plant material.

Section 3.31 Public Utility Facilities Lot Size Requirements

Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

1. Electric and telephone substations and distribution systems, including transformer stations.
2. Gas regulator stations.
3. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas, or water.

4. Broadcasting and microwave transmitting or relay stations and towers, except as may be required to meet setback requirements.
5. Water tower or standpipes.
6. Pumping stations.

Section 3.32 Irrigation Equipment Setbacks Requirements

The setback for irrigation wells, affixed irrigation accessory equipment, irrigation re-use pits and livestock pollution control facilities (the road dam structure being excluded) shall be exempt from any setback requirements.

Section 3.33 Secondary Dwellings on an Agricultural Operation

More than one dwelling may be permitted by conditional use on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s).

Section 3.34 Prohibited Uses

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Resolution is amended to include a given use.

Section 3.35 Fees

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted by the County Board of Supervisors by separate Resolution.

ARTICLE 4: ZONING DISTRICTS

Section 4.01 Establishment of Districts

1. Purpose: For the purpose of these Regulations, the jurisdictional area defined in Section 1.03 is hereby divided into the following districts, the respective symbol for each district being set forth opposite its title:

AG-G	General Agricultural District
AG-T	Transitional Agricultural District
AH	Airport Hazard Area District
VAD	Village Area Development
WP	Wellhead Protection Overlay District
2. Designation: Each such district may be designated on the Zoning Map, in the Use and Bulk Tables and elsewhere in the text of these Regulations by symbol only.

Section 4.02 Provision for Official Zoning Map

1. The county is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4.02 of Resolution No. ***** of "The County of Custer, Nebraska", together with the date of the adoption of this Resolution. If, in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Board of Supervisors".
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Board of Supervisors may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted ***** , Resolution No. ***** (1) of "The County of Custer, Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 4.03 Zoning Map

1. General: The areas and boundaries of such districts are hereby established as shown on the Official Zoning Map, and said Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these Regulations. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the County Clerk and bear the seal of the County. The Official Zoning Map shall be the final authority as to the current zoning status of land, water areas, buildings and structures.
2. Zoning Map Changes. If, in accordance with the provisions of the Regulations changes are made in the district boundaries or on other matter portrayed on the Official Zoning Map, such changes shall be entered promptly after the amendment has been approved by the legislative body with an entry showing the nature of the change, the date, the signature of the Chairman of the County Board of Supervisors and the attestation by the County Clerk. No such change shall become effective until entry is made on the Map.

Section 4.04 Rules for Interpretation of District Boundaries on the Official Zoning Map

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

ARTICLE 4: ZONING DISTRICTS

3. Boundaries indicated as approximately following City limits or the extraterritorial jurisdiction shall be construed as following such City limits or the extraterritorial jurisdiction;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shore line;
6. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
7. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) to (7) above, the Board of Adjustment shall interpret the district boundaries;
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Resolution, The Board of Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
10. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.
11. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

Section 4.05 Land Use Categories Matrix Explanation

The Matrix found in Section 4.07 of this Resolution is a listing of uses that may be allowed within the variety of Zoning Districts.

1. The different uses are grouped into specific "Land Use Categories".
2. The "Land Use Categories" are listed in each of the Zoning Districts in lieu of specific uses. It is important to note, if a "Land Use Category" is listed within a specific Zoning District, it DOES NOT indicate every use in the "Land Use Category" is allowed within the specific District.

The different uses within Section 4.07 are Permitted (P), Allowed upon approval of a Conditional Use Permit (C), Temporary (T) or not permitted (-).

In order to determine if a specific use is allowed in a Zoning District, the following steps need to be followed:

1. Find the Use Type that matches your application
2. Look across the table and determine which of the Zoning Districts it may be allowed.
3. Determine any special criteria for the use(s) by referring to the specific District.
4. Determine where the specific Zoning Districts are by reviewing the Official Zoning Map.
5. Determine the necessary procedures to receive required permits after the land or property is the control of the applicant.
6. When doubt, please confer with Planning staff.

The Table in Section 4.07 also lists Accessory Uses which may be allowed or not allowed in any specific Zoning District. The Accessory Use listing can be found at the end of the Table.

Section 4.06 - Annexation Rule

Annexation of land to any incorporated municipality within or adjoining the County of Custer, Nebraska shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any such municipality shall remove such land from the jurisdiction of this Resolution.

Section 4.07 Land Use Categories/Matrix

Use Category	Use Type				Additional Requirements
		AG-G	AG-T	VAD	
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "- " = Not Permitted				
Agriculture and Horticulture Uses	Agricultural buildings general agricultural or storage uses	P	P	P	
	Agricultural operations	E	E	E	
	Application of livestock manure/wastes products	E	E	-	
	Application of waste products from municipalities/industrial plants	C	C	-	
	Class A and B intensive/confined feeding uses	P	-	-	See Section 7.08
	Expansion of Class A and B intensive/confined feeding uses	P	-	-	See Section 7.08
	Class C intensive/confined feeding uses	C	-	-	See Section 7.08
	Class D and E intensive/confined feeding uses	C	-	-	See Section 7.08
	Portable agricultural sheds/buildings on skids	E	E	E	
	Community Gardens	E	E	E	
	Composting of dead livestock from operations WHEN part of an approved waste management plan	E	P	-	See Section 7.08
	Composting of dead livestock from operations within the County NOT part of an approved waste management plan	P	C	-	See Section 7.08
	Composting of sludge or other by-products from municipalities and/or industrial operations	C	C	-	
	Cover crops not including industrial hemp	E	E	E	
	Crop Production including industrial hemp	E	E	E	
	Commercial Greenhouse	P	P	P	
	Sale Barn	C	C	C	
	Stockpiling of dead livestock from operations within the County, WHEN part of an approved waste management plan	P	P	-	See Section 7.08
	Stockpiling of sludge or other by-products from municipalities and/or industrial operations	C	C	-	
	Truck farming	E	E	E	
	Horses and other non-commercial livestock on residential lot	E	E	E	
	Equestrian centers/stables	C	C	C	
Wineries	C	C	C		
Distillation of grains for human consumption	C	C	-		

ARTICLE 4: ZONING DISTRICTS

Use Category	Use Type				Additional Requirements
		AG-G	AG-T	VAD	
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted				
Agricultural Sales and Service	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for commercial use.	C	C	-	
	Agricultural Feed Mixing and Blending	C	C	C	
	Agricultural implement & vehicle sales and service	C	C	C	
	Agricultural Cooperative Production/Distribution Facility	C	C	C	
	Agricultural research farm	P	P	-	
	Agricultural processing	C	C	C	
	Seed sales and grain handling operations	E	E	E	
	Grain storage/Grain Storage System – personal	P	P	-	
	Grain storage/Grain Storage System – commercial	C	C	-	
Residential Living	Live-work unit	P	-	P	Article 3
	Multi-family dwelling		C	P	Article 3
	Condominiums		C	P	Article 3
	Mobile Home Dwelling	P	P	P	Article 3
	Mobile Home Dwelling - workers quarters	C	C	P	Article 3
	Seasonal dwelling or cabins	P	P	P	Article 3
	Short-term Rentals	P	P	P	Section 7.19
	Single-family attached dwelling	-	-	P	
	Specialty dwelling, i.e. earthen and Quonset	P	P	P	
	Single-Family dwelling	P	P	P	Article 3
	Two-family/Duplex	-	-	P	
	Multi-family dwellings for workers quarters	C	C	P	
Dormitory style housing	-	-	-		
Residential/ Commercial Institutions	Adult care homes	C	C	C	
	Assisted Living Facilities	C	C	C	
	Bed and Breakfast	C	C	C	See Section 7.12
	Convents	C	C	C	
	Emergency Residential Shelters	C	C	C	
	Group Care Home	C	C	C	
	Group Home	C	C	C	
	Hospice	C	C	C	
	Life Care Facility	C	C	C	
	Monasteries	C	C	C	
	Nursing Homes	C	C	C	
	Retirement Homes	C	C	C	
Transitional housing	C	C	C		

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
Community Services/ Civic Uses	Cemetery	C	P	P	
	Churches, synagogues, temples, etc.	C	P	P	
	Publicly owned and operated community centers & buildings	E	E	E	
	Privately owned and operated community centers & buildings	C	P	P	
	Fire and Rescue facilities	E	E	E	
	Fraternal Organization	C	P	P	
	Governmental offices	E	E	E	
	Hospitals	C	P	P	
	Law enforcement centers	E	E	E	
	Libraries	E	E	E	
	Philanthropic Organizations	C	P	P	
	Museums	C	P	P	
	Planetariums	C	P	P	
	Senior citizen centers	E	E	E	
Treatment, Rehabilitation and Incarceration Facilities	Community correction centers	E	E	E	
	Drug/alcohol rehabilitation ctr.	E	E	E	
	Halfway houses	E	E	E	
	Adult Detention Center	E	E	E	
	Juvenile Detention Center	E	E	E	
	Private Prisons	C	C	C	
	Public Prisons	E	E	E	
Day-Care, Public and Private Schools	Adult day-care home	C	C	C	
	Child Care Home	E	E	E	
	Colleges and Universities	C	C	C	
	Day care centers	C	P	P	
	Preschools	C	C	C	
	Public & private schools (K-12)	C	C	C	
	Trade, career & technical schools	C	C	C	
Public Parks and Open Space	Arboretums	C	C	C	
	Athletic fields	C	C	C	
	Campground	C	C	C	
	Nature centers	C	C	C	
	Parks, trails, picnic areas, & playgrounds	C	C	C	
	State parks	C	C	C	
	Public pools and/or water parks	C	C	C	
	Dog Parks (not racing)	C	C	C	

ARTICLE 4: ZONING DISTRICTS

Use Category	Use Type				Additional Requirements
		AG-G	AG-T	VAD	
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted				
Public/Private Utilities and Communication Services	Natural gas exploration & pumping	C	C	-	
	Natural gas depots	C	C	C	
	Wind Energy Conversion Systems – Commercial/Utility Grade	C	C	-	See Section 7.07
	Public works facilities	P	P	P	
	Wireless telecommunication, facilities & equipment, new tower (over 100 feet)	C	C	C	See Section 7.02
	Wireless telecommunication, facilities & equipment, new tower (100 feet tall or less)	P	P	P	See Section 7.02
	Wireless telecommunication facilities & equipment, collocated or maintenance	P	P	P	See Section 7.02
Animal Care	Animal Shelter	C	C	C	
	Kennel boarding or training	C	C	C	
	Kennel, commercial	C	C	C	
	Pet cemetery	C	C	C	
	Pet crematorium	C	C	C	
	Pet grooming, Pet training	P	P	P	
	Animal hospital	C	C	C	
Business and Household Services	Building maintenance & cleaning services	C	C	P	
	Copying, printing, mailing, & packaging services	C	C	P	
	Lawn, garden & yard maintenance services	C	C	P	
	Locksmiths and key duplication	C	C	P	
	Pest control services	C	C	P	
	Small appliances & household equipment repair	C	C	P	
	Well drilling/septic tank cleaning	C	C	P	
Financial Services	Banks	-	-	P	
	Automatic Teller Machine (ATM)	-	-	P	
	Brokerages	-	-	P	
	Credit Unions	-	-	P	
	Insurance offices	-	-	P	
	Financial advisory services	-	-	P	
	Specialty loan services	-	-	P	
Food and Beverage Services	Bakery, Retail	C	C	P	
	Banquet/reception facility	C	C	P	
	Brew-on Premises Store	C	C	P	
	Brewery	C	C	C	
	Craft Brewery (Commercial)	C	C	C	
	Catering service	C	C	P	
	Donut and pastry shops	C	C	P	
	Mobile Food Units	E	E	E	

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
	Restaurants w/o drive-through	C	C	P	
	Roadside produce stands	E	E	E	
	Tavern or bar	C	C	P	
	Drinking establishments	C	C	P	
	Coffee houses, coffee shops	C	C	P	
	Brew pub	C	C	P	
	Micro-brewery (Commercial)	C	C	P	
	Coffee kiosks	C	C	P	
General Commercial	Antiques and collectables shop	C	C	P	
	Art galleries	C	C	P	
	Artisan production shop	C	C	P	
	Artist Studio	C	C	P	
	Arts & crafts stores	C	C	P	
	Bicycle sales & service	C	C	P	
	Book store	C	C	P	
	Bridal sales & services	C	C	P	
	Business support services	C	C	P	
	Camping equipment sales	C	C	P	
	Computer hardware/software sales	C	C	P	
	Dance studios & schools	C	C	P	
	Electronic/appliance sales/service	C	C	P	
	Equipment sales/storage/rental	C	C	P	
	Equipment repair services	C	C	P	
	Exercise equipment sales	C	C	P	
	Fabric and sewing supply stores	C	C	P	
	Farmer's Market	E	E	E	
	Firearms and ammunition sales	C	C	C	
	Florists	C	C	P	
	Food store (specialty) incl. bakeries, meat lockers, butchers, delicatessen, not a full-service grocery	C	C	P	
	Funeral homes, mortuaries, incl. crematoriums	C	C	P	
	Garden center	C	C	P	
	Heating/cooling sales and services	C	C	P	
	Lawn/garden equipment sales/ service	C	C	P	
	Musical instrument store	C	C	P	
	Pawn shops	C	C	P	
	Photographic equipment/supplies	C	C	P	
	Pottery store	C	C	P	
	Religious book and card stores	C	C	P	
Shoe stores and repair	C	C	P		
Tanning Studio	C	C	P		
Taxidermy Services	C	C	P		
Tobacco store	C	C	P		

ARTICLE 4: ZONING DISTRICTS

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
Special Commercial	Adult Entertainment	P	P	P	See Section 7.09
	Billiard halls	C	C	P	
	Boat dealers	C	C	P	
	Building materials dealers	C	C	P	
	Commercial greenhouses	C	C	P	
	Business Center	C	C	P	
	Concrete and cinder block sales	C	C	P	
	Convenience store	C	C	P	
	Drive-in theater	C	C	P	
	Equipment rental and leasing	C	C	P	
	Fencing dealers	C	C	P	
	Fireworks stands	E	E	E	
	Gasoline filling stations, incl. Self-Service	C	C	P	
	Liquor stores	C	C	C	
	Monument sales	C	C	P	
	Motels and hotels	C	C	P	
	Nurseries, retail sales	C	C	P	
	Pet Shop	C	C	P	
	Piercing Studio	C	C	P	
	Short-term rentals	P	P	P	
Swimming pool sales	C	C	C		
Tattoo Parlor	C	C	P		
Theaters and auditoriums	C	C	P		
Medical Uses, not including Home Occupations	Acupuncture offices	-	-	P	
	Chiropractor offices	-	-	P	
	Dental offices incl. orthodontics	-	-	P	
	Massage therapy	-	-	P	
	Medical offices	-	-	P	
	Optical sales & services	-	-	P	
	Rehabilitation facilities incl. out-patient services	-	-	P	
Office Uses, not including Home Occupations	Accounting services counseling	-	-	P	
	Attorney offices	-	-	P	
	Business offices	-	-	P	
	Consultant offices	-	-	P	
	Investment counseling	-	-	P	
	Photographic studios	-	-	P	
	Real Estate offices	-	-	P	
	Utility/telephone company offices	C	C	P	

Use Category	Use Type				Additional Requirements
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	
Recreational Commercial	Bowling alley	-	-	P	
	Commercial stables	C	C	P	
	Golf courses, public & private	C	C	C	
	Golf driving ranges	C	C	C	
	Gun clubs	C	C	C	
	Health clubs/spas	C	C	C	
	Miniature golf courses	-	-	C	
	Paintball Course	C	C	C	
	Racetrack	C	C	C	
	Recreational facility, indoor	C	C	C	
	Recreational facility, outdoor	C	C	C	
	Recreational vehicle (RV) Park	C	C	C	See Section 7.03
	Riding Academies	C	C	C	
	Roller- and ice-skating rink	-	-	P	
	Skate Park	-	-	P	
Special Event	C	C	P		
Amusement arcade	-	-	C		
Auto Services/ Commercial, not including Home Occupations	Auto body repair	C	C	C	
	Automotive/machinery repair shop	C	C	C	
	Automobile/truck sales, rental & leasing	-	-	C	
	Automobile/truck washes, self-services or automatic	C	C	C	
	Motor home dealers	-	C	C	
	Motorcycle dealers, incl. moped and scooters	-	C	C	
	Muffler sales & services	-	-	C	
	Recreational vehicle sales/rentals	-	C	C	
	Transmission repair shops	C	C	C	
	Travel trailer dealers	-	C	C	
	Vehicle Storage	C	C	C	
	Vehicle Storage, Long-term	C	C	C	
	Trailer, RV, & boat storage	C	C	C	
Warehousing and Storage	Bulk materials or machinery storage (fully enclosed)	-	-	C	
	Fireworks storage	-	-	C	
	Mini warehouse/self-storage	-	-	C	
	Motor Freight Terminals	-	-	C	
	Outdoor Storage	-	-	C	
	Outdoor Storage Containers	E	E	E	
	Storage facilities similar to Portable On-demand storage facilities	T	T	T	
Storage/warehousing of non-hazardous materials (fully enclosed)	C	-	-		

ARTICLE 4: ZONING DISTRICTS

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
	Warehouse and distribution	C	-	C	
	Warehousing (enclosed)	-	-	C	
	Warehousing (Open)	-	-	-	
	Wholesale business and storage	-	-	-	
Contractors, Contractor Yards, Storage and Supply	Building materials sales/storage yards (excl. asphalt/concrete mixing)	C	P	C	
	Bulk materials or machinery storage (fully enclosed)	C	P	P	
	Carpenters	C	P	C	
	Construction batch plants	C	P	C	
	Construction yards incl. offices & equipment storage yards excl. heavy machinery	C	P	C	
	Electricians	C	P	P	
	Heating & ventilating contractors	C	P	P	
	Masons & bricklayers	C	P	P	
	Plumbers	C	P	P	
	Trade shops (incl. cabinet makers)	C	P	P	
Large Contracting/ Materials Manufacturing	Asphalt contractors	-	-	C	
	Concrete block manufacturing	-	-	-	
	Concrete contractors	C	C	C	
	Concrete products	-	-	-	
	Excavating contractors	C	C	C	
	Heavy construction companies	C	C	C	
	Highway/street construction co.	C	C	C	
	Manufactured housing fabrication	-	-	-	
	Prefabricated buildings & components manufacturing	-	-	-	
	Wrecking & demolition contractors	C	C	C	
Food Processing and Manufacturing	Bakery Products Manufacturing	-	-	C	
	Beverage Blending and Bottling (Except Breweries)	-	-	C	
	Coffee, Tea and Spice Processing and Packaging	-	-	C	
	Creamery and Dairy Operations	C	C	C	
	Dairy Products Manufacturing	C	C	C	
	Distillation of grains for human consumption	C	C	C	
	Egg Processing Plants	C	C	C	
	Flour, Feed and Grain Grinding and Milling	C	C	C	
	Fruit and Vegetable processing, Canning, preserving, Drying and freezing	C	C	C	
	Ice Manufacturing (Incl. Dry Ice)	-	-	C	
	Meat Processing	C	C	C	

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
Mining and Excavation	Brick, firebrick and clay products manufacturing	C	C	-	
	Monument & architectural stone manufacturing	C	C	-	
	Soil excavation/mining for commercial purposes	C	C	-	See Section 7.05
	Soil excavation/mining for a public entity/project	P	P	P	See Section 7.05
	Quarry	C	C	-	See Section 7.05
Metal Processing, Stamping	Culvert manufacturing	C	C	C	
	Fabricated metal products	C	C	C	
	Welding	C	C	C	
	Wire Rope and Cable Mfg.	C	C	C	
Waste Handling	Landfill, Construction Material	C	C	-	
	Landfill, Solid Waste	C	C	-	
	Recycling Center	C	C	-	
	Recycling Processing	C	C	-	
	Sanitary Transfer Station	C	C	-	
Wood Products Manufacturing	Basket & hamper (wood, reed, rattan, etc.) manufacturing	-	-	-	
	Millwork manufacturing	-	-	-	
	Electronics manufacturing	-	-	-	
	Machinery manufacturing	C	C	-	
	Musical instruments manufacturing	-	-	-	
	Pharmaceuticals manufacturing	-	-	-	
	Printing and publishing plants	-	-	-	
	Tool, die, gauge and machine shops	C	C	-	
Wind turbine manufacturing	-	-	-		
General Manufacturing (High Hazard)	Automobile Wrecking Yard	-	-	C	See Section 7.13
	Bio-Fuels Manufacturing, including Ethanol production	C	C	-	See Section 7.14
	Grain Elevator and Storage Facilities	C	C	C	
	Oils, Shortenings, and Fats (edible) Processing and Storage	-	-	-	
	Oils, Vegetables, and Animal (non-edible) Processing and Storage	-	-	-	
	Petroleum, Gasoline, or Lubricating Oil Refining, & Wholesale Storage	-	-	-	
	Salvage Operations	-	-	C	See Section 7.13
	Scrap or Salvage Yards	-	-	C	See Section 7.13
	Waste Recovery Facilities – Commercial, Industrial & Residential	-	-	C	
	Wood Preserving Treatment	-	-	-	

ARTICLE 4: ZONING DISTRICTS

Use Category	Use Type				
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit T = Temporary Uses "-" = Not Permitted	AG-G	AG-T	VAD	Additional Requirements
Accessory Uses	Barns	P	P	P	
	Bins, grain storage	P	P	-	
	Carports	P	P	P	
	Decks, gazebos, patios (elevated or on-grade)	P	P	-	
	Fences	E	E	E	
	Freestanding canopy	P	P	-	
	Fuel storage, does not apply to convenient stores and gas stations	E	E	E	
	Fuel tanks and dispensing, does not apply to convenient stores and gas stations equipment	E	E	E	
	Garages, Private	P	P	P	
	Garage, Storage	P	P	P	
	Grain Storage Systems	P	P	-	
	Greenhouses, Non-commercial	P	P	P	
	Shortwave and Ham towers and transmitters	C	C	C	
	Heliports	C	C	C	
	Home Occupations	P	P	P	See Sections 7.01
	Home based Businesses	P	P	P	See Section 7.01
	Outdoor Wood Furnaces	E	E	E	
	Portable on-demand storage containers	T	T	T	
	Porch, unenclosed	P	P	P	
	Private Airstrip	C	C	-	
	Secondary Dwellings	C	C	-	See Section 3.33
	Silos	P	P	-	
	Solar panels less 25 kW	P	P	P	
Solar panels more than 25 kW	C	C	C	See Section 7.17	
Storage sheds	P	P	P		
Storage building using multiple storage containers	-	-	-		
Swimming pools	P	P	-		
Tennis courts	P	P	-		
Wind Energy Conversion System	C	C	C	See Section 7.06	

Section 4.08 AG-G – General Agricultural District

4.08.01 Intent:

The AG-G General Agricultural District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock and accessory uses. The AG-G District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect these uses from incompatible land uses.

The district provides for the location and the establishment and operation of land uses compatible with agriculture and such natural resources; while separating these uses from residential, commercial (non-agricultural) and industrial (non-agricultural) areas. To provide for the location and establishment of residential uses which are accessory and necessary for conducting the practice of agriculture, while placing limitations on non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with the intended primary uses of the district.

4.08.02 Permitted Uses

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District. Refer to Section 4.07 to determine specific uses allowed as Permitted Uses.

4.08.03 Conditional Uses

Conditional uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the AG-G District as reviewed by the Planning Commission and approved by the County Board. Refer to Section 4.07 to determine specific uses allowed under a Conditional Use.

4.08.04 Temporary Uses

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 3.28.

4.08.05 Accessory Uses

Refer to the definitions of Accessory Uses and Structures, as well as Table 4.07 and Sections within Article 3 for more detail.

4.08.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-family dwelling	5	200	*	**	***	40	-
Other Permitted Uses	5	200	*	**	***	40	-
Grain Bins and other Agricultural structures (not on the same property as a farmstead)	-	200	*	**	***	-	-
Conditional Uses	5	200	*	**	***	40	-
Seasonal dwellings	5	100	*	**	***	40	-
Accessory structures	-	-	*	**	***	40	-

* Front, rear and side yard setbacks shall be 58 feet from the centerline of a County Road, or the front yard setback shall be 25 feet from R.O.W. when abutting any other platted street, road or highway.

** Rear yard setback shall be 25 feet when abutting any other platted street, road of highway.

*** Side yard setback shall be 25 feet when abutting any other platted street, road of highway.

Residential dwelling units shall be limited to 2 per quarter section; however, one additional dwelling unit may be allowed under an approved Conditional Use Permit.

Note:

At county road intersections, no permanent structures, including grain bins shall be allowed to be constructed in the “No Build Zone”, see Section 3.26. This shall also apply to trees being placed within the space.

4.08.07 Residential Development Regulations

Custer County supports intensive agricultural practices in the AG-G District and therefore, all persons seeking to construct a new dwelling unit in the AG-G District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-G with the Zoning Administrator.
2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter developed in Custer County including but not limited to:
 - a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours.
 - b. dust from animal pens, field work, harvesting, and gravel roads.
 - c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure.
 - d. Odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer.
 - e. smoke from burning ditches or other approved burning.
 - f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products.
 - g. all field preparation, harvest practices, and all livestock animal husbandry practices.
 - h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
 - i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

4.08.08 Supplementary Regulations

1. No salvage or wrecking yard shall be located within 1,000 feet of any public right-of-way and shall be screened from any right-of-way by a solid growth of natural plant materials not less than eight feet in height or an oblique fence not less than eight feet in height.

Table 4.08.1: Separation distances for specific uses to dwellings & dwellings to uses

Shooting Ranges	¼ mile
Landfills (all types)	¾ mile
Racetracks including horse racetracks, auto and motorcycle racetracks and courses, off road courses or tracks	½ mile
Schools, colleges, trade schools, and/or athletic fields	¼ mile
Private Air Strips not including landowner's residence	½ mile
Commercial storage of flammable products or fuel including propane, fertilizer, gasoline, diesel, etc.	½ mile
Commercial storage of hazardous waste or hazardous products including manufacturing of such	¾ mile

*Distances shall be measured to dwellings and dwellings to the listed uses

Section 4.09 AG-T – Transitional Agricultural District

4.09.01 Intent:

The intent of this district is to recognize the transition between agricultural uses of land and communities; to encourage the continued use of that land which is suitable for agriculture but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

4.09.02 Permitted Uses

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District. Refer to Section 4.07 to determine specific uses allowed as Permitted Uses.

4.09.03 Conditional Uses

Conditional uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the AG-T District as reviewed by the Planning Commission and approved by the County Board. Refer to Section 4.07 to determine specific uses allowed under a Conditional Use.

4.09.04 Temporary Uses

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 3.28.

4.09.05 Accessory Uses

Refer to the definitions of Accessory Uses and Structures, as well as Table 4.07 and Sections within Article 3 for more detail.

4.09.06 Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

Use	Lot Area (acres)	Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-family dwelling	2	150	*	**	***	40	-
Other Permitted Uses	2	150	*	**	***	40	-
Grain Bins and other Agricultural structures (not on the same property as a farmstead)	-	150	*	**	***	-	-
Single-family dwellings connected to public sewage and collection system	10,000 sf	75	*	30	10	40	-
Conditional Uses	2	150	*	**	***	40	-
Seasonal dwellings	2	100	*	**	***	40	-
Accessory structures	-	-	*	**	***	40	-

* Front, rear and side yard setbacks shall be 58 feet from the centerline of a County Road, or the front yard setback shall 25 feet when abutting any other platted street, road or highway.

** Rear yard setback shall be 25 feet when abutting any other platted street, road of highway.

*** Side yard setback shall be 25 feet when abutting any other platted street, road of highway.

Note:

At county road intersections, no permanent structures, including grain bins shall be allowed to be constructed in the "No Build Zone", see Section 3.26 This shall also apply to trees being placed within the space.

4.09.07 Residential Development Regulations

Custer County supports intensive agricultural practices in the AG-T District and therefore, all persons seeking to construct a new dwelling unit in the AG-T District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-T with the Zoning Administrator.
2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter developed in Custer County including but not limited to:
 - a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours.
 - b. dust from animal pens, field work, harvesting, and gravel roads.
 - c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure.
 - d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer.
 - e. smoke from burning ditches or other approved burning.
 - f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products.
 - g. all field preparation, harvest practices, and all livestock animal husbandry practices.
 - h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
 - i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

4.09.08 Supplementary Regulations

1. No salvage or wrecking yard shall be located within 1,000 feet of any public right-of-way and shall be screened from any right-of-way by a solid growth of natural plant materials not less than eight feet in height or an oblique fence not less than eight feet in height.

Table 4.09.1: Separation distances for specific uses to dwellings & dwellings to uses

Shooting Ranges	¼ mile
Landfills (all types)	¾ mile
Racetracks including horse racetracks, auto and motorcycle racetracks and courses, off road courses or tracks	½ mile
Schools, colleges, trade schools, and/or athletic fields	¼ mile
Private Air Strips not including landowner’s residence	½ mile
Commercial storage of flammable products or fuel including propane, fertilizer, gasoline, diesel, etc.	½ mile
Commercial storage of hazardous waste or hazardous products including manufacturing of such	¾ mile

*Distances shall be measured to dwellings and dwellings to the listed uses

Section 4.10 AH Airport Hazard Area District

4.10.01 Intent

The intent of this district is be appended and to overlay any of the primary zoning districts as described in this Resolution to protect the safe use of public airports and their Airport Hazard Area, in Custer County, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are registered with the Nebraska Department of Aeronautics, as designated on the Official Zoning Map of Custer County, Nebraska.

Designated Public Airport

The designated public airport for which these regulations have been prepared for is the Broken Bow Municipal Airport and the Sargent Municipal Airport.

Airport Hazard Area Description

In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted a comprehensive plan and zoning regulations and has an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

4.10.02 Definitions

Airport shall mean an area of land or water designed and set aside that is used or intended to be used for the landing and taking off takeoff of aircraft and utilized or to be utilized in the interest of the public for such purposes; includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

Airport hazard shall mean any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; that penetrates any approach, operation, transition, or turning zone.

Airport hazard area shall mean any area of land or water upon which an airport hazard might be established if not prevented as provided in the act, but such area shall not extend in any direction a distance in excess of three miles from the adjacent boundary of an airport; the limits provided for approach, operation, transition, and turning zones.

Airport layout plan shall mean a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

Approach zone shall mean a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric facility shall mean an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in section 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing runway shall mean an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Instrument runway shall mean an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this act, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

Operation zone shall mean a zone that is longitudinally centered on each existing or proposed runway.

Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

Political subdivision shall mean any municipality, city, village, or county.

Proposed runway shall mean an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway shall mean a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length;

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition zone shall mean a zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty feet above the highest elevation on the existing or proposed runway.

Tree shall mean any object of natural growth.

Turning zone's outer limit shall mean the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

Visual runway shall mean a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

4.10.03 Airport Zones

The following are intended for use with this specific overlay zoning district.

Airport Hazard Area consists of Operation Zones, Approach Zones, Turning Zones, and Transition Zones.

Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. The zones' dimensions are:

1. Instrument Runways:
 - A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 1,000 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline 10 miles from the operation zone where it is 16,840 feet wide.
 - B. Height Limit: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 50 feet horizontally (50:1) up to a maximum of 150 feet above the nearest existing or proposed runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the 10-mile limit.
2. Visual Runways:
 - A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 500 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide.

- B. Height: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 40 feet horizontally (40:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.

Operation Zones are longitudinally centered on each existing or proposed runway:

1. Length:
 - A. For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway.
 - B. For existing and proposed turf runways, the operation zones begin and end at the runway ends.
 - C. For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 hundred feet on either side of the runway centerline.
 - D. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline;
2. Height: The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

Transition Zones extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.

Turning Zones extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

4.10.04 Height Restrictions

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in subsection 4.14.03 above.

4.10.05 Airport Zoning Map and Location

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Airport Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Airport Zoning Map shall at all times be on file in the office of the Zoning Administrator and County Clerk.

4.10.06 Permit Requirements, Exceptions, Application Forms, And Fees

It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires, or any other structure or appurtenance within the Zoned Areas per the Airport Zoning Drawing without first obtaining a DETERMINATION OF NO HAZARD TO AIR NAVIGATION through the Federal Aviation Administration's Part 77, 7460 process for Obstruction Evaluation. The Determination will require review and approval by the appropriate Airport Authority Board. After the Authority approval, applicable permits will be issued by the Custer County Zoning Office. It shall also be unlawful to plant or replant any tree or other object of natural growth without review and approvals of the locations by the Airport Authority and Custer County Zoning Board.

1. Exception:

Within the Turning Zones, no permit shall be required for any construction, reconstruction, repair, or planting of anything which, when completed, or, in the case of natural growth, when mature, does not exceed seventy-five 75 feet above the nearest existing or proposed runway end.
2. Application Form:

Application for a permit as required under these regulations shall be made on a form to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the end of the nearest runway or landing strip and height of the proposed structure or planting. (Mean Sea Level Elevation)
3. Permit Fee:

The fee for each permit issued shall be established by the County Board as a separate Resolution to the Zoning Resolution, and all fees so paid shall be deposited into the county's general fund.

4.10.07 Non-Conforming Structures

1. Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth; and no such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of 12 months or more; shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.
2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

4.10.08 Marking Of Non-Conforming Structures

Whenever the Zoning Administrator determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and/or the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Zoning Administrator. The owner(s) and lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object. The Zoning Administrator shall specify the required marking and lighting, consistent with these regulations entitled "Marking and Lighting of Structures". The cost of marking or lighting shall not be assessed against the owner or lessor of said premises.

4.10.09 Administrative Agency; Enforcement

The Zoning Administrator shall administer and enforce these regulations and shall be the administrative agency provided for in Neb. Rev. Stat. §3-319 and shall have all the powers and perform all the duties of the administrative agency as provided in the Airport Zoning Act.

4.10.10 Variance from Regulations

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection section 23-168.03, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway

and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.

2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

4.10.11 Zoning Board of Adjustment

The Custer County Board of Adjustment shall be the board of adjustment with respect to these regulations. Said board shall have and exercise the powers conferred by Neb. Rev. Stat. §3-320 *et. seq.* and such other powers and duties as are conferred and imposed by law.

4.10.12 Permitted Principal Uses and Structures

Any use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 4.14.03 above.

4.10.13 Conditional Uses

Any conditional use that is permitted in the primary zoning district where this district is overlain where such conditional use has been duly authorized by the County Board in accordance with the requirements and procedures specified in this Resolution, provided all buildings, structures and other obstacles comply with the height restrictions set forth in Section 4.10.03 above.

4.10.14 Accessory Structures

Any accessory use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 4.10.03 above.

4.10.15 Conflicting Regulations

In the event of any conflict between any airport zoning regulations adopted under this regulation and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern.

Section 4.11 VAD – Village Area Development

4.11.01 Intent:

This district is intended to accommodate the different uses found in unincorporated communities in Custer County and under the jurisdiction of the County.

4.11.02 Principal Uses

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District. Refer to Section 4.05 to determine specific uses allowed as Permitted Uses.

4.11.03 Conditional Uses

The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the VAD District as reviewed by the Planning Commission and approved by the County Board. Refer to Section 4.05 to determine specific uses allowed under a Conditional Use.

4.11.04 Temporary Uses

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 3.28.

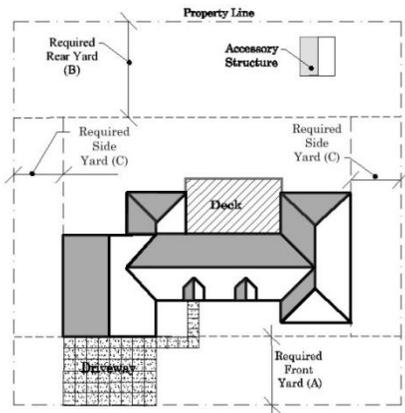
4.11.05 Accessory Uses

Refer to the definitions of Accessory Uses and Structures, as well as Table 4.05 and Sections within Article 3 for more detail.

4.11.06 Height and Lot Requirements The minimum area and maximum height regulations are as follows:

Use	Lot Area (SF or A)	Lot Width (feet)*	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)
Single-family dwelling	10,000	100	20*	20	10	35
Other dwellings with	10,000	100	20*	20	10	35
Other Permitted Uses	10,000	100	20*	20	10	35
Other Conditional Uses w/community waste treatment	10,000	100	20*	20	10	35
Accessory structures	-	-	20*	5	5	-

* On a corner lot, both street frontages shall be treated as a front yard setback.



Section 4.12 WP – Wellhead Protection Overlay District**4.12.01 Intent:**

The intent of this district is to overlay any of the primary zoning districts herein established in this Resolution in order to assist municipalities and other public water supply systems, as defined in Title 179, Nebraska Department of Health, Chapter 2, within or adjoining Custer County, which may operate water wells in or near the County in providing protection from contamination of such wells through regulation of land uses which have the potential for contamination of the groundwater source(s) from which said wells derive water. The intent of this district is also to protect existing and future agricultural uses, which are in balance with the natural environment, which are compatible with existing agricultural uses, and which will not present unacceptable potential for contamination of the public water supply system wells, from over-regulation by said municipalities or public water supply systems with regard to wellhead protection.

4.12.02 Inter-local Agreement

Any entity which owns and operates a municipal or public water supply system, with wells or proposed wells within this County, and who wishes to establish a wellhead protection area within this County, may enter into an inter-local cooperation agreement with the County for the purpose of making application of said protection district.

Said inter-local agreement shall provide that the County administer the application process and all regulations within the County. Further, the agreement shall provide as follows:

1. The County shall apply for the wellhead protection area pursuant to Nebraska Revised Statutes Section 46-1501 through 46-1509 and shall comply with all requirements contained therein.
2. A guideline for formulation and implementation of an ongoing process to maintain public involvement and input into the process for the selection of the wellhead area.
3. The entity shall agree to pay all costs associated with the administration of the agreement including legal costs and costs associated with any challenge of the wellhead protection area.
4. The entity shall agree to hold the County harmless for any liability related to the establishment of the wellhead protection area or administration of the inter-local agreement.

ARTICLE 5: CONDITIONAL USES

Section 5.01 Purpose and Intent

The conditional use permit procedure provides for extensive public review and discretionary Commission and Board review and approval of uses and projects which have unusual site development or operating characteristics; potentially negative effects on surrounding property; or substantial impact on the County's development objectives or realization of its Comprehensive Plan. This Section is designed to incorporate complete review of such projects and to specify conditions by which such projects may be compatibly and soundly developed.

Section 5.02 Applicability

Within each Zoning District there are certain uses listed as a conditional use. The listed conditional uses are those which the Commission and Board may approve temporarily, permanently or for a specific time interval.

Section 5.03 Authority to Initiate

A request for a conditional use permit, or modification of a conditional use permit, may be initiated by a property owner, the owners authorized agent, a lessee with the authorization of the landowner, the Planning Commission or the Board of Supervisors.

Section 5.04 Application

Conditional use permit application forms shall be obtained from the Planning Department. An application shall be accompanied by such site plans or drawings as are necessary for staff, Commission and Board to make a determination on the request. Applications shall be filed with the Planning Department. Application deadlines are as established by the Planning Department.

Section 5.05 Legal Publication

Upon receipt of a completed initial application, and payment of fees as specified by this Regulation, the CUP request shall be advertised. Notice of the time and place of the public hearing before the Commission shall be given by publication thereof in the County's legal newspaper at least 10 days prior to the hearing. Board public hearing notice shall be as prescribed by the Board.

Section 5.06 Public Hearing Notice

Prior to consideration of a conditional use application by the Planning Commission and County Board of Supervisors, the bodies shall give public notice of a public hearing. Such notices shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearings and such notice shall fix the date, time, place and subject of the public hearings. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three miles of the property effected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the dates of such public hearings. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

Section 5.07 Coordination with Other Entities

When applicable, the Planning Department shall transmit information regarding a proposed CUP to the County Highway Department, Office of the Superintendent of the applicable school district, State Department of Environmental and Energy, State Health Department, cities, villages and other public entities that may have an interest. The Commission and Board may consider the comments from these entities.

Section 5.08 Planning Commission Public Hearing

Upon receipt of a completed initial application, and payment of fees as specified by this Regulation, the Commission will hold a hearing. The Commission recommendation, along with the Planning Department's, shall be transmitted to the Board. Such recommendation on the CUP shall be in the form of approval, disapproval, approval with conditions, or continuance.

Section 5.09 Board of Supervisors Public Hearing

The Board shall hold a public hearing on the CUP to act upon the Commission's recommendation. The Board shall consider the Commission's recommendation and shall approve the CUP without conditions, approve with conditions, refer to the Commission for further consideration of specified matters, continue the request, or deny the application. If the Commission fails to submit their recommendation within 90 days from the date of application, the Board may hold a public hearing and act on the CUP without the Commission's report.

At public hearing, the Board of Supervisors, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the conditional request in accordance with the requirements set forth in this Article. The Board of Supervisors shall act to approve or disapprove the request. Provided the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in this Resolution.

Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven calendar days of the date of such disapproval.

Section 5.10 Conditions of Approval

The Commission and Board may require specific conditions for approval of a CUP. Such conditions may be more restrictive than the base Zoning District regulations and may include, but not be limited to, specified time frame; provision of buffer yards; landscaping and screening; installation of erosion control measures; requirements for street improvements and dedications; improvement to access and circulation systems; rearrangement of structures and uses on the site; design character and standards for buildings and structures; location and character of signs; limitations or restrictions upon operations; and other conditions the Commission and Board consider necessary to insure compatibility with the surrounding environment and protect the public health, safety and welfare.

Section 5.11 Standards for Review

In reviewing requests for CUP's, the following may be considered by the Commission and Board:

1. That the establishment, maintenance, or operation of the CUP will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the public.
2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the conditional use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate fire-fighting suppression equipment and by such safety devices as are normally used in the hauling of any such material.
7. The use shall not include noise that is a public nuisance due to volume, frequency, or beat unless muffled or otherwise controlled.
8. The use shall not include vibration which is discernible without instruments on any adjoining lot or property.
9. The use shall not involve any pollution of the air by fly ash, dust, vapors or other substances which are harmful to health, animals, vegetation or other property or which can cause soiling, discomfort or irritation.
10. The use shall not involve any malodorous gas or matter that is discernible on any adjoining lot or property.
11. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road or highway.
12. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
13. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

Section 5.12 Issuance of Permits

1. Zoning permits shall be issued consistent with the terms of the conditional use permit and other applicable resolutions, regulations and resolutions.
2. The Commission may, after publication and public hearing, make a recommendation to the Board to revoke a conditional use permit if it determines the use, structure is in violation of the terms and conditions of the conditional use permit or other applicable resolutions, regulations and resolutions.
3. The Board may, after publication and public hearing, revoke a CUP if it determines the use, structure is in violation of the terms and conditions of the CUP or other applicable resolutions, regulations and resolutions.
4. The decision to revoke a CUP shall be effective immediately.

Section 5.13 Modification of Conditional Use Permit Requirements

1. The Planning Administrator may approve minor modifications in a CUP if it is determined the modification does not affect the findings related to the conditions for approval as contained in this Section.
2. Other than minor modifications a CUP must be approved by the Board upon review and recommendation by the staff and Commission.

Section 5.14 Scope of Approval

A CUP granted pursuant to this Section applies to a specific parcel of land.

Section 5.15 Effective Date

Approval of a CUP by the Board shall be effective immediately after Board action. However, development of any authorized conditional use shall be commenced within one year of the date of approval of such conditional use by the Board of Supervisors, unless a State or Federal permit is required. If a State or Federal permit is required, commencement shall begin within one year of the issuance of said permits. Development of said authorized conditional use shall be completed according to a schedule outlined by the applicant in the conditional use application and approved by the Board of Supervisors.

Section 5.16 Conditional Use Permits Approved Under Previous Regulations/Resolutions

Any CUP approved under regulations/resolutions in effect before the effective date of this Regulation shall be considered to have a valid CUP, subject to any requirements imposed at the time of approval. A pre-existing CUP shall be subject to the provisions of this Section regarding revocation of the permit. Any modifications of a pre-existing CUP may be made only by the Board and only after review and submittal of recommendation from the staff and Commission.

ARTICLE 6: OFF-STREET PARKING AND LOADING REQUIREMENTS**Section 6.01 Applicability**

In any zoning district, all structures built, and all uses established hereafter shall provide accessory off-street parking and loading spaces as indicated in the requirements set forth in this section. Where an existing structure or use is expanded, accessory off-street parking and loading spaces shall be provided in accordance with the requirements for the area, capacity or additional employees in such expanded area.

Section 6.02 Off-Street Automobile Storage

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
2. In all districts except residential districts, if vehicle storage space or standing space required in section 6.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and County Board, the Planning Commission and County Board may permit such space to be provided on other off-street property, provided such property lies within the same zoning district and lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. In Districts residential districts, required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains.
3. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
4. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
5. Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
6. Requirements for types of buildings and uses not specifically listed herein shall be determined by the County Board, after receiving a report and recommendation from the Planning Commission, based upon comparable uses listed.

Section 6.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Commercial and Office including but not limited to:		
Agricultural Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Auditoriums/Stadiums/arenas	1 space/4 seats in main assembly area	None required
Automotive Rental/Sales	1 space/500 s.f. of gross floor area	1 space/establishment
Automotive Servicing	4 spaces/repair stall	None required
Boarding Houses/Bed and Breakfasts	1 space/rental units	None required
Body Repair	5 spaces/repair stall	None required
Bowling Alleys	4 spaces/alley plus 1 space per 2 employees	1 space/establishment
Campground	1 space/camping unit	None required
Child Care Centers	1 space/employee + 1 space or loading stall/each 5 persons of licensed capacity	None required
Churches, Synagogues, and Temples	1 space/4 seats in main worship area	None required
Clubs, including fraternal organizations	1 space/500 s.f. of gross floor area	None required
Commercial Recreation	1 space/2 persons of licensed capacity	1 space/establishment
Communication Services	1 space/500 s.f. of gross floor area	1 space/establishment
Construction Sales/Service	1 space/500 s.f. of gross floor area	1 space/establishment
Dance Hall, skating rink	1 space/100 square feet of floor area + 1 space/2 employees	None required
Educational Uses, Primary facilities	2 spaces/classroom	2 spaces/structure
Educational Uses, Secondary facilities	8 spaces/classroom + 1 space/employee on largest shift	2 spaces/structure
Equipment Rental/Sales	1 space/500 s.f. of gross floor area	1 space/establishment
Food sales (limited)	1 space/300 s.f. of gross floor area	1 space/establishment
Food sales (general)	1 space/200 s.f. of gross floor area	2 spaces/establishment
Funeral homes, Mortuaries and Chapels	8 spaces/reposing room	2 spaces/establishment
General retail sales establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Guidance Services	1 space/300 s.f. of gross floor area	None required
Hospitals	1 space/2 licensed beds	3 spaces/structure
Hotels and Motels	1 space/rental unit + 1 space/each 200 s.f. of public meeting area	1 space/establishment
Laundry Services	1 space/200 s.f. of gross floor area	None required
Libraries	1 space/400 s.f. of gross floor area + 1 space/ 2 employees	1 space/structure
Medical Clinics	5 spaces/staff doctor, dentist, chiropractor	None required
Offices and Office Buildings	1 space/300 s.f. of gross floor area + 1 space/2 employees	None required
Restaurants w/ drive-thru	Greater of the two: 1 space/40 s.f. of dining area, or 1 space/150 s.f. of gross floor area	1 space/establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	2 spaces/establishment
Roadside stands	4 spaces/establishment	None required
Service Oriented Establishments	1 space/200 s.f. of gross floor area	1 space/establishment
Theaters, Auditoriums, & Places of Assembly	1 space/4 persons of licensed capacity	1 space/establishment
Veterinary Establishments	1 spaces/500 square feet/staff doctor	None required
Residential/Housing including but not limited to:		
Assisted-living facilities	.5 space/dwelling unit	1 space/structure
Convalescent & Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	2 space/structure
Duplex	2 spaces per dwelling unit	None required
Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure
Group Home	1 space/4 persons of licensed capacity	2 space/structure
Multi-family / Apartments	1 space/sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Mobile Home Park	2/dwelling unit	None required
Residential (Single-family, attached and detached)	2 spaces/dwelling unit (1 may be enclosed or semi-enclosed)	None required
Industrial Uses including but not limited to:		
Adult entertainment establishments	1 space/2 persons of licensed capacity	None required
General Manufacturing	.75 times the maximum number of employees during the largest shift	2 spaces/establishment
Wholesaling / Distribution Operations	1 space/2 employees on the largest shift	2 spaces/establishment

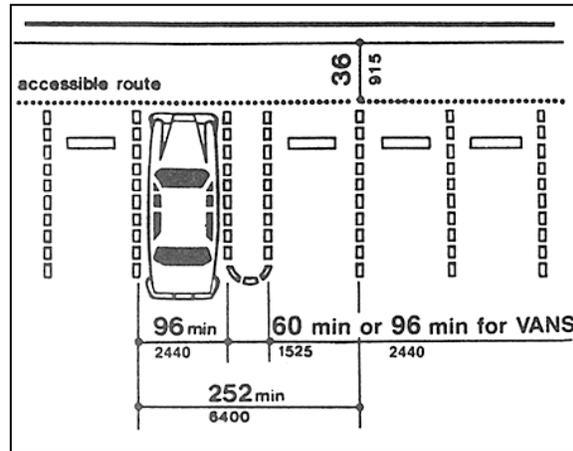
Section 6.04 Off-Street Parking: Shared Parking Requirements

Notwithstanding the provisions of Section 6.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and County Board.

Section 6.05 Off-Street Parking: Parking for Individuals with Disabilities

6.05.01 In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000



Source: <http://www.ada.gov/adastd94.pdf>

- 6.05.02 Access aisles adjacent to accessible spaces shall be 60 inches wide at a minimum.
1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 6.05.04 of this Regulation. The vertical clearance at such spaces shall comply with 6.05.05 of this Regulation. All such spaces may be grouped on one level of a parking structure.
 2. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
 3. Parked vehicle overhangs shall not reduce the clear width of an accessible route.
 4. Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
 5. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 6.05.06 of this Regulation.
 6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 6.05 of this Regulation shall be provided in accordance with 6.05.01 of this Regulation; except as follows:
 - A. Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility;
 - B. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
 7. Valet parking: valet parking facilities shall provide a passenger loading zone complying with 6.05.06 of this Regulation located on an accessible route to the entrance of the facility.
- i. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
 1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
 2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
 - ii. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 6.05.02 (1) shall have an additional sign stating the stall is "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

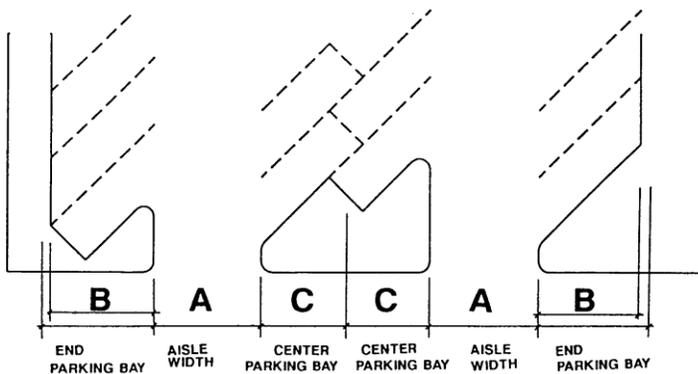
ARTICLE 6: PARKING REQUIREMENTS

- iii. Minimum vertical clearance of 114 inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 6.05.02 (1), provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).
- iv. Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 240 inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

Section 6.06 Off-Street Parking Design Criteria

6.06.01 Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration	90-degree	60-degree	45-degree
Aisle Width (A)			
One-way traffic	----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
End Parking Bay Width (B)			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet </td <td>17 feet</td>	17 feet
Center Parking Bay Width (C)			
	18 feet	18 feet	16 feet



6.06.02 Minimum dimensions for a parallel parking space shall be 10 feet by 23 feet.

6.06.03 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and County Board.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Home Occupations and Home-Based Businesses

7.02.01 Intent

A home occupation or home-based business shall be allowed when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.

7.01.02 Procedure

Home Occupations and Home-based Businesses: An application for a home occupation or home-based occupation, within agriculturally zoned areas shall be made to the Custer County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

7.02.03 Allowed home occupations/businesses

Listed below are allowed home occupations/**businesses**.

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one station), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

7.02.04 Prohibited home occupations/businesses

Listed below are prohibited home occupations.

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

Section 7.02 Radio, Television and Wireless Communication Towers

7.02.01 Intent

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants 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 County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the County, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna

support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

7.02.02 Definitions

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

Base Station shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

Broadcasting Tower shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

Collocation shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

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

Eligible facilities request is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

In Writing refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

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

Replacement shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

Specific and absolute timeframe: this refers to the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

Stealth: Any telecommunications 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 other than a tower, such as light poles, 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 antenna two meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

Tower shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

Tower owner shall mean any person with an ownership interest of any nature in a proposed or existing tower.

Transmission Equipment: any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

7.02.03 Tower Construction Standards

Prior to commencement of development or construction an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall meet all criteria listed on the Tower Development Permit.

1. New towers shall require a conditional permit in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Conditional Use Permit by the County Board and issuance of the permit by the County.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the County after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the County, federal, and state law and applicable American National Standards Institute (ANSI). 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.

7.02.04 Application to develop a Tower

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
 - A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
 - 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 useable 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 collocate the applicants' telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable 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 County Board 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. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60-day application processing period may be extended only:
 - i. By mutual agreement between the Custer County and the applicant, or

- ii. By Custer County's determination that the application is incomplete.
 - 1. If Custer County deems the application to be incomplete, the County shall notify the applicant of the incompleteness within 30 days of the initial filing.
 - 2. The County shall clearly and specifically delineate writing the missing information
 - 3. The clock shall resume when the information is provided but may tolled again if Custer County notifies the applicant within 10 days that the application remains incomplete.
 - 4. The County shall not request new information beyond what is already required.
- iii. If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

7.02.05 Setbacks and Separation or Buffer Requirements

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

- 1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. 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.
- 2. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning Commission and County Board of Supervisors may reduce the setback with a conditional use permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
- 3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
- 4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
- 5. Towers must meet the following minimum separation requirements from other towers:
 - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
 - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
- 6. Towers shall be held to all height requirements as prescribed in the Airport Hazard Area District.
- 7. As part of its conditional use approval process, the Planning Commission and County Board of Supervisors may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

7.02.06 Structural Standards for Towers Adopted

The Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, 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.

7.02.07 Illumination and Security Fences

- 1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
- 2. 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 preclude to the extent practical, unauthorized climbing of said structure.

7.02.08 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 and County Board as part of the application approval process. All towers that must be approved as a conditional use shall be stealth design unless stealth features are impractical, or the cost of such features represents an undue burden on the applicant.

7.02.09 Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the County.

7.02.10 Prohibitions

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

7.02.11 Substantial Change

Custer County may only require an amended conditional use permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:
 - A. Towers outside the public right-of-way, a "substantial change"
 - increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
 - Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
 - B. Towers in the right-of-way, and all base stations, a "substantial change"
 - increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
 - protrudes from the edge of the structure more than 6 feet
 - C. All Towers and base stations, a substantial change:
 - involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - entails any excavation or deployment outside the current site of the tower or base station;
 - defeats the existing concealment elements of the tower or base station; or
 - does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.
2. **Changes in Height**
 - A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.
 - B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.
 - C. Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.

7.02.12 Inspections

The County 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 the County's Zoning Codes and any other construction standards set forth by the County, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of Custer County's Zoning Office, or a duly appointed independent representative of the County.

7.02.13 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.

7.02.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Administrator 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 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 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 County Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Custer County 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.

7.02.15 Approval Denial Procedures for Tower Development Permit

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by Custer County shall not unreasonably discriminate among providers of functionally equivalent services;
3. The regulation of the placement, construction, and modification of personal wireless service facilities by Custer County shall not prohibit or have the effect of prohibiting the provision of personal wireless services;
4. Custer County shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations;

Section 7.03 Recreational Vehicle Parks

No Recreational Vehicle Park shall be constructed within the zoning jurisdiction of Custer County unless a Conditional Use permit is approved and issued by the County and is constructed in conformance with the following requirements:

1. The tract to be used as a recreational vehicle park or campground shall not be less than two acres in area. Under no circumstances shall a manufactured home be parked in a recreational vehicle park or campground.
2. Each recreational vehicle, trailer, camp site shall be plainly marked.
3. The minimum dimensions of a recreational vehicle, trailer or camp site shall be 30 feet wide by 60 feet long.
4. Each recreational vehicle, trailer, camp site shall be separated from other recreational vehicles, trailers, or camp sites by at least 15 feet.
5. All recreational vehicle, trailer, camp sites shall meet the required setbacks from roads and from the ordinary high-water mark and shall be located at least 50 feet from exterior lot lines.
 - A. The exterior lot line setback shall be maintained in open space; except that landscaping for the purpose of screening the Park from visual views from adjacent properties.
 - B. Screening at least six feet in height shall be provided between the recreational vehicle park or campground and any adjoining residential area.
6. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided:
 - A. No one space shall be designed for direct access to a county road or highway outside the boundaries of the recreational vehicle park or campground;
 - B. All interior access drives shall be at least 20 feet in width; and
 - C. All interior access drives and parking areas shall be surfaced with gravel, asphalt or other material to free the site of mud.

7. There shall be two off-street parking spaces per each individual recreational vehicle, trailer, camp site.
8. Each pad location shall be equipped with the following:
 - A. Electrical outlet.
 - B. A sanitary sewer connection per Nebraska DEE requirements.
 - C. A potable water connection per Nebraska HHS requirements.
 - D. A dump station if no other sanitary sewage system is in place per NDEE requirements
 - E. If pad sites are not supplied with individual sanitary sewer and water connections, then a "Community Building" shall be constructed to the following requirements;
 - 1) Pads shall not be located more than 300 feet from the "Community Building".
 - 2) Separate toilet, lavatory and shower facilities for each sex, in the following ratio: one flush-type toilet, one lavatory and one shower or bathtub for females and one flush-type toilet, one lavatory, and one shower or bathtub for males.
 - 3) The pervious toilet sanitary standards shall be for every 30 pad sites.
 - 4) Have an accessible, adequate, safe and potable supply of cold water.
 - 5) Comply with all Nebraska Building, Electrical and life safety codes.
 - 6) Be maintained in a clean, sanitary condition and kept free of any condition that is considered a health hazard.
9. Other criteria that shall be met include:
 - A. No more than one wheeled recreational vehicle or trailer shall be allowed on any individual pad site. In addition to these units, a tent may be erected to serve as an auxiliary shelter, but shall not be erected for more than 14 consecutive days.
 - B. A Recreation Vehicle Park shall be separated from all existing LFO's by the same distances established for residential dwellings.
 - C. These Parks are considered as a seasonal business and site and individual recreational vehicles or trailers are considered seasonal dwelling and shall not be occupied for more than four continuous months in a 12-month period. However, a recreational vehicle or trailer may remain on site for the remaining portion of the year in a stored state.
 - D. Wheels and tires shall remain in the in-transit position.
 - E. No porches, lean-tos, or additions shall be constructed onto any of these recreational dwellings. Canvas screen rooms or awnings shall be allowed.
 - F. A recreational dwelling may have solid skirting.
 - G. A shelter unit may be located on an individual pad site provided it is designed only to protect occupants from the elements and does not have a permanent water supply, a sewage system, electricity, or heating and cooking facilities.

One permanent dwelling unit may be constructed within the Recreational Vehicle Park and is to be used strictly by the Park owner and family or the resident superintendent.

Section 7.04 Screening

1. Junkyards (salvage or wrecking yards) shall be screened with an eight-foot-high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.
2. All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas.
3. All holding or incineration areas of dead livestock shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas. No storage or incineration of dead livestock shall be located in road right-of-way or on any other land not owned or leased by the livestock operation.

Section 7.05 Sand and Gravel Mineral, Stone, Rock, and Soil Extraction and Quarries.

A Conditional Use Permit may be granted for the extraction and storage of sand and gravel, mineral, stone, rock, soil extraction and quarries in the designated zoning district; provided the following special conditions shall be considered (among others determined appropriate/relevant by the County):

1. When any extraction material is sold, removed, and transported on Custer County roads it shall be the responsibility of the property owner to meet the following conditions:

- A. The application shall include a grading map showing contours, proposed extraction contours, and proposed final grade contours;
- B. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties;
- C. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
- D. The application shall identify proposed vehicle and equipment storage areas;
- E. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing facility;
- F. Topsoil shall be collected and stored for redistribution on the site at termination of the operation;
- G. Excavation/storage shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than 3:1 as set by the County. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
- H. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public;
- I. Costs for any damage to the county roads or bridges used for access to the site which requires additional maintenance or repair for the normal county maintenance or repair as a result of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Custer County Highway Superintendent. The property owner may appeal the Superintendent's decision to the Custer County Board of Supervisors within 30 days after receiving the Superintendent's decision;
- J. The owner of the property shall obtain adequate insurance to cover any of the damages, which may occur as a result of this operation and shall assume all liability for any damages. A copy of such insurance or other proof of such insurance shall be submitted to the County Clerks office prior to issuing a Conditional Use Permit; and
- K. To assure all of these conditions are met by the owner, a bond contingent on the size of the operation, removal, or extraction may be required to be posted with the County.

Section 7.06 Small Wind Energy Systems

7.06.01 Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

7.06.02 Findings

Custer County finds that wind energy is an abundant, renewable and non-polluting energy resource. The County, through this regulation, will permit small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner.

7.06.03 Definitions

The following are defined for the specific use of this section.

- 1. **Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.
- 2. **Small Wind Energy System** shall mean 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 100 kW and which is intended to primarily reduce on-site consumption of utility power.
- 3. **Structurally mounted System** shall mean a Small Wind Energy System that is designed to be mounted on a building including residential dwellings.
- 4. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

5. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

7.06.04 Requirements

Certain requirements as set forth below shall be met:

1. Tower Height
 - A. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - B. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Noise
 - A. Small wind energy systems shall not exceed 50 dBA, 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.
4. Approved Wind Turbines

Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. 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.
 - B. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall also be submitted.
 - C. Wet stamps shall not be required.
6. Compliance with FAA and NDA Regulations

Small wind energy systems must comply with applicable FAA and NDA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
 - A. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - B. The manufacturer frequently supplies this analysis
8. Utility Notification
 - A. No small wind energy system shall be installed until evidence has been given that the 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.
9. Setbacks

	Wind Turbine – Non-Commercial	Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	1.0 times the total height
Right angle corner property lines	Diameter plus applicable building setback from both property lines	1.0 times the total height from both property lines
Occupied Dwelling Units (1) (2)	Diameter plus applicable building setback	1.0 times the total height plus applicable building setback
Road Rights-of-Way (3)	Diameter plus applicable building setback	1.0 times the total height plus applicable building setback
Other Rights-of-Way	Diameter plus applicable building setback	1.0 times the total height plus applicable building setback
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	Applicable building setback	1.0 times the total height plus applicable building setback
Other structures not on the applicant's project site	NA	1.0 times the total height

ARTICLE 7: SUPPLEMENTAL REGULATIONS

River Bluffs of over 15 feet		
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- (1) The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.
- (2) An easement between a landowner and a WECS developer reducing the setback distance between a turbine and a residence, is allowed.
- (3) The setback shall be measured from any future Rights-of-Way if planned changed or expanded right-of-way is formally being considered by the County.

Section 7.07 Commercial/Utility Grade Wind Energy Systems

7.07.01 Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Custer County.

7.07.02 Findings

Custer County finds wind energy is an abundant, renewable and non-polluting energy resource. The County, through this regulation, will permit small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner.

7.07.03 Definitions

The following are defined for the specific use of this section as well as specific definitions found in Article

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

Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

Fail Zone shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

Feeder Line shall mean any power line that carries electrical power from one 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 interconnection shall be the substation serving the wind energy conversion system.

Meteorological Tower: A tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the NDOT, or other applications to monitor weather conditions.

Public Conservation Lands shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.



Rotor Diameter or Diameter shall mean the diameter of the circle described by the moving rotor blades.

Substations shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 volts (35 kV) for interconnection with high voltage transmission lines.

Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

Tower shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

Tower Height shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

Transmission Line shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Wind Energy Conservation System (WECS): An electrical generating facility comprised of one 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. The energy 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.

7.07.04 Requirements

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed under Section 4.07. Permanent Meteorological towers shall be considered part of the system. Temporary meteorological towers may be permitted within any district where the use is listed and allowed under Section 4.07 by a Zoning Permit and limited to two years or less. When requesting a conditional use permit for a commercial/utility grade wind energy conversion system (also known as a WECS), and/or a zoning permit for a temporary meteorological tower; the following requirements and information shall be met and supplied:

1. The 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 feeder lines.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification that the turbines in the project meet National Electrical Codes.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS not owned by the applicant, within one-mile of the proposed WECS.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed WECS.
11. An Acoustical Analysis that certifies the noise requirements within this regulation can be met.
12. FAA and NDA review and permit
13. Location of all known Communication Towers within five miles of the proposed WECS.
14. Decommissioning Plan including the financial means to implement the plan.
15. Description of potential impacts on nearby WECS and wind resources on adjacent properties not owned or leased by the applicant.

7.07.05 Aggregated Projects

The following concerns an aggregated project(s).

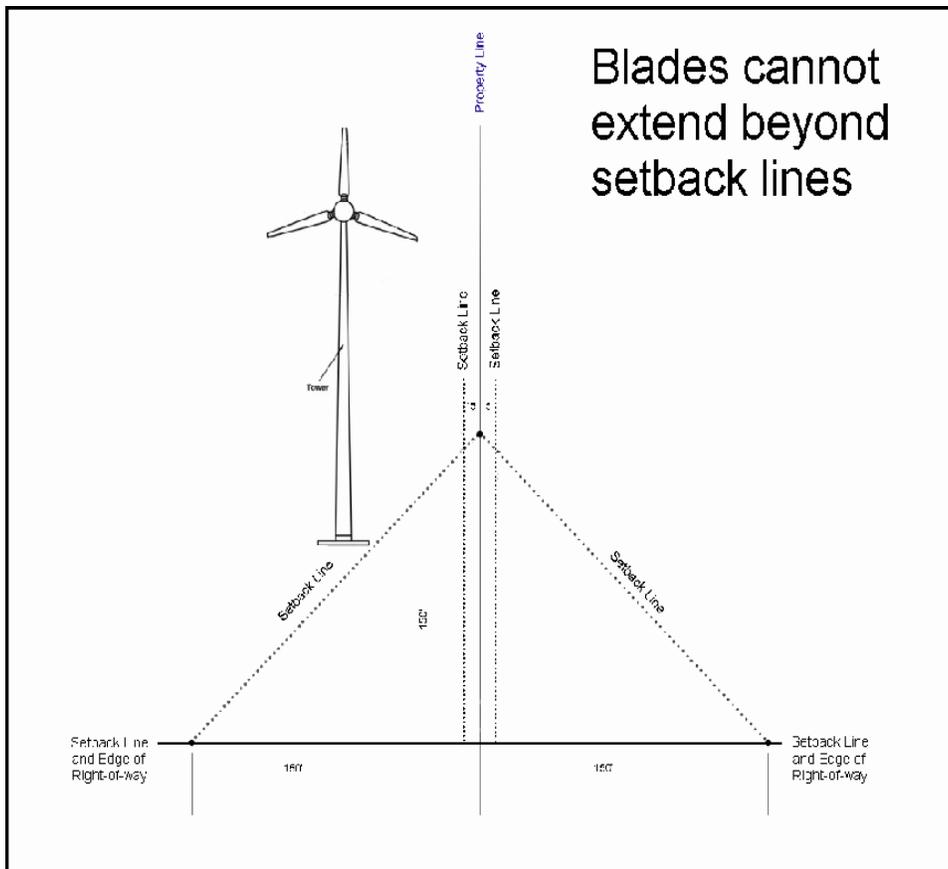
1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.
4. Setbacks to property lines, not road rights-of way, may be less when adjoining property owners are within the same aggregate project.

7.07.06 Setbacks

All towers shall adhere to the setbacks as measured from the hub established in the following table:

	WECS Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	1.0 times the total height
Right angle corner property lines	Behind a line on the property lines drawn between two points 150' from the property line intersection. Generator blades must not exceed the building setback lines on the non-roadside, and shall not encroach on the right-of-way on the roadside. (See Figure 2)	1.0 times the total height from both property lines
Occupied Dwelling Units (1)(2)	1/4 mile	1.0 times the total height plus applicable building setback
Road Rights-of-Way (3)	Generator blades shall not encroach on the right-of-way.	1.0 times the total height plus applicable building setback
Other Rights-of-Way	Generator blades shall not encroach on the right-of-way.	1.0 times the total height plus applicable building setback
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	Diameter plus applicable building setback	1.0 times the total height plus applicable building setback
Other structures not on the applicant's project site	Diameter	1.0 times the total height
River Bluffs of over 15 feet	Diameter	

- (1) The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.
- (2) An easement between a landowner and a WECS developer reducing the setback distance between a turbine and a residence, is allowed.
- (3) The setback shall be measured from any future Rights-of-Way if planned changed or expanded right-of-way is formally being considered by the County.



7.07.07 Special Safety and Design Standards and Additional Requirements

Special safety and design standards for all towers and additional listed requirements are stated below, which shall be adhered to and are specifically written for this Section:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.

2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted at the entrance to the site with the 911 address and emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. **Color and finish**
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
6. **Lighting**
Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA and NDA 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. **Other signage**
All other signage shall comply with the sign regulations found in these regulations.
8. **Feeder Lines**
All communications and feeder lines installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
9. **Waste Disposal**
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 rules and regulations.
10. **Discontinuation and Decommissioning**
A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 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 WECS.

Each WECS project under this section shall have a Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being 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. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
11. **Noise**
No Commercial/Utility WECS shall produce noise levels that exceed 50 dBA, or the ambient sound pressure level plus five dBA, whichever is greater at the nearest structure occupied by humans, applying commonly accepted measurement instruments and standards. Exception: a Commercial/Utility WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service.
12. **Noise assessment study:** When a wind turbine is proposed within a distance equivalent to three times the blade-tip height from an occupied residence, a 24-hour noise assessment study conducted by a qualified professional shall be required. That noise study then needs to be submitted in order to obtain a conditional use permit. Each study shall contain the following information:
 - A. An estimation or survey of the existing ambient background noise levels.
 - B. Prediction (or measurement) of noise levels from the turbine(s) at and near the occupied residence.

- C. Identification of the model and turbine size for sound propagation (sound modeling software shall include a propagation model.)
- D. Comparing calculated sound pressure levels from the wind turbines with the background sound pressure levels at the locations of concern.

13. Interference

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits and shall provide the contact list to the county zoning authority.

14. County Roads

In regard to roads applicants shall:

- A. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- C. Be responsible for restoring the road(s) and bridges to preconstruction or better conditions.

15. Shadow/Flicker

A flicker study needs to be submitted in order to obtain a conditional use permit. Each study will contain the following input:

- Turbine location (latitude and longitude)
- Shadow Flicker receptor (dwelling) locations (latitude and longitude)
- U.S. Geological Survey (USGS) 1:24,000 topographic scale and USGS

Digital Elevation Model (DEM) (height contours)

- Turbine rotor diameter
- Turbine hub height
- Wind speed and direction frequency distribution data
- Sunshine hours (long term monthly reference data)
- Identification of the model and turbine size

Output from the model must include the following information:

- Calculated shadow-flicker time at selected receptors
- Tabulated and plotted time of day with shadow flicker at selected receptors
- Map showing turbine locations, selected shadow-flicker receptors and isoline contours indications projected shadow-flicker time (hours per year).

16. Drainage System

The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

17. Permit Fees

Applicant shall remit an application fee set by the Board of Supervisors.

18. Enforcement:

If a complaint from a resident of a dwelling within or near a WECS project area has been filed with the Zoning Administrator, no enforcement action shall be taken until arbitration has taken place between the complainant and the WECS owner. Such arbitration shall take place within 30) days of the complaint being filed. Once this step has been completed, the following shall apply:

If a commercial/utility wind energy conversion system is proven to be not in compliance with the regulations the commercial/utility WECS must discontinue operation of the turbine(s) in question. The turbine(s) in question will not be allowed to resume operation until compliance is met. An independent study to review the complaint will be conducted and is to be paid for by the complainant. If non-

compliance is proven, Custer County shall reimburse the complainant 50% (not to exceed \$3000.00) of the cost of the study.

19. Easements

Easements between a landowner and a WECS developer concerning setbacks, noise and shadow flicker shall be allowed

20. Fees

Permit Fees:

Fees for WECS shall be established by the County Board of Supervisors.

Section 7.08 Livestock Regulations

This section contains the provisions required by Custer County regarding Intensive/Confined Feeding Uses within the jurisdiction.

7.08.01 Class A and Class B Intensive/Confined Feeding Uses

1. New Class A and B Intensive/Confined Feeding Uses, provided such uses shall comply with the following minimum requirements:
 - A. Such use and associated lagoons and compost sites shall not be located closer than 1/4 mile to any church, school, public use area or dwelling unit, not on the same premises and under the same ownership as such use, to the east, west or south, or located closer than 1/2 mile to any such use to the north.
 - B. Such use and associated lagoons and compost sites shall not be located in any area subject to flooding on a 100-year basis or any wetland area.
2. Expansion of the capacity of or land area occupied by a Class A or Class B intensive/confined feeding use in existence as of the effective date of this Resolution which is located within the minimum separation distances to any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use for the class of intensive/confined feeding use, as specified in Section 7.08.01 (1)(A) of this Resolution, provided that such expansion shall comply with all of the following limitations:
 - A. Such expansion will not decrease the distance from the intensive/confined feeding use and any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use.
 - B. Nor shall such expansion in any other direction result in a separation distance to any other church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use being less than that specified in said Section 7.08.01 (1)(A) of this Resolution.
 - i. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the intensive/confined feeding use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.
 - C. Any physical expansion of the existing intensive/confined feeding use shall be immediately contiguous with the facilities of the existing feeding use;
 - D. Such expansion may occur in phases over time, but in no event shall such expansion(s) result in the intensive feeding of more than the maximum one-time capacity for a Class A or B intensive/confined feeding use.
 - i. Any expansion beyond this limitation is prohibited unless a conditional use for expansion in excess of this limitation is authorized as a conditional use by the County Board of Supervisors in accordance with the procedures and requirements for conditional use authorization set forth in Article 5 of this Resolution.
 - ii. If such expansion results in such use being required to obtain a new permit from the NDEE, introduction of additional animals shall be prohibited until such permit required to be issued by the Nebraska Department of Environmental Quality or other applicable or successor agency shall have been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and any applicable restrictions of this Resolution.
 - E. Such expansion shall not occur in any area subject to flooding on a 100-year basis or in any wetland area.

3. Expansion of the capacity of or the land area occupied by any Class A or Class B intensive/confined feeding use in existence as of the effective date of this Resolution that is located in excess of the minimum separation distances to any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use for the class of intensive/confined feeding uses, as specified in Section 7.08.01 (1)(A) of this Resolution, provided that such expansion shall comply with all of the following limitations:
 - A. Such expansion will not decrease the distance from the intensive/confined feeding use and any church, school, public use area or dwelling unit not of the same ownership and on the same premises with such use to a distance less than the minimum separation distances specified in Section 7.08.01 (1)(A) of this Resolution. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the intensive/confined feeding use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.
 - B. Any physical expansion of the existing intensive/confined feeding use shall be immediately contiguous with facilities of the existing feeding use;
 - C. Such expansion may occur in phases over time, but in no event shall such expansion(s) result in the intensive feeding of more than the maximum one-time capacity for a Class A or B intensive/confined feeding use.
 - i. Any expansion beyond this limitation is prohibited unless a conditional use for expansion in excess of this limitation is authorized as a conditional use by the County Board of Supervisors in accordance with the procedures and requirements for conditional use authorization set forth in Article 5 of this Resolution.
 - ii. If such expansion results in such use being required to obtain a new permit from the NDEE, introduction of additional animals shall be prohibited until such permit required to be issued by the NDEE shall have been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and any applicable restrictions of this Resolution.
 - D. Such expansion shall not occur in any area subject to flooding on a 100-year basis or in any wetland area.

7.08.02 Class C, Class D, and Class E Intensive/Confined Feeding Uses

1. Class C intensive/confined feeding uses shall be allowed provided such animal feeding uses meet or exceed the requirements set forth below for the class of the intensive/confined feeding use.
 - A. Each intensive/confined feeding uses shall submit a plan for the proper and timely disposal of dead animals. Such plan shall comply with any requirements of law or regulations of the State of Nebraska.
 - B. All waste handling facility uses, regardless of size or type, all run-off, control ponds and basins, methods of waste disposal and related waste handling facilities and operational activities shall have a permit from the NDEE if a permit is so required by said Department.
 - C. Where any Federal and/or State of Nebraska permit for facilities associated with a waste handling facility use is required, such permit(s) shall be approved by the appropriate Federal or State agency and all facilities required by such Federal or State agency and all facilities and safeguards required by the County Board of Supervisors shall be in place and operable prior to the generation of waste or in the case of confined or intensive animal feeding uses, prior to the introduction of any animals to the premises.
 - D. All Class C intensive/confined feeding uses shall comply with the following minimum requests:
 - i. Such use and associated lagoons and compost sites shall not be located closer than 3/4 mile to any church, school, public use area or dwelling unit, not on the same premises and under the same ownership as such use provided that if one or more impact easements shall have been granted to the owner of the animal feeding use by all churches, schools, public use areas and dwelling units within the 3/4 mile setback, then the setback request shall be considered to be complied with.
 - ii. Such use and associated lagoons and compost sites shall not (if it has a capacity for more than 25,000 animal units) be located closer than three miles from the city limits of any incorporated municipality.
 - iii. Such use shall not be located in area subject to flooding on a 100-year basis or any wetland

2. Class D and E intensive/confined feeding uses may be allowed as a conditional use, if such animal feeding areas meet or exceed the requirements set forth below:
 - A. Each intensive/confined feeding uses shall submit a plan for the proper and timely disposal of dead animals, such plan shall comply with any requirements of law or regulations of the State of Nebraska.
 - B. Waste handling facilities, regardless of size or type, all runoff, control ponds and basins, methods of waste disposal and related waste handling facilities and operational activities shall have a permit from the NDEE if a permit is so required by said department.
 - C. Any waste handling facility use which proposes to dispose of any waste through application of said waste on crop or other land shall indicate the owners of such waste handling facility use shall have, either through ownership or lease of suitable terms, an adequate amount of such land to permit the application of such waste based on sound agronomic principles as required by NDEE and EPA.
 - D. The proposed intensive/confined feeding uses shall submit to the appropriate governing body, as part of the application, a business plan for operation of said agricultural use and said business plan shall include:
 - i. Best management practices to minimize odor, dust, flies, vermin, and other problems and hazards to avoid environmental contamination and/or negative impact on joining neighboring properties.
 - ii. Provide for location that is at least three miles from the city limits of all incorporated municipalities, and 3/4 miles from all churches, schools, public use areas, or dwelling units not on the same premises and under the same ownership as such use, to minimize, not eliminate, dust and odor.
 - iii. Such other documentation and/or specifications as may be required by the Planning Commission and/or the Board of Supervisors.
 - E. Upon review, the Board of Supervisors, after a public hearing, determine that the facility can be built and operated and still protect the environment from degradation and adjoining land uses from unreasonable impacts, a conditional use permit shall be issued.

7.08.03 Single-family dwellings

1. Such dwellings, if not on the same lot with and not of the same ownership as any existing intensive/confined feeding use shall be separated from such animal feeding use by the minimum distance specified in Sections 7.08.01, Subsection 2, Paragraph A or 7.08.02, of this Resolution, for the Class of such existing intensive/confined feeding use.
 - A. However, if one or more impact easement(s) shall have been granted to the owner of the animal feeding use, in which case any residential dwelling unit(s) associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified.
 - B. Such minimum distance shall be measured from the nearest point of the area used or approved, under this Resolution for the animal feeding use, to such dwelling.
 - C. Application of solid manure to the surface of the land, the application of composted waste or the injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified.
2. Exceptions to the minimum distance separation requirements as set forth in Subsection 1 immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Supervisors, after consideration by the Planning Commission, that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing intensive/confined feeding use.

Section 7.09 Adult Entertainment

7.09.01 Purpose; Findings and Rationale

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the County. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually

oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.

2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Custer, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *Village of Winslow v Sheets*, 261 Neb. 203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); *Metropolis, Illinois – 2011-12*; *Manatee County, Florida – 2007*; *Hillsborough County, Florida – 2006*; *Clarksville, Indiana – 2009*; *El Paso, Texas – 2008*; *Memphis, Tennessee – 2006*; *New Albany, Indiana – 2009*; *Louisville, Kentucky – 2004*; *Fulton County, GA – 2001*; *Chattanooga, Tennessee – 1999-2003*; *Jackson County, Missouri – 2008*; *Ft. Worth, Texas – 2004*; *Kennedale, Texas – 2005*; *Greensboro, North Carolina – 2003*; *Dallas, Texas – 1997*; *Houston, Texas – 1997, 1983*; *Phoenix, Arizona – 1995-98, 1979*; *Tucson, Arizona – 1990*; *Spokane, Custer – 2001*; *St. Cloud, Minnesota – 1994*;

Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998),

the Board of Supervisors finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. Additionally, the County's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the County. The County finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The Board hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

7.09.02 Geography:

These uses shall be permitted, provided they meet all setback requirements and the regulations stated in Section 7.09.04 of this Resolution, the following Zoning Districts:

1. The AG-1, provided the establishments are confined to within ¼ mile of any State or Federal Highway within Custer County.
2. The TA-1 Transitional Agriculture District, provided the establishments are confined to within ¼ mile of any State or Federal Highway within Custer County.

7.09.03 Definitions

Adult Bookstore Or Adult Video Store shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are

rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or

5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Cabaret shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

Adult Establishment shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

Adult Motion Picture Theater shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

Adult Paraphernalia Store shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Employee Of An Adult Establishment shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Enclosed Regional Shopping Mall means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

Nudity means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator of Adult Establishment means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Semi-Nude or Semi-Nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not

include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Specified Anatomical Areas shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

Specified Sexual Activities shall mean intercourse, oral copulation, masturbation or sodomy.

7.09.04 Performance Standards

1. No person shall establish, operate, or cause to be operated an adult establishment in Custer County within:
 - A. 1,000 feet of another adult establishment;
 - B. 500 feet of a business licensed to sell alcohol at the premises; or
 - C. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
 - D. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall bring their own alcoholic beverages onto the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
 - A. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the County Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
 - B. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

- C. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - D. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
 - E. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - ii. That specified sexual activity on the premises is prohibited.
 - iii. That the making of openings between viewing rooms is prohibited.
 - iv. That violators will be required to leave the premises.
 - v. That violations of these regulations are unlawful.
 - F. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 7.09.04 (9)(E)(i) through 7.09.04 (9)(E)(v) above.
 - G. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
 - H. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
 - I. It shall be unlawful for a person having a duty under subsections 7.09.04 (9)(A) through 7.09.04 (9)(H) above to knowingly or recklessly fail to fulfill that duty.
 - J. No patron shall knowingly or recklessly enter or remain in viewing rooms less than 150 square feet in area that is occupied by any other patron.
 - K. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
 - L. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five-foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 7.09.04.

Section 7.10 Conservation/Preservation Easements

In accordance with Nebraska Revised Statute §76-2111 a conservation easement shall mean a right, covenant or condition of any deed, will, agreement or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat or open space, protecting air or other natural resources or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

7.10.01 County Approval Required

In accordance with Nebraska Revised Statutes §76-2112 in order to minimize conflicts with land use planning, each conservation / preservation easement shall be approved by the County Board of Supervisors. The County Board of Supervisors shall first refer the proposed easement to the County Planning Commission which shall, within 60 days of the referral, provide comments regarding the conformity of the proposed easement to the Custer County, Nebraska Comprehensive Plan. If such comments are not received within said 60 days, the proposed easement shall be deemed approved by the Planning Commission.

7.10.02 Application for Approval

The owner or agent of the owner of real property on which a conservation / preservation easement is proposed shall submit a copy of the proposed easement to the Zoning Administrator for referral to the Planning Commission and County Board of Supervisors. Said application shall be without an application fee. The Zoning Administrator shall request a meeting of the Planning Commission and shall place consideration of the proposed easement as an agenda item.

7.10.03 Planning Commission Consideration

In accordance with Nebraska Revised Statutes §76-2112, the Planning Commission shall review the proposed easement for consistency with the Custer County, Nebraska Comprehensive Plan of current adoption, and specifically review the proposed easement for compliance with the definition of such easements as set forth in Article 2 above and for consistency with the Future Land Use Plan set out in such Comprehensive Plan. If such proposed easement complies with said definition and the Comprehensive Plan, a recommendation of approval shall be forwarded to the County Board of Supervisors, provided that a recommendation of denial of such proposed easement may be forwarded if:

1. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with the Comprehensive Plan, or
2. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any national, state, regional or local program furthering conservation or preservation, or
3. The proposed easement is found to be not in the public interest because the proposed easement is inconsistent with any known proposal by a governmental body for use of the land on which the easement is proposed.

7.10.04 County Board of Supervisors Consideration

After receiving a recommendation with regard to any proposed conservation / preservation easement, the County Board of Supervisors shall review the recommendation of the Planning Commission and shall approve or deny such easement based upon the same factors set forth in Section 7.11.03 above. The County Board shall provide written notification to the application regarding the Board's decision on the proposed easement within seven calendar days of the decision of the Board.

Section 7.11 Above ground Storage Tanks (AST)

All above ground storage tanks shall comply with the following requirements.

1. All Commercial AST's shall be on a minimum site of 1 acre of land.
2. All Commercial AST's shall comply with all requirements of the Nebraska State Fire Marshal's office. Proof of said compliance is required prior to operating said location.
3. All Commercial AST's shall have the proper containment cells as required by NDEE and EPA. Proof of said compliance is required prior to operating said location.
4. All Commercial AST's shall be set back a minimum of 100 feet from any right-of-way.
5. All Commercial AST's shall have a minimum separation distance of 300 feet from any structure not on the applicant's property or development.
6. All Commercial AST's shall have their own separate and distinct ingress and egress points to the site.
7. A Commercial AST that is established as a fuel or fertilizer depot may be required to have more than one point of ingress and egress.
8. All entry points shall be reviewed and signed off on, as to location, by the County Highway Superintendent in the case of a county road or NDOT in the case of a state or federal highway. Proof of said compliance is required prior to operating said location.
9. All Commercial AST's shall provide specific list and data to the county and the local fire departments regarding the materials stored on the site.

10. A Commercial AST that is established as a fuel or fertilizer depot may be required to conduct a traffic study to determine traffic impacts of the site on the surrounding transportation system.
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Section 7.12 Bed and Breakfast

Bed and Breakfasts shall meet the following requirements:

1. Maintain a residential exterior appearance
 2. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.
 3. Owner must reside on the premises
 4. Off-street parking shall be provided at one space per occupant room.
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Section 7.13 Junk Yards or Salvage Yards

Junk Yards and salvage of materials may be allowed in identified districts; provided the following minimum conditions are met (additional conditions may be required depending upon the operation and the proposed location:

1. Construction and operation shall comply with all applicable codes or requirements.
 2. Receiving areas for junk or salvage material shall be designed to avoid the depositing of junk or salvage material outside a building or outside screened (solid fence) storage areas.
 3. See Section 7.04 for Screening requirements
 4. Junk yards and salvage of materials shall contain a minimum of two acres and shall not be located within a designated 100-year floodplain area as identified by the Corps of Engineers.
 5. Junk or salvage material kept outside a building or buildings shall not be located closer than 500 feet from any designated State or Federal highway. Or locally designated Expressway, Major Arterial, and Other Arterial as per the State of Nebraska Department of Transportation or subsequent successor agency.
 6. Junk material kept outside a building or buildings shall not be located in the required front yard.
 7. Junk or salvage material kept outside a building or buildings shall be at least 100 feet from the boundaries of the I-1 zoning district and shall be at least 660 feet from the any residential district or use.
 8. All motor vehicles shall have all fluids drained prior to placement within the facility.
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Section 7.14 Biofuels and Distillation Facilities

The following conditions shall be met when locating a biofuels facility within the zoning jurisdiction of Custer County. The standards are intended to protect the health, safety, and general welfare of the residents of Custer County.

1. Access to the facility shall be paved and connect to a hard-surfaced street/road classified as an arterial.
 2. If access is onto a county road or city street, the applicant must provide evidence that the paving of such highway, road or street is sufficient to carry, without damage to the roadway, the weight and size of the loads of grain and liquid and any by-product entering or leaving the facility by truck.
 3. If the road or street is not capable of carrying the weight and size of the loads, then the applicant shall be required to make any necessary upgrades to the paving in order for the pavement to handle the size and weight of the loads.
 4. The applicant shall be required to construct and acquire rights-of-way for all turning lanes and signals necessary to handle the increase in truck traffic.
 5. The facility if located adjacent to a railroad line shall have sufficient area to provide for sidings for loading and unloading raw or finished product. The sidings shall be constructed at the applicant's expense.
 6. The facility shall not be located in an area where topography impairs the dispersal of steam, smoke, or other discharges from the facility.
 7. Water supply wells for the facility shall not be located within the 20-year time of travel of any municipal well.
 9. The facility shall be designed to recycle, in a manner compliant with all county and state rules and regulations, a minimum of 75 percent of the water used by the facility including water used for distillation.
 10. All fuel storage tanks shall be located in a manner that will not allow for contamination of any groundwater or surface water.
 11. Total equipment height limited to the requirements of the zoning district.
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12. All fuel storage tanks shall be within an impermeable containment levy system.
13. Site plan review required.
14. Lighting must be compliant with all applicable regulations.
15. Noise produced by facility must comply with noise resolution regulations.

Section 7.15 Sanitary Landfill Regulations

7.15.01 Purpose

It is hereby found and declared that unsanitary disposal of garbage and refuse creates health and sanitary hazards, promotes the breeding of rats, flies and other vermin, pollutes water and the atmosphere, produces noxious odors and insults the aesthetic values of the citizens of Custer County. It is hereby further found and declared that the elimination of open dumps and the prevention of health, sanitation and aesthetic nuisances in the future is in the best interests of the citizens of Custer County and the State of Nebraska; and that the accomplishment of this end will be fostered and encouraged by the enactment and enforcement of this Regulation. The enactment and enforcement of this Regulation is hereby declared to be essential to the public interest and it is intended that the Regulation be liberally construed to effectuate the purposes as stated herein.

7.15.02 Definitions

For the purpose of this Regulation, certain terms and words are herewith defined, as set forth in this Regulation. All words used in the present tense shall include the future tense, all words in the plural number shall include the singular number and all words in the singular number shall include the plural number; unless the natural construction of the wording indicates otherwise.

Applicant: Individuals, firms, corporations or any political subdivisions of the State including any governmental authority created by statute.

Department: The Nebraska Department of Environmental and Energy.

Garbage: Rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables, and dead animals rejected by rendering plants.

Junk: Old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material; provided, however, that the placement of broken concrete for rip-rap and fill material for embankment reconstruction and erosion retardation only, with a County approved CUP, shall be exempt from the requirements of this Section.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind.

Rubbish: Nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety; provided, however, that the placement of broken concrete for rip-rap and fill material for embankment reconstruction and erosion retardation only, with a County approved CUP, shall be exempt from the requirements of this Section.

Refuse: Putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings and solid market and industrial wastes; provided, however, that the placement of broken concrete for rip-rap and fill material for embankment reconstruction and erosion retardation only, with a County approved CUP, shall be exempt from the requirements of this Section.

Sanitary Landfill: A type of operation in which garbage, rubbish, and refuse or garbage, rubbish, or refuse is deposited by plan on a specified portion of land, is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of garbage and refuse or garbage or refuse, which are closed at the end of each day, and to a depth of at least four feet over the finished landfill.

7.15.03 Permits

It shall be unlawful for any person to use any land, premises or property within Custer County for the disposal of any garbage, rubbish, and refuse, or garbage, rubbish, or refuse without first making application to the County.

The application to operate a sanitary landfill shall be filed with the Custer County Planning and Zoning and shall contain:

1. A description and plat of the land on which the disposal of garbage and refuse or garbage or refuse is proposed
2. A description of the sequence and plan of operation
3. Type and capacity of equipment to be used for operations
4. Plans for fire, nuisance and vermin control
5. Existing and proposed roadways and easements
6. Existing topography and water courses
7. A diagram and written statement explaining the proposed location and extent of earthwork and fill operations
8. Proposed measures to control storm drainage and estimated daily or weekly volume of garbage and refuse, or garbage or refuse to be placed in the sanitary landfill
9. Subsoil data including percolation tests, ground water, and soil types.

No permit to operate a sanitary landfill will be issued, unless the applicant has first complied with the requirements of the Nebraska Department of Environmental and Energy and the applicable sections of the Nebraska State Statutes, Sections 13-1701 through 13-1714.

Any permit to operate a sanitary landfill will become null and void whenever the Nebraska Department of Environmental and Energy revokes a license or does not renew a license.

7.15.04 Disposal Conditions

No person shall dump or otherwise dispose of any refuse, garbage, junk, or rubbish at any place except a licensed and permitted sanitary landfill area; however, this does not prohibit a person from disposing of refuse and rubbish from his own household upon his own land as long as such disposal does not create a nuisance or hazard to health or others; and provided, however, that the placement of broken concrete for rip-rap and fill material for embankment reconstruction and erosion retardation only, with a County approved permit shall be exempt from the requirements of this Section.

The following conditions shall be agreed to by the operator/owner:

1. That the permittee, his agents and servants, will comply with all of the terms, conditions, provisions, requirements and specifications contained in these regulations.
2. That the permittee, his agents and servants, will faithfully operate the sanitary landfill for which the permit is issued in accordance with the provisions of these Regulations.
3. That the permittee, his agents and servants, will save harmless Custer County from any expense incurred through the failure of the permittee, his agents and servants, to operate and maintain the sanitary landfill as required by these Regulations, including any expense Custer County may be put to for correcting any condition or violation of these Regulations by Custer County's own labor and equipment whenever the Custer County Board of Supervisors determines it is necessary for Custer County to correct any unsanitary condition or conditions that violate of these Regulations or from any damages growing out of the negligence of the permittee or his agents or servants.
4. That the permittee and his agents, as further assurance for the operation of the sanitary landfill, shall provide therein, that in the event, the permittee fails to comply and fails to operate the sanitary landfill within the terms, requirements, and conditions of these Regulations for any period of time, the Custer County Board of Supervisors may then, upon resolution, have the right to have hired the necessary equipment and labor to adequately bring the landfill operation to a satisfactory closing.

7.15.05 Physical Improvements

The following physical improvements shall be made before a sanitary landfill site is approved for operation:

1. The property shall be fenced as shown on approved plans for application with an entrance gate that can be locked. A temporary inner fence shall be installed bordering all active areas of landfill areas to reasonably control or to stop blowing paper and other materials.

2. Operating procedures and time schedules shall be clearly listed on signs posted at the site entrance.
3. Where employees or personnel will be on duty for more than four consecutive hours, convenient sheltered toilet facilities shall be provided.

7.15.06 Regulations

The following regulations shall be observed by any person, firm or corporation to whom a permit is granted for the operation of a sanitary landfill. These regulations shall govern the operation of all sanitary landfills in Custer County and any failure to observe these regulations shall be sufficient grounds for suspension or revocation of the permit as hereinafter provided.

1. All garbage and other refuse accepted by the permit holder shall be thoroughly compacted by equipment of a size and weight capable of carrying out all necessary operations. Sufficient auxiliary equipment shall be available on the site or otherwise available to permit operation in case of equipment breakdown.
2. Mixed refuse material shall be spread out on the working face of the landfill so that the depth does not exceed a maximum depth of two feet prior to its compaction.
3. The area of the landfill shall be policed as necessary to prevent fire and smoke and to collect all scattered materials; shall be neat and orderly at all times and shall be covered at the end of each day's operation, as well as when wind conditions warrant it through the day, with sufficient material to prevent blowing litter, fly and rodent attraction and breeding, release of odor, fire hazard, and unsightly appearance.
4. A minimum depth of 12 inches of compacted cover and final spread cover material shall be kept on all inactive faces of the landfill at all times. The active faces of the landfill shall be covered at the end of each day's operation, with cover material.
5. When the fill has been brought up to four feet below the desired finished grade, it shall be covered with compacted cover material for a minimum depth of four feet, graded and seeded in such a manner as to prevent erosion. The finally graded and seeded finished surface of the fill shall be maintained at final grade free from erosion and in a well seeded manner for a period of two years after filling operations have been completed.
6. Where the trench system of sanitary landfill is used, successive parallel trenches must be at least two feet apart.
7. Where the landfill operation is conducted in a ravine, the sides of the ravine shall be terraced prior to landfilling if the slope of the sides of the ravine is 1:1 or greater.
8. In the event that refuse material exists on the site at the time the permit is issued, whether in the form of an open dump or any other form, such refuse material shall be collected, compacted, and covered with cover material at least four feet in depth at the finished grade or with at least six inches of cover material on areas in which landfilling operations will be conducted. This cover operation shall be completed within 15 working days after the issuance of a permit for the sanitary landfill, unless some other period of time is specified in the permit.
9. Access roads to the disposal area shall be maintained and surfaced so as to be negotiable by trucks and other motor vehicles at all reasonable times.
10. The salvage or scavenging of materials from the landfill is prohibited.
11. The burning of garbage and refuse, or garbage or refuse, on the landfill site is prohibited.
12. No landfill operations shall be conducted so that fill will be placed in streambeds or other areas where streams would be obstructed or where erosion by the stream would remove cover material. There shall be no seepage or drainage of any material from the fill of such a nature as would constitute an odor nuisance or health hazard, or pollute any water course or underground water aquifer.
13. The permittee shall provide surface drainage facilities on the landfill site which will permit the drainage of storm water. The existence of standing pools of water on the finished face of the landfill six hours after the last precipitation shall constitute evidence of inadequate surface drainage.
14. The permittee shall take such measures as are necessary to control dust.
15. Deposition of liquids and hazardous material, contaminated or polluted liquids or hazardous substance shall be deposited only after receiving approval from the Nebraska Department of Environmental and Energy as to such time and such location with the immediate coverage.
16. Other reasonable measures shall be taken to control insects and rodents.
17. Noncombustible and non-putrescible waste such as cinders, broken paving or materials resulting from construction or demolition work may be deposited in the landfill provided such materials shall be leveled and spread at sufficient intervals to prevent unsightly appearance or rodent harborage and shall be covered as required for a completed sanitary landfill; provided, however, that the placement

of broken concrete for rip-rap and fill material for embankment reconstruction and erosion retardation only, with a County approved CUP, shall be exempt from the requirements of this Section.

18. The discharging of firearms is prohibited.

19. Before any site is abandoned, all exposed refuse shall be covered with a layer of suitable cover material, to minimum compacted depth of four feet. The site otherwise shall be left in a reasonably neat condition so as not to offend adjacent property owners and incite opposition to the establishment of new sites.

20. A comment letter from the County Highway Superintendent.

7.15.07 Enforcement - Permit Suspension and Revocation

The officers responsible for the enforcement of the provisions of this Regulation shall be the Planning Administrator, County Sheriff and Building Inspector, or other designees as set by the Board of Supervisors.

The officers will notify in writing any permit holder who is violating the provisions of this Section, or of the Zoning Regulations, of the specific manner in which the Regulations are being violated. Unless said violation is corrected within a reasonable time after notice is received in writing to the permit holder, the officers shall notify the County Board of Supervisors in writing stating the non-compliance or violation. In the event the permit holder refuses to correct the violations within 24 hours after notice in writing by the officers, as directed by the Board of Supervisors, the Board of Supervisors may, in the interest of public health, direct Custer County either with the equipment and employees of the permit holder or with equipment and employees of Custer County to do such work as is necessary to correct any condition violating this Regulation, and which, if left uncorrected may be hazardous to the public health. The cost to Custer County of correcting such conditions shall be incurred against the permit holder who shall be required to pay all costs and expenses of Custer County in correcting said conditions or the County may use the cash or performance bond to pay the incurred expenses. The County Board of Supervisors may, after the permit holder is given an opportunity for a hearing, revoke the permit for the violation of any of the provisions of this Regulation.

7.15.08 Permit Reinstatement

Whenever any sanitary landfill permit provided for in this Regulation has been revoked, a request for reinstatement shall be treated the same as the initial CUP application.

Section 7.16 Paunch Manure Regulations

7.16.01 Purpose

It is hereby found and declared that unsanitary disposal of paunch manure creates health and sanitary hazards, promotes the breeding of vermin, flies, and other pests, pollutes water and atmosphere, produces noxious odors and is an affront to the aesthetic values of the citizens of Custer County. It is further found and declared that the elimination of open disposal of paunch manure and the prevention of health, sanitation, and aesthetic nuisances in the future is in the best interests of the citizens of Custer County and the State of Nebraska; and that the accomplishment of these ends will be fostered and encouraged by the enactment and enforcement of this Regulation. The enactment and enforcement of this Regulation is hereby declared to be essential to the public interest and it is intended that this regulation be liberally construed to effectuate the purposes as stated herein.

7.16.02 Definitions

For the purpose of this Regulation, certain terms and words are defined as set forth in this Regulation. All words used in the present tense shall include the future tense; all words in the plural shall include the singular and all words in the singular shall include the plural; unless the natural construction of the wording indicates otherwise.

Applicant: Any person who owns or is in possession of real property upon which paunch manure is proposed to be disposed.

Application Site: The property upon which paunch manure is to be disposed.

Dispose: To apply, dump, leave, place, unload, or otherwise get rid of.

Generator: Any person whose act or process produces paunch manure.

Incorporate into the Soil: To work a material into the surface of the soil by plowing, disking, or other means.

Paunch Manure: Partially digested material taken from an animal at the time of slaughter.

Person: Any federal agency, individual, partnership, association, firm, company, corporation, agent, municipality, governmental subdivision, or organization of any kind.

Storage: The temporary holding or leaving of a material in a location or position other than where it will ultimately reside or be used.

7.16.03 Permits

It shall be unlawful for any person to use any land, premises, or property in Custer County for the storage and disposal of any paunch manure without first making application for and securing a required permit to do so. The permit shall be issued by the Custer County Board of Supervisors pursuant to procedures in the Custer County Zoning Regulations.

The application shall include, but not be limited to, the following:

1. The name, address, telephone number, and ownership status of the generator of the paunch manure.
2. The name, address, and telephone number of the person who will be disposing paunch manure.
3. The name, address, and telephone number of the owner of the paunch manure application site.
4. The legal description of the paunch manure application site.
5. The current and future use of the proposed application site.
6. The type of vehicles or facilities used to transport paunch manure to the application site.
7. A description of the method of disposal and storage of paunch manure at the application site. If storage or disposal facilities are to be utilized, engineering plans and specifications must be included. Construction of such facilities shall not commence until the plans and specifications have been approved by the Custer County Board of Supervisors.
8. A description of the method of application of paunch manure.
9. A description of the method of incorporating paunch manure into the soil.
10. A topographic map of the application and storage site(s) which shall include:
 - A. The locations and names of neighboring home sites or farmsteads and adjacent land owned by others.
 - B. The location of wells within 500 feet of the application site boundary.
 - C. The specific location(s) of proposed storage site(s).
11. Submit a soil analysis of the application site, which analysis shall include:
 - A. pH
 - B. Soil Cation Exchange Capacity
 - C. Heavy metals
 - D. Nitrogen
 - E. Water Table Evaluation
 - F. Percolation tests

7.16.04 Conditions for Disposal

No person shall permit the unloading, dumping, or other disposal of any paunch manure at any place except a licensed and permitted application site. This shall not prohibit a person from disposing of paunch manure from his own animals or household upon his own land as long as such disposal does not create a nuisance or hazard to health of others.

7.16.05 Regulations

The following regulations shall be the minimum regulations observed by any person to whom a permit is granted for the disposal of paunch manure. These regulations shall govern the disposal, storage, and incorporation of paunch manure in Custer County and any failure to fully comply with these regulations shall be sufficient grounds for suspension or revocation of the permit granted.

1. Paunch manure will not be disposed of in Custer County unless it has 65 percent or less moisture content, unless otherwise permitted by the Custer County Board of Supervisors.
2. During the months of March through November, all paunch manure that is land applied shall be incorporated into the soil within 24 hours of the application. If the paunch manure cannot be incorporated into the soil within such 24-hour period, it shall not be land applied.

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3. Paunch manure shall not be land applied within 500 feet of an inhabited residence, business or facility or land frequented by the public (excluding business, facility, residence or residences of owner or applicator).
4. Storage of paunch manure shall comply with recommended Nebraska Department of Environmental and Energy guidelines.
5. A comment letter from the County Highway Superintendent.

Section 7.17 Solar Energy Uses

No solar panel, neighborhood solar or solar farm shall be installed or constructed within the zoning jurisdiction of Custer County unless the appropriate permit has been issued. All solar units shall be constructed in conformance with all state and national building and fire codes. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

7.17.01 General Solar 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 Custer County 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.

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.

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.

- A. 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 nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
- B. 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 eight o'clock (8:00) A.M. and four o'clock (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.

SOUTH OR SOUTH-FACING: True south, or 20 degrees east of magnetic south.

7.17.02 General Provisions Applying to All Solar Conversion Systems

The following provisions shall apply, typically, to two 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 commercial and neighborhood SCS: Applicant shall comply with specific requirements of the appropriate fire district.
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 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 upfront by Custer County, the



Example of a Solar Conversion System, Ground-mounted



Example of a Solar Conversion System, Structure-mounted

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 months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and Decommissioning provisions will apply.
6. Repowering does not require a new Conditional 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 subject Custer County floodplain regulations, as may be amended from time to time, given that all components are installed a minimum of one foot (1') 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 Custer County's jurisdiction.
12. Financial assurances shall be in place for all NSCS and CSCS operations as part of the Decommissioning Plan
13. Solar arrays used to power irrigation wells and other apparatus shall be exempt.

7.17.03 Individual Solar Conversion Systems

1. **General Requirements for ISCS:**

ISCS's shall conform to the required front, side and rear lot setback requirements except as provided herein:

 - A. An SCS which is attached to an integral part of the principal building shall meet all local, state, and federal codes for building, electrical, plumbing, and accessibility.
 - B. The applicant for any ISCS shall provide evidence that they have a working Net Metering agreement with the electric utility.
2. **Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.
3. **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.
4. **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 valid building permit issued by Custer County, may continue to be utilized so long as it is maintained in operational condition.
5. **Decommissioning**
 - A. Whenever an SCS ceases operation on a property, it shall be required to report this to Custer County and the electric utility.
 - B. Whenever, a ground mounted SCS is no longer operating, the property owner shall have six months to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

7.17.04 Neighborhood Solar Conversion Systems

1. **General Requirements for NSCS:**

NSCS's shall meet the following requirements as provided herein:

 - A. An NSCS shall be set on its own lot within the neighborhood/development.
 - B. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development.

- C. 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.
- D. The developer shall provide Custer County with all solar easements established; however, Custer County shall not be responsible for enforcing said easements.
- E. All solar easements shall be enforced by an establish Homeowners Association for the development/neighborhood.
- F. A ground mounted NSCS shall be protected with fencing and/or bollards.
- G. All connections to the uses within the neighborhood shall be made underground.
- H. An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency.
- I. 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
- J. 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.

2. **Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

3. **Solar Oriented Subdivision/Plot Plan:**

- A. 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.

- B. 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.
- C. The developer shall install all underground wiring as prescribed by the electric utility.
- D. All underground wiring shall be protected by a utility easement or located within prescribed rights-of-way.
- E. The developer shall provide Custer County with As-builts of the wiring locations within the subdivision.

4. **DECOMMISSIONING**

- A. 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 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. Custer County may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

7.17.05 Commercial Solar Conversion Systems:

1. **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 vegetation 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, Custer County 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, non-urbanized, or low-density areas with other uses.

2. **Site Development Standards:**

- A. Lot coverage: No more than one percent of the gross site area shall be occupied by enclosed buildings and structures.
- B. Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district, or the two districts are separated by a public right-of-way.
- C. Height: The average height of the solar panel arrays shall not exceed 12 feet.
- D. 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.
- E. 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 driveway surfaces, parking areas and buildings on the site.
- F. 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.
- G. Signage shall conform to the Custer County Sign Regulations.
- H. 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.
- I. Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing up to eight feet in height is permitted provided the fencing material is predominantly open.
- J. 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.

3. **Submittal Requirements:**

All Plans shall contain the following:

- A. These requirements shall apply to the Conditional Use Permit.
- B. 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;
- C. The plot plan shall include any roads, electric lines and/ or overhead utility lines;
- D. 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;
- E. A copy of the interconnection agreement with the local electric utility
- F. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant;
- G. Structural engineering analysis for a solar panel, array and its foundation, as applicable.
- H. Manufacturer's recommended installations, if any; and
- I. Documentation of land ownership and/or legal authority to construct on the property.
- J. 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 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. Custer County reserves the right to require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.

4. **Compliance with Other Regulations:**

- A. 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's adopted electrical code and that has been pre- approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
- B. This subsection does not waive any requirements of any state or Federal codes,

electrical codes or other technical codes as applicable.

5. **Discontinuation.**

A CSCS shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all SCS equipment and appurtenances within 90 days of abandonment.

Section 7.18 Dwelling Unit, Special Types

This section is intended to establish special conditions by which Special types of dwelling units may be established within the jurisdiction of Custer County.

7.18.01 Tiny Houses

Tiny houses fall under two separate categories, Site Built and RV/Park Model/Camper.

Site Built Tiny Houses

1. Tiny homes shall have at least one habitable room with not less than 120 sf of gross floor area;
2. Other habitable rooms shall have not less than 70 sf of floor area, except for kitchens;
3. Habitable rooms shall not be less than seven feet in any horizontal dimension;
4. Ceiling height effect on room area:
 - A. Portions of a sloped ceiling measuring less than five feet or a furred ceiling measuring less than seven feet from the finished floor;
 - B. The finished ceiling shall not be considered as contributing to the minimum required habitable area for the room;
5. Ceiling heights shall be a minimum of seven feet in habitable spaces, hallways, bathrooms, and toilet rooms;
6. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
7. Tiny homes shall have a kitchen area and sink;
8. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
9. All electrical shall be in compliance with all local, state and/or federal electrical codes;
10. The unit shall meet all egress requirements found in local, state, and/or federal codes;
11. All foundations shall meet local, state, and/or federal building codes;
12. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
13. No Site Built Tiny House shall be constructed in any floodplain.

RV/Park Model/Camper

1. The unit shall be constructed upon a single chassis;
2. The unit shall have 400 sf or less when measured at the largest horizontal projections;
3. The unit shall be self-propelled or permanently towable by a light duty truck;
4. The unit shall not be considered to be designed for use as a permanent dwelling but as a temporary living quarter;
5. All electrical, including temporary hook-ups, shall be in compliance with all local, state and/or federal electrical codes;
6. All plumbing and other mechanical systems shall not be permanently connected to a supply or discharge source;
7. The wheels and axles shall remain on the unit at all times;
8. Accessory structures shall not be supported by these units;
9. No RV/Park Model/Camper shall be constructed in any floodplain.

Tiny House Villages/Communities

Tiny house villages/communities may be allowed in identified areas.

7.18.02 Grain Bin Homes

Any residential structure meeting the definition of a grain bin home shall meet the following criteria:

1. Grain bin homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
3. Grain bin homes shall have a kitchen area and sink;
4. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
5. All electrical shall be in compliance with all local, state and/or federal electrical codes;

6. The unit shall meet all egress requirements found in local, state, and/or federal codes;
7. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

7.18.03 Cargo Container Homes

Any residential structure meeting the definition of a cargo container home shall meet the following criteria:

1. Cargo container homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Multiple containers shall be structurally and permanently attached to each other;
3. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
4. Cargo container homes shall have a kitchen area and sink;
5. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
6. All electrical shall be in compliance with all local, state and/or federal electrical codes;
7. The unit shall meet all egress requirements found in local, state, and/or federal codes;
8. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.
9. No Cargo Container Homes shall be constructed in any floodplain.

7.18.04 Tree house Homes

Any residential structure meeting the definition of a tree house home shall meet the following criteria:

1. Tree house homes shall only be permitted as an accessory use to a primary structure;
2. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
3. All electrical shall be in compliance with all local, state and/or federal electrical codes;
4. The unit shall meet all egress requirements found in local, state, and/or federal codes;

7.18.05 Quonset Homes

Any residential structure meeting the definition of a Quonset home shall meet the following criteria:

1. Quonset homes shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
3. Quonset homes shall have a kitchen area and sink;
4. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
5. All electrical shall be in compliance with all local, state and/or federal electrical codes;
6. The unit shall meet all egress requirements found in local, state, and/or federal codes;
7. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

7.18.06 Shouses

Any residential structure meeting the definition of a Shouse shall meet the following criteria:

1. Shouses shall be structurally anchored to a permanent foundation and said foundation shall meet local, state, and/or federal building codes;
2. Once a Shouse has been established, the overall structure, including the shop area will no longer be considered an agricultural structure/building;
3. Every dwelling shall have toilet facilities-water closet, lavatory, and a bathtub or shower;
4. Shouses shall have a kitchen area and sink;
5. The unit shall provide heating and cooling systems as required by local, state and/or federal codes;
6. All electrical shall be in compliance with all local, state and/or federal electrical codes;
7. The unit shall meet all egress requirements found in local, state, and/or federal codes;
8. All structures shall meet the maximum coverage on a lot as any ordinary single-family dwelling.

Section 7.19 Short-term Rentals

This section is intended to apply strictly to the use of property for short-term rentals within the unincorporated areas of Custer County.

7.19.01 Performance Standards

1. Said short-term rental shall be located in a primary residential structure or as an accessory dwelling unit on the same property.
2. Said short-term rental shall not be allowed in any dwelling considered part of a multi-family dwelling including duplexes, single-family attached units or larger.
3. Said short-term rental shall not allow the property to be used for party rentals.
4. Said short-term rental shall file the required lodging taxes with the county and state.

5. Said short-term rental shall properly maintained including structural maintenance and the grounds.
6. Said short-term rental shall meet all state and federal life safety codes and display said permits in a prominent location.
7. Said short-term rental shall not increase the normal level of traffic in the immediate area.
8. Said short-term rental shall not be used for any of the following:
 - A. Housing sex offenders;
 - B. Operating a structured sober living home or similar enterprise;
 - C. Selling illegal drugs;
 - D. Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or
 - E. Operating a sexually oriented business.

7.19.02 Remedies

Failure to comply with the regulations in Section 7.19.01, may result in any permit for a short-term rental to be revoked.

Section 7.20 Accessory Dwelling Units

One accessory dwelling unit per lot may be allowed by Conditional Use Permit in the indicated zoning districts in Section 4.07 under the following conditions:

1. The accessory dwelling unit shall fit within the allowable development area of the lot.
2. The owner of the lot is required to live on the property in either the principal dwelling or the ADU. The owner of the lot shall file with the Register of Deeds, a deed restriction agreement on the property stating the accessory dwelling cannot be sold separately from the principal dwelling. The deed restriction agreement must be to the satisfaction of the County Attorney. The deed restriction agreement shall be filed prior to any zoning permit for the ADU.
3. The ADU must share the same access point to the public or private street as the principal dwelling.
4. The ADU must meet the same setback requirements as the principal dwelling of the district. The height of the ADU must meet the height limit of the district for a dwelling but be no higher than the principal dwelling.
5. The ADU must share utilities with the principal dwelling unless the owner can demonstrate a practical problem with sharing due to the topography or other unique site considerations.

ARTICLE 8: BOARD OF ADJUSTMENT

Section 8.01 Intent

A Board of Adjustment is hereby created in accordance with Nebraska State Statutes governing such creation. The Board shall be an appeals body and may decide any matter appropriately brought before it.

Section 8.02 Membership

The Board of Adjustment shall consist of five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason. Each member is to be appointed for a term of three years and may be removed for cause by the appointing authority upon written charges and after public hearing. No member of the Board of Adjustment shall be a member of the County Board of Supervisors. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member of the Board of Adjustment shall be appointed by the County Board from the membership of the County Planning Commission, and the loss of membership on the Planning Commission by said member shall also result in their immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.

Section 8.03 Rules and Meetings

1. The Board of Adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this act. Meetings of the Board shall be held at the call of the Chair and at such other times as the Board may determine. Said Chair, or in their absence the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the County Clerk and shall be a public record.
2. An appeal to the Board of Adjustment may be taken by any person or persons aggrieved or by any officer, department, board, or bureau of the County by any decision, other than the approval or denial of a conditional use permit application, of an administrative officer, planning commission, and/or County Board, depending upon the nature of grievement. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person, by agent, or by attorney.

Section 8.04 Powers

1. The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board of Supervisors, have only the following powers:
 - A. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
 - B. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by such regulation to pass; and
 - C. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of any zoning regulations, but no such variance shall be authorized unless the Board of Adjustment finds that:

- (1) The strict application of the resolution would produce undue hardship;
 - (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - (3) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
 - (4) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- D. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned, or the intended use of the property concerned is not of so general or recurring a nature as to make reasonable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
2. In exercising the above-mentioned powers, the Board may, in conformity with the provision of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to affect any variation in such regulation.

Section 8.05 Appeal of Board Decisions

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment or any officer, departments, board or bureau of the county may seek review of such decision by the district court for the county in the manner provided by the laws of the state and particularly by Chapter 23, Laws of Nebraska.

ARTICLE 9: ADMINISTRATION AND ENFORCEMENT

Section 9.01 Organization

The administration and enforcement of this Resolution is hereby vested in the Custer County Planning Commission, the Custer County Board of Adjustment, the Custer County Board of Supervisors, the Zoning Administrator designated by the Board of Supervisors, the Custer County Attorney and such other persons as may be designated by the Board of Supervisors.

Section 9.02 Authorities

1. Planning Commission: With regard to the proper administration and enforcement of this Resolution, the Custer County Planning Commission shall have the following authorities:
 - A. Hear and recommend action by the Board of Supervisors regarding all applications for amendments to the text of this Resolution and / or changes (rezoning) to the Custer County Official Zoning Map.
 - B. Hear and recommend action by the Board of Supervisors regarding all applications for conditional uses, as set forth in this Resolution.
 - C. Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.
 - D. Periodically review the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.
 - E. Invoke any authorized remedy for the enforcement of this Resolution.
2. Board of Adjustment: See Article 8
3. Board of Supervisors: With regard to proper administration and enforcement of this Resolution, the Custer County Board of Supervisors shall have the following authorities:
 - A. Hear and decide conditional use applications upon which it is required to act under the terms of this Resolution, after recommendation from the Planning Commission.
 - B. Consider and adopt amendments to the text of this Resolution and / or changes (re-zonings) to the Custer County Official Zoning Map, after review and recommendation by the Planning Commission.
 - C. Consider and adopt a schedule of permit and application fees for administration of this Resolution, after review and recommendation by the Planning Commission.
 - D. Provide for the proper and constant enforcement of this Resolution through appointment of a Zoning Administrator and sufficient budget to enable the Planning Commission, the Board of Adjustment, the Board of Supervisors, the Zoning Administrator, the County Attorney and any other persons designated by the Board of Supervisors to carry out the responsibilities assigned to them by adoption of this Resolution.
4. Zoning Administrator: With regard to proper administration and enforcement of this Resolution, the Custer County Zoning Administrator shall have the following authorities:
 - A. Make available to the public application forms for amendments to this Resolution and / or Official Zoning Map, for appeals to the Board of Adjustment, and conditional use requests to the Board of Supervisors and to issue zoning permits and certificates of zoning compliance (occupancy permits) as required by the Resolution and to maintain records of all such applications and permits issued.
 - B. Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution. Where violations are determined to exist, the Zoning Administrator shall have the authority to issue letters of violation, stop work orders and any other legal remedy to assure compliance with the requirements of this Resolution.
 - C. Provide interpretation of the text of this Resolution and the Official Zoning Map when necessary and such other technical and clerical assistance as the public, the Planning Commission, Board of Adjustment and Board of Supervisors may require.
 - D. Maintain and provide information to the public regarding the requirements of this Resolution and provide for the timely publishing of legal notices and other notifications relative to administration of this Resolution as prescribed by law.
 - E. Maintain permanent and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits, certificates of zoning compliance, variances, appeals,

conditional uses and applications thereof together with all records of meetings and public hearings pertaining to this Resolution.

Section 9.03 Responsibilities

The following shall be the responsibilities of the various entities involved in the proper administration and enforcement of this Resolution:

1. It is the intent of this Resolution that all questions of interpretation and enforcement regarding this Resolution shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from a decision of the Zoning Administrator and that recourse from the decisions of the Board of Adjustment shall be to the courts, as prescribed by law.
2. It is further the intent of this Resolution that the duties of the Board of Supervisors relative to this Resolution shall be limited to those specified in Section 9.02 (3A-3D) of this Resolution and shall not include the hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this Resolution.
3. If the Zoning Administrator shall find that any of the provisions of this Resolution are being violated, he / she shall notify the person(s) responsible for such violation in writing, indicating the nature of the violation and ordering the action or actions necessary to correct and eliminate such violation. The Zoning Administrator shall have the full authority to order discontinuance of prohibited or unauthorized uses of land, buildings or structures, removal of prohibited or unauthorized buildings or structures or prohibited or unauthorized additions thereto, discontinuance of any work being done in violation of the requirements of the Resolution, and the taking of any other legal action necessary to ensure compliance with or prevent violation of the provisions of this Resolution.
4. The Zoning Administrator, operating through the County or other designated Attorney, shall have express authority to initiate and carry out any and all legal actions appropriate and necessary to enforce the provisions of this Resolution and any orders of the Board of Adjustment, without further authorization by the Board of Supervisors. Adoption of this provision by the Custer County Board of Supervisors is expressly intended to authorize the Zoning Administrator and County or other designated Attorney to initiate and carry out all legal actions appropriate and necessary to enforce the provisions of this Resolution that is or may be applicable under the laws of the State of Nebraska.

Section 9.04 Zoning Permits Required

No building or other structure shall be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved, or structurally altered without a zoning permit therefore, first being issued by the Zoning Administrator, provided that:

1. A farm building housing a commercial, industrial or other non-agricultural use, as defined in Article 2 of this Resolution, shall not be considered a farm building and shall be subject to these zoning permit and/or certificate of zoning certificate requirements.
2. A building housing an agricultural use, as defined in Article 2 of this Resolution, which is located on a lot, plot or parcel of land which does not meet the definition of a farm, as defined in Article 2 of this Resolution, shall be considered a non-farm building and shall be subject to these zoning permit requirements.
3. Governmental entities shall be required to obtain building permits for buildings and other land uses, but shall not be required to obtain zoning permits for the construction, repair, and/or erection of road signs, traffic signs, bridges, culverts and other structures upon and within the public road rights-of-way or easements of record.

Section 9.05 Application for a Zoning Permit

The following requirements shall apply to all requests for a zoning permit:

1. All applications for a zoning permit shall be made on forms prescribed for such application by the Board of Supervisors and shall have incorporated into said forms a place for drawing of a plot plan showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of all existing and proposed parking areas, water supply and sewage disposal facility locations, and such other information as may be pertinent to said application.
2. The application shall include, the name(s), address(es) and telephone number(s) of the applicant and such other information as may be lawfully required by the Zoning Administrator, including existing and proposed uses of land, buildings and structures, existing or proposed building or structure alterations, the number of families, housekeeping units on the premises, conditions existing on the premises, provisions for water supply, sewage disposal and erosion

control, soil conditions and permeability and such other information as may be necessary to determine conformance with the requirements of the Resolution and enforcement thereof.

3. Upon receipt of a complete zoning permit application and receipt of any applicable application fee, the Zoning Administrator shall make two (2) copies of the zoning permit application and return one (1) copy to the applicant after he / she has marked the copy of the permit as approved or disapproved and attested to same by his / her dated signature. If a zoning permit application is denied, the Zoning Administrator shall state the reason(s) for such denial in writing and attach the same to the applicant's copy of the application. The Zoning Administrator shall mark the original of the zoning permit application as approved or disapproved in the same manner as the copy and shall maintain said original together with written reason(s) for denial of said application in the permanent files of the County.
4. When the Zoning Administrator approves a zoning permit for erection of any building or structure or erection of any addition to or alteration thereof, he / she shall issue one (1) copy of such approved zoning permit to the Custer County Assessor.
5. Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such plot plan and permit and no other use, arrangement or construction. If the Zoning Administrator determines that the use, arrangement or construction developed under any approved permit is not proceeding according to the approved permit and applicable regulations or conditions, the Zoning Administrator shall revoke said permit and issue a written stop work order and require that such use, arrangement or construction be brought into conformance with the approved permit.

Section 9.06 Limitation of Issuance of Zoning Permit

Notwithstanding of provisions of this Resolution, in the event a conditional use application has been duly filed with the zoning administrator and the use and/or location of such use proposed in said conditional use application would, due to setback or other requirements of this Resolution, restrict or otherwise prohibit the issuance of a zoning permit for another use on any neighboring property, a zoning permit for any use on neighboring property which would be restricted or prohibited by the authorization of said conditional use shall not be issued by the Zoning Administrator until the application for conditional use has been decided by the County Board of Supervisors in accordance with the requirements of this Resolution. In the event such conditional use is authorized, a zoning permit for a use which would be restricted or prohibited on neighboring property shall be issued only in conformance with the resulting restriction(s) or shall not be issued if the requested use would then be prohibited.

Section 9.07 Expiration of Zoning Permit

If the work described in any approved zoning permit, for a permitted use, which does not require a state or federal permit, has not been commenced within 180 calendar days of the date of approval of such permit or if work described in any approved permit has not been completed within two years of the date of approval of such permit, the said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be provided to the person(s) affected together with written notice that further work, as described in the canceled permit is prohibited, unless the applicant can qualify for a new zoning permit.

If the work described in any approved zoning permit, for a permitted use, which does require a state or federal permit, has not been commenced within 60 calendar days of the date of approval by the appropriate state or federal licensing agency, or if work described in any approved permit has not been completed within two years of the date of approval of such permit, the said permit shall expire and be canceled by the zoning administrator and written notice of such cancellation shall be provided to the person(s) affected, together with written notice that further work, as described in the canceled permit, is prohibited, unless the applicant can qualify for a new zoning permit.

Commencement and completion of work on a conditional use permit shall be governed by the requirements of Article 5 of this regulation.

Section 9.08 Certificates of Zoning Compliance for New Use or Change of Use

The following requirements shall apply to the issuance of all certificates of zoning compliance (occupancy permits):

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator
2. No Certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Supervisors in the form of an approved conditional use, as provided for in this Resolution.
3. Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such approved plot plans and permit and no other use, arrangement or construction developed under any approved permit is not according to the approved zoning permit and applicable regulations or conditions, the Zoning Administrator shall not issue a Certificate of Zoning Compliance, but shall instead inform the applicant in writing of the violations and specify the actions necessary to bring such use, arrangement or construction into compliance with the approved zoning permit.
4. A Certificate of Zoning Compliance, once issued, shall remain in effect so long as the use of the land, buildings and structures is used in accordance with said Certificate.
5. The determination of the number of animal units in any intensive/confined feeding use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality, or in the event such a permit is not required, such determination shall be by written declaration of the one-time capacity of such use to the County by the owner of such use. In the event of any dispute over the number of animal units being confined, such determination shall be by actual counting of the animal units by the Zoning Administrator or other duly appointed person at the time of such dispute.

Section 9.09 Failure to Obtain Zoning Permit/Certificate of Zoning Compliance

Failure to obtain required Zoning Permits and Certificates of Zoning Compliance or failure to comply with the plans and application information under which such permits or certificates were issued shall be a violation of this Resolution and be punishable as provided in Article 11 of this Resolution.

ARTICLE 10: AMENDMENTS

Section 10.01 Amendments

1. Authority:

The County Board of Supervisors may from time to time amend, supplement, modify the zoning district boundaries or repeal the regulations contained in this Resolution, provided no such amendment, supplement, modification, change of boundaries or repeal shall become effective until such proposed modification shall have been submitted to the Planning Commission for recommendation and report and after public notice has been provided and public hearings have been held by both the Planning Commission and Board of Supervisors. A proposal for modification or repeal may be initiated by the Planning Commission, the Board of Supervisors or upon application of any owner of property under the jurisdiction of this Resolution. A filing fee, as established by the County Board of Supervisors shall be paid for each application to modify this Resolution prior to action on such application by the Planning Commission and Board of Supervisors, provided that such fee shall be waived where the proposed modifications is initiated by the Planning Commission or the Board of Supervisors.

Section 10.02 Public Notice and Public Hearings:

1. Prior to consideration of amending, supplementing, changing, modifying or repealing of all or part of this Resolution, notice of public hearings by the Planning Commission and Board of Supervisors shall each be provided as follows: Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three miles of the property effected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three miles of the property affected by such action. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.
2. If such proposed modification is not a general revision of an existing provision of this Resolution and will affect only a specific property, the public notice shall include the general location and a legal description of such specific property and, in addition, notice of the public hearing(s) shall be mailed by first class mail to the applicant and the owners of record of real estate that is located adjacent to or immediately across a road from the property affected by such modification at least 10 calendar days prior to such public hearings.
3. The provisions of this Section regarding notification by first class mail shall not apply to:
 - A. A proposed modification of this Resolution where such modification will apply throughout the County or throughout an existing zoning district;
 - B. Additional or different types of zoning districts are proposed, whether or not such
 - C. additional or different zoning districts are made applicable to areas or parts of areas already within a zoning district of the County;
 - D. In these instances, only the publication of public notice in the newspaper, and notice to other planning commissions having jurisdiction over lands within three miles of lands which will be effected by such modification and notification of local units of government, as set forth above, shall be required.

Section 10.03 Amendment Consideration and Adoption

1. **Planning Commission:** The procedure for the consideration and adoption of any proposed amendment to this Resolution shall be in like manner as that required for consideration and adoption of this Resolution. For action on amendments to the text of this Resolution or the zoning district boundaries indicated on the Official Zoning Map, a quorum of the Planning Commission must be present at the required public hearing to approve or disapprove a proposed amendment. Action on any proposed amendment shall require an affirmative vote of a majority of all members of the Commission. The Commission's action on any proposed amendment shall constitute a recommendation of approval or disapproval to the Board of Supervisors.
2. **Board of Supervisors:** After public notice and public hearing as described above, may act to agree or disagree with said Planning Commission recommendation and shall act to approve or disapprove said amendment. Passage of a motion to adopt a resolution approving an amendment or passage of motion to disapprove an amendment, regardless of the recommendation of the

Planning Commission shall require a simple majority vote of the Board of Supervisors, except for the provisions set forth in this Resolution.

Section 10.04 Amending the Official Zoning Map

Should any amendment adopted by resolution of the Board of Supervisors serve to modify the location of zoning district boundaries as set forth on the Custer County Official Zoning Map, the Board of Supervisors shall cause the Official Zoning Map to immediately be modified to reflect the adopted amendment and such change shall be witnessed by the signature of the Chairperson of the Board of Supervisors. Adoption of any resolution to amend the Official Zoning Map shall become effective only after such amendment is reflected on such Official Zoning Map and such change has been witnessed by the signature of the Chairperson of the County Board of Supervisors and attested to by the County Clerk.

Section 10.05 Protests

Regardless of whether or not the Planning Commission approves or disapproves a proposed amendment, if a protest against any amendment, signed by the owners of 20 percent or more of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, is filed, such amendment shall not become effective except by the favorable vote of two-thirds majority of the County Board of Supervisors.

ARTICLE 11: COMPLAINTS, VIOLATIONS, REMEDIES, PENALTIES**Section 11.01 Complaints Regarding Violations**

Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint, immediately investigate the complaint and take appropriate action thereon in accordance with the regulations and requirements of this Resolution.

Section 11.02 Penalties For Violations

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approval of variance and conditional uses, shall be punished as provided by State Law.

Section 11.03 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, moved, converted or maintained, or any building, structure or land is used in violation of this Resolution or the conditions and safeguards established in connection with approval of any variance or conditional use, the Zoning Administrator, County Attorney or other duly appointed official shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, movement, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 12: LEGAL STATUS PROVISIONS

Section 12.01 Severability

Should any article, section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 12.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Resolution.

Section 12.03 Repeal of Conflicting Resolutions

All Resolutions or parts of Resolutions in conflict with this Resolution, or inconsistent with the provisions of this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

Section 12.04 Effective Date

This Resolution shall take effect and be in force from and after its passage and publication according to law.

APPROVED AND ADOPTED by the Board of Supervisors of the county of Custer, Nebraska.

This _____ day of _____, 20____

_____ (CHAIR, COUNTY BOARD OF SUPERVISORS)

(Seal)
ATTEST:

_____ (COUNTY CLERK)

COUNTY TREASURER'S RETURN ON PUBLIC TAX SALE

I, Debbie Spanyers, duly elected County Treasurer of the County of Saline, in the State of Nebraska, hereby certifies that all real estate/special assessment(s) in said County on which said taxes were delinquent were duly offered for public tax sale, beginning on the first Monday in March, 2023, after publication of notice of such public tax sale, in accordance with Nebraska Revised Statutes Sections 77-1801 et seq. The undersigned further certifies that the public tax sale was continued until all lots or parcels of real estate/special assessment subject to delinquent taxes were offered for sale to the public.

I, Debbie Spanyers, County Treasurer of Saline County, Nebraska, hereby certifies, that the following is an accurate report and return of the public tax sale performed by me, commencing the first Monday in March, 2023.

(Check appropriate line)

- No real estate was sold for delinquent taxes and no tax sale certificates were issued thereon, due to lack of bidders.
- Attached hereto is a true and accurate report of all real estate/special assessment sales made by me pursuant to the public tax sale held, beginning the first Monday in March, 2023.

Given under my hand and official seal this 15th day of March, 2023.



Debbie Spanyers
Saline County Treasurer

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
CA210010	11/01/2021	CA	PARCEL: 0760080380 PERM ID: 0760080380 BRUSH CREEK PRCT TRACT IN SW 1/4 SW 1/4 SECTION 24-6-3 .5 ACRES	J.L. SPRAY BUYER ID: 9141	Redemption Principal 824.70 Original Certificate 824.70
			STATEMENTS: 2017-00007995 - RE 2018-00008032 - RE 2019-00008082 - RE 2020-00008133 - RE 2021-00008275 - RE	SOKOL, TRUSTEES OF Z B J T	
CA220003	11/01/2022	CA	PARCEL: 0760044562 PERM ID: 0760044562 SWANTON VILLAGE LOT 1 BLK. 7	CASEY RAHORST BUYER ID: 9139	Redemption Principal 1,021.65 Original Certificate 1,021.65
			STATEMENTS: 2018-00009588 - RE 2019-00009638 - RE 2020-00009681 - RE 2021-00009803 - RE	WITHROW/ANGELA & DAVE	
TS230001	03/06/2023	PU	PARCEL: 0760042233 PERM ID: 0760042233 WESTERN VILLAGE LOTS 24 TO 28 BLK 7 ICL	JESSICA JO GARDNER BUYER ID: 9140	Redemption Principal 275.72 Original Certificate 275.72
			STATEMENTS: 2019-00008203 - RE 2020-00008247 - RE 2021-00008384 - RE	SPURRIER/BRIAN & LOIS	
TS230002	03/06/2023	PU	PARCEL: 0760052565 PERM ID: 0760052565 DORCHESTER PRCT W 1/2 NE 1/4 & NE 1/4 SW 1/4 & NW 1/4 SE 1/4 SEC 3-8-3 133.82 ACRES	Tri City Ventures LLC BUYER ID: 9124	Redemption Principal 10,022.16 Original Certificate 10,022.16
			STATEMENTS: 2021-00005047 - RE	LOUKOTA FAMILY FARMS,L.L.C.	
TS230003	03/06/2023	PU	PARCEL: 0760028591 PERM ID: 0760028591 FRIEND CITY LOT 145	Tri City Ventures LLC BUYER ID: 9124	Redemption Principal 1,397.85 Original Certificate 1,397.85
			STATEMENTS: 2021-00006588 - RE 2021-00606588 - RE	PEREZ/ELPIDIO	
TS230004	03/06/2023	PU	PARCEL: 0760091838 PERM ID: 0760091838	Cooper Properties, LLC	Redemption Principal 9,321.62

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
			SWAN CREEK PRCT SW 1/4 SEC. 26-5-3 156.06 ACRES	BUYER ID: 9072 Original Certificate	9,321.62
TS230005 2404	03/06/2023 03/17/2023	PU	STATEMENTS: 2021-00008754 - RE PARCEL: 0760022976 PERM ID: 0760022976 WILBER CITY N 88' OF LOTS 554-555-556 & E 13 1/2' OF LOT 557	TACHOVSKY/JEAN Cooper Properties, LLC BUYER ID: 9072	Redemption Principal 1,306.34 Original Certificate 1,306.34
TS230006	03/06/2023	PU	STATEMENTS: 2021-00005087 - RE PARCEL: 0760028605 PERM ID: 0760028605 FRIEND CITY LOT 146	LUZUM/KIMBERLY Cooper Properties, LLC BUYER ID: 9072	Redemption Principal 513.79 Original Certificate 513.79
TS230007	03/06/2023	PU	STATEMENTS: 2021-00002569 - RE 2021-00602569 - RE PARCEL: 0760068259 PERM ID: 0760068259 PLEASANT HILL PRCT NW 1/4 SEC 31-7-3 152.44 ACRES	FRIEND LODGE 73 A F & A M Casilda Land Holdings LLC BUYER ID: 9123	Redemption Principal 6,049.87 Original Certificate 6,049.87
TS230008 2396	03/06/2023 03/06/2023	PU	STATEMENTS: 2021-00005048 - RE PARCEL: 0760002894 PERM ID: 0760002894 CRETE CITY LOTS 11-12 BLK 69	LOUKOTA FAMILY FARMS, L.L.C. Casilda Land Holdings LLC BUYER ID: 9123	Redemption Principal 1,192.73 Original Certificate 1,192.73
TS230009	03/06/2023	PU	STATEMENTS: 2021-00004983 - RE PARCEL: 0760016941 PERM ID: 0760016941 CRETE CITY LOTHROP HEIGHTS ADDITION LOT 42 BLK. 2	LOPEZ/JOSE Casilda Land Holdings LLC BUYER ID: 9123	Redemption Principal 407.75 Original Certificate 407.75
TS230010	03/06/2023	PU	STATEMENTS: 2021-00001321 - RE PARCEL: 0760062234 PERM ID: 0760062234	CIFUENTES/ADELA AZUCENA MONTERROSO Heartland Investors with Union Bank BUYER ID: 9085	Redemption Principal 5,752.01 Original Certificate 5,752.01

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
			BIG BLUE PRCT PT SW 1/4 SE 1/4 SEC 1-7-4 13.12 ACRES		
			STATEMENTS: 2021-00006322 - RE	PAPIK/JEFF & TERRA	
TS230011	03/06/2023	PU	PARCEL: 0760098247 PERM ID: 0760098247	Heartland Investors with Union Bank BUYER ID: 9085	Redemption Principal 1,189.68 Original Certificate 1,189.68
			WILBER CITY DUDEK'S FIRST ADDITION ALL OF LOTS 7-8-9 & 1/2 VAC. 9TH STREET ADJ. TO LOTS BLK. 1		
			STATEMENTS: 2021-00000136 - RE	ALTMAN/DIRK R	
TS230012	03/06/2023	PU	PARCEL: 0760147503 PERM ID: 0760147503	Basil Land Holdings LLC BUYER ID: 9105	Redemption Principal 2,926.45 Original Certificate 2,926.45
			CRETE PRCT PT SW 1/4 SE 1/4 SEC 35-8-4 10 ACRES		
			STATEMENTS: 2021-00009381 - RE	WACKEL/ADAM R & MARIA	
TS230013 2401	03/06/2023 03/16/2023	PU	PARCEL: 0760004803 PERM ID: 0760004803	Basil Land Holdings LLC BUYER ID: 9105	Redemption Principal 1,133.91 Original Certificate 1,133.91
			CRETE CITY LOT 9 BLK. 99		
			STATEMENTS: 2021-00000269 - RE	BANOS/JUAN M & ANA RIVAS	
TS230014	03/06/2023	PU	PARCEL: 0760143543 PERM ID: 0760143543	Basil Land Holdings LLC BUYER ID: 9105	Redemption Principal 306.08 Original Certificate 306.08
			CRETE CITY ALL OF LOTS 4-5-6 BLK. 59		
			STATEMENTS: 2021-00003863 - RE	JOHNSON/RALPH D III	
TS230015	03/06/2023	PU	PARCEL: 0760049122 PERM ID: 0760049122	STEPHEN M WOODALL BUYER ID: 9131	Redemption Principal 2,016.44 Original Certificate 2,016.44
			CRETE PRCT N 1/2 NW 1/4 (EX. CO.) SEC 18-8-4 70.50 ACRES		
			STATEMENTS: 2021-00008101 - RE	SKALAK/DEBRA LEE	
TS230016	03/06/2023	PU	PARCEL: 0760146447 PERM ID: 0760146447	STEPHEN M WOODALL BUYER ID: 9131	Redemption Principal 1,107.39 Original Certificate 1,107.39
			DORCHESTER PRCT PT SE 1/4 SW 1/4 & PT NW 1/4 SE 1/4 LYING NORTH & WEST OF BB RIVER. SEC 3-8-3 32.96 ACRES		
			STATEMENTS: 2021-00001515 - RE	CRAWFORD/ELIZABETH	

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
TS230017 2403	03/06/2023 03/17/2023	PU	PARCEL: 0760133611 PERM ID: 0760133611 CRETE PRCT IMPROVEMENTS ON LEASED LAND-CABIN #6 BLUE RIVER LODGE SEC.21-8-4	STEPHEN M WOODALL BUYER ID: 9131	Redemption Principal 515.19 Original Certificate 515.19
TS230018	03/06/2023	PU	STATEMENTS: 2021-00000629 - RE PARCEL: 0760006806 PERM ID: 0760006806 CRETE CITY LOT 12 BLK 129	BIETZ/JUDD EMMA L WOODALL BUYER ID: 9133	Redemption Principal 2,689.20 Original Certificate 2,689.20
TS230019	03/06/2023	PU	STATEMENTS: 2021-00006590 - RE PARCEL: 0760133379 PERM ID: 0760133379 CRETE PRCT IMPROVEMENTS ON LEASED LAND-CABIN #23 BLUE RIVER LODGE SEC.21-8-4	PEREZ/ELPIDIO M EMMA L WOODALL BUYER ID: 9133	Redemption Principal 539.45 Original Certificate 539.45
TS230020 2397	03/06/2023 03/07/2023	PU	STATEMENTS: 2020-00002441 - RE 2021-00002858 - RE PARCEL: 0760146309 PERM ID: 0760146309 CRETE PRCT PT NE 1/4 SEC 33-8-4 6.49 ACRES ICL	GREINER FAMILY TRUST EMMA L WOODALL BUYER ID: 9133	Redemption Principal 104.26 Original Certificate 104.26
TS230021	03/06/2023	PU	STATEMENTS: 2021-00008416 - RE PARCEL: 0760001804 PERM ID: 0760001804 CRETE CITY SOUTH 1/2 OF LOT 2 & ALL OF LOT 3 BLK. 34	STATE OF NE DEPT OF ROADS CECILIA LAND HOLDINGS LLC BUYER ID: 9135	Redemption Principal 2,595.61 Original Certificate 2,595.61
TS230022	03/06/2023	PU	STATEMENTS: 2021-00002517 - RE PARCEL: 0760014124 PERM ID: 0760014124 CRETE CITY LOTS 1-4 & E 23' OF N 176' OF LOT 13 BLK. 235	FRANCO/ROGELIO LEMUS CECILIA LAND HOLDINGS LLC BUYER ID: 9135	Redemption Principal 1,078.90 Original Certificate 1,078.90
TS230023	03/06/2023	PU	STATEMENTS: 2021-00005446 - RE PARCEL: 0760057524 PERM ID: 0760057524	MEYERS/MATTHEW C Borromeo Land Holdings LLC BUYER ID: 9125	Redemption Principal 2,453.80 Original Certificate 2,453.80

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
			LINCOLN PRCT PT SE 1/4 SW 1/4 SEC. 6-8-2 7.39 ACRES		
TS230024	03/06/2023	PU	STATEMENTS: 2021-00004178 - RE PARCEL: 0760031800 PERM ID: 0760031800 FRIEND CITY R.S. BENTLEY'S ADDITION E 90' OF LOT 107-108-109	KENNEY/WAYNE A & MARY C Borromeo Land Holdings LLC BUYER ID: 9125	Redemption Principal 1,016.20 Original Certificate 1,016.20
TS230025	03/06/2023	PU	STATEMENTS: 2021-00001857 - RE PARCEL: 0760033625 PERM ID: 0760033625 FRIEND CITY PAIGES FIRST ADDITION E 1/2 OF BLK 2	DOWDY/CHRISTOPHER W Adair 0001 with Union Bank BUYER ID: 9108	Redemption Principal 2,294.82 Original Certificate 2,294.82
TS230026	03/06/2023	PU	STATEMENTS: 2021-00005789 - RE PARCEL: 0760034648 PERM ID: 0760034648 FRIEND CITY YEOMAN'S SUB BLK 1 3RD ADDITION S 1/2 OF LOT 7 & ALL OF LOT 8 & 9	MURPHY/LESLIE R Adair 0001 with Union Bank BUYER ID: 9108	Redemption Principal 974.38 Original Certificate 974.38
TS230027	03/06/2023	PU	STATEMENTS: 2021-00000443 - RE PARCEL: 0760011680 PERM ID: 0760011680 CRETE CITY W 33' OF LOT 1 & W 33' OF N 34' OF LOT 2 BLK. 199	BAUGH/COURTNEY JAMES HERITAGE MANAGEMENT SERVICES WITH BUYER ID: 9142	Redemption Principal 2,201.69 Original Certificate 2,201.69
TS230028	03/06/2023	PU	STATEMENTS: 2021-00004954 - RE PARCEL: 0760065667 PERM ID: 0760065667 DEWITT VILLAGE LOTS 282-283	LOPEZ/ANA MENDEZ HERITAGE MANAGEMENT SERVICES WITH BUYER ID: 9142	Redemption Principal 941.67 Original Certificate 941.67
TS230029	03/06/2023	PU	STATEMENTS: 2021-00002716 - RE PARCEL: 0760012318 PERM ID: 0760012318 CRETE CITY N 11' OF LOT 10 & ALL OF LOTS 11-12 BLK. 207	GARRISON/STEVEN J & DONNA L Husker Partners with Union Bank BUYER ID: 9088	Redemption Principal 2,122.42 Original Certificate 2,122.42
			STATEMENTS: 2021-00004201 - RE	KING/THOMAS N & PATRICIA S	

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
TS230030 2399	03/06/2023 03/09/2023	PU	PARCEL: 0760040702 PERM ID: 0760040702 DORCHESTER VILLAGE S 1/2 OF LOT 1195, ALL OF LOTS 1196-1197 & N 1/2 OF LOT 1198	Husker Partners with Union Bank BUYER ID: 9088	Redemption Principal 908.98 Original Certificate 908.98
			STATEMENTS: 2021-00007517 - RE	ROTH/CHERYL J	
TS230031	03/06/2023	PU	PARCEL: 0760010862 PERM ID: 0760010862 CRETE CITY LOTS 13-14-15 BLK. 187	J.L. SPRAY BUYER ID: 9141	Redemption Principal 2,106.58 Original Certificate 2,106.58
			STATEMENTS: 2021-00005001 - RE	LOPEZ/QUIRINO MENDEZ	
TS230032	03/06/2023	PU	PARCEL: 0760133204 PERM ID: 0760133204 CRETE PRCT IMPROVEMENTS ON LEASED LAND-CABIN #42 BLUE RIVER LODGE SEC.16-8-4	J.L. SPRAY BUYER ID: 9141	Redemption Principal 811.00 Original Certificate 811.00
			STATEMENTS: 2021-00006005 - RE	NOVACORE, LLC	
TS230033	03/06/2023	PU	PARCEL: 0760016631 PERM ID: 0760016631 CRETE CITY LOTHROP HEIGHTS ADDITION LOT 11 BLK 2	BRAVO SECURITIES with Union Bank BUYER ID: 9132	Redemption Principal 1,893.73 Original Certificate 1,893.73
			STATEMENTS: 2021-00003693 - RE	JACINTO-TERCEROMITALINA	
TS230034	03/06/2023	PU	PARCEL: 0760039739 PERM ID: 0760039739 DORCHESTER VILLAGE ALL OF LOT 802 & N 1/2 OF LOT 803	BRAVO SECURITIES with Union Bank BUYER ID: 9132	Redemption Principal 897.93 Original Certificate 897.93
			STATEMENTS: 2021-00006589 - RE	PEREZ/ELPIDIO	
TS230035	03/06/2023	PU	PARCEL: 0760012458 PERM ID: 0760012458 CRETE CITY LOTS 7-8 BLK. 209	Ambrose Land Holdings LLC BUYER ID: 9106	Redemption Principal 2,259.42 Original Certificate 2,259.42
			STATEMENTS: 2021-00002828 - RE	GONZALEZ/SORANGELYS CASTRO	
TS230036	03/06/2023	PU	PARCEL: 0760024847 PERM ID: 0760024847	Community Solutions of the Midwest LLC BUYER ID: 9071	Redemption Principal 1,886.91 Original Certificate 1,886.91

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
			WILBER CITY WILBER'S SECOND ADDITION ALL OF LOTS 11-12 BLK. 8		
TS230037	03/06/2023	PU	STATEMENTS: 2021-00001556 - RE PARCEL: 0760003289 PERM ID: 0760003289	CROSBY/JERRY WAYNE Community Solutions of the Midwest LLC BUYER ID: 9071	Redemption Principal 987.87 Original Certificate 987.87
			CRETE CITY LOT A BLOCK 77 & E 1/2 VACATED IVY AVENUE ADJ.		
TS230038	03/06/2023	PU	STATEMENTS: 2021-00000284 - RE PARCEL: 0760032262 PERM ID: 0760032262	BARKDOLL/DANIEL Community Solutions of the Midwest LLC BUYER ID: 9071	Redemption Principal 500.24 Original Certificate 500.24
			FRIEND CITY R.S. BENTLEY'S ADDITION LOTS 200-203, PT OF LOTS 205- 207, AND ALL OF LOT 208		
TS230039	03/06/2023	PU	STATEMENTS: 2021-00005718 - RE PARCEL: 0760000042 PERM ID: 0760000042	MOORE/THOMAS & KIMBERLY M BSP Ventures, LLC BUYER ID: 9069	Redemption Principal 1,844.10 Original Certificate 1,844.10
			CRETE CITY NORTH 20 1/2' OF LOT 2 BLK 1		
TS230040	03/06/2023	PU	STATEMENTS: 2021-00005729 - RE PARCEL: 0760070350 PERM ID: 0760070350	MORALES/JUAN BSP Ventures, LLC BUYER ID: 9069	Redemption Principal 884.80 Original Certificate 884.80
			MONROE PRCT PT W 1/2 SE 1/4 SW 1/4 SEC. 21-7-2 7.29 ACRES		
TS230041	03/06/2023	PU	STATEMENTS: 2021-00001476 - RE PARCEL: 0760002126 PERM ID: 0760002126	COOL/KYLE M BSP Ventures, LLC BUYER ID: 9069	Redemption Principal 499.71 Original Certificate 499.71
			CRETE CITY NORTH 34' OF LOT 11 & ALL OF LOT 12 BLK. 43		
TS230042	03/06/2023	PU	STATEMENTS: 2021-00005445 - RE PARCEL: 0760012296 PERM ID: 0760012296	MEYERS/JAMES C Blaise Land Holdings LLC BUYER ID: 9104	Redemption Principal 810.18 Original Certificate 810.18
			CRETE CITY LOT 9 & S 33' OF LOT 10 BLK. 207		
			STATEMENTS: 2021-00004200 - RE	KING/THOMAS N & PATRICIA S	

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
TS230043 2400	03/06/2023 03/13/2023	PU	PARCEL: 0760021104 PERM ID: 0760021104 WILBER CITY LOT 243	Avery Real Estate, LLC BUYER ID: 9083	Redemption Principal 1,745.78 Original Certificate 1,745.78
TS230044	03/06/2023	PU	STATEMENTS: 2021-00007995 - RE PARCEL: 0760045119 PERM ID: 0760045119 SWANTON VILLAGE SECOND ADDITION LOT 10 & S 20' OF LOT 11	SEYFERT/STEVEN W & LISA L Avery Real Estate, LLC BUYER ID: 9083	Redemption Principal 783.90 Original Certificate 783.90
TS230045	03/06/2023	PU	STATEMENTS: 2021-00004289 - RE PARCEL: 0760032084 PERM ID: 0760032084 FRIEND CITY R.S. BENTLEY'S 1ST ADDITION LOT 162-163	KOHLSCHMIDT/KENNETH L Avery Real Estate, LLC BUYER ID: 9083	Redemption Principal 518.19 Original Certificate 518.19
TS230046	03/06/2023	PU	STATEMENTS: 2019-00008721 - RE 2020-00008762 - RE 2021-00008888 - RE PARCEL: 0760029423 PERM ID: 0760029423 FRIEND CITY C.E. FRIEND'S FIRST ADDITION N 1/2 OF LOT 20 & ALL OF LOT 21	TIMMERMAN/NICOLE Alyson Acquisition, LLC BUYER ID: 9082	Redemption Principal 1,766.35 Original Certificate 1,766.35
TS230047	03/06/2023	PU	STATEMENTS: 2021-00009906 - RE PARCEL: 0760087407 PERM ID: 0760087407 DEWITT PRCT PT W 1/2 SE 1/4 (TRACT APP. 350' X 250') SEC 10-5-4 2.01 ACRES	WRIGHT/CHRISTOPHER DONALD Alyson Acquisition, LLC BUYER ID: 9082	Redemption Principal 771.74 Original Certificate 771.74
TS230048	03/06/2023	PU	STATEMENTS: 2021-00006332 - RE PARCEL: 0760082731 PERM ID: 0760082731 CRETE CITY THAT PART NORTH OF 12TH ST. BAL OF LOT 17 BLK. 11	PARAMO/JUAN OROZCO Benjamin Enterprises, LLC BUYER ID: 9073	Redemption Principal 1,700.00 Original Certificate 1,700.00
TS230049	03/06/2023	PU	STATEMENTS: 2021-00000658 - RE PARCEL: 0760008027 PERM ID: 0760008027	BJX ENTERPRISES, LLC Benjamin Enterprises, LLC	Redemption Principal 723.51

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
2402	03/17/2023		CRETE CITY LOT 24 BLK. 144	BUYER ID: 9073 Original Certificate	723.51
TS230050	03/06/2023	PU	STATEMENTS: 2021-00002698 - RE PARCEL: 0760009880 PERM ID: 0760009880 CRETE CITY LOT 12 BLK. 173	GARCIA/LUZ E CHAVEZ INDIA INVESTMENTS with Union Bank as BUYER ID: 9144	Redemption Principal 1,697.18 Original Certificate 1,697.18
TS230051	03/06/2023	PU	STATEMENTS: 2021-00001441 - RE PARCEL: 0760039372 PERM ID: 0760039372 DORCHESTER VILLAGE ALL OF LOT 703 & N.1/2 OF LOT 704	COLLIER/JERRY INDIA INVESTMENTS with Union Bank as BUYER ID: 9144	Redemption Principal 705.02 Original Certificate 705.02
TS230052	03/06/2023	PU	STATEMENTS: 2021-00003860 - RE PARCEL: 0760041822 PERM ID: 0760041822 WESTERN VILLAGE LOTS 16 TO 19 INCL BLK 1	JOHNSON/KRYSTAL ANN Emerson Property Services, LLC BUYER ID: 9070	Redemption Principal 1,672.14 Original Certificate 1,672.14
TS230053	03/06/2023	PU	STATEMENTS: 2021-00006393 - RE PARCEL: 0760043140 PERM ID: 0760043140 WESTERN VILLAGE FIRST ADDITION TO WESTERN LOTS 11-12 BLK 1	PAUL/RODD A Emerson Property Services, LLC BUYER ID: 9070	Redemption Principal 713.27 Original Certificate 713.27
TS230054	03/06/2023	PU	STATEMENTS: 2021-00008165 - RE PARCEL: 0760031320 PERM ID: 0760031320 FRIEND CITY R S BENTLEY'S ADDITION LOT 50	SLAMA/SHARON CELSUS LAND HOLDINGS LLC BUYER ID: 9129	Redemption Principal 1,435.44 Original Certificate 1,435.44
TS230055	03/06/2023	PU	STATEMENTS: 2021-00010009 - RE PARCEL: 0760147713 PERM ID: 0760147713 CRETE CITY LOT B BLK. 77	ZIEGLER/LINDA K CELSUS LAND HOLDINGS LLC BUYER ID: 9129	Redemption Principal 634.21 Original Certificate 634.21

Saline
TAX SALE LISTING
3/8/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
TS230056	03/06/2023	PU	STATEMENTS: 2021-00000285 - RE PARCEL: 0760039887 PERM ID: 0760039887 DORCHESTER VILLAGE LOTS 823-824-825	BARKDOLL/DANIEL Central Properties with Union Bank BUYER ID: 9034	Redemption Principal 1,712.16 Original Certificate 1,712.16
TS230057	03/06/2023	PU	STATEMENTS: 2020-00004114 - RE 2021-00004163 - RE PARCEL: 0760098204 PERM ID: 0760098204 WILBER CITY MANN'S ADDITION ALL OF LOTS 12-13-14	KEMERLING/TRAVIS & AMY Central Properties with Union Bank BUYER ID: 9034	Redemption Principal 433.94 Original Certificate 433.94
TS230058	03/06/2023	PU	STATEMENTS: 2021-00009256 - RE PARCEL: 0760010579 PERM ID: 0760010579 CRETE CITY EAST 1/2 LOTS 5-6-7-8 BLK. 184	VINSONHALER/MARK E & CYNTHIA R Easton Investments, LLC BUYER ID: 9084	Redemption Principal 1,363.94 Original Certificate 1,363.94
TS230059	03/06/2023	PU	STATEMENTS: 2021-00004199 - RE PARCEL: 0760033145 PERM ID: 0760033145 FRIEND CITY J K FRIEND'S ADDITION ALL OF LOTS 24-25-26	KING/THOMAS N & PATRICIA S Easton Investments, LLC BUYER ID: 9084	Redemption Principal 684.10 Original Certificate 684.10
TS230060	03/06/2023	PU	STATEMENTS: 2021-00006402 - RE 2021-00606402 - RE PARCEL: 0760002479 PERM ID: 0760002479 CRETE CITY LOTS 5-6 BLK. 56	PAULSEN/KEVIN A & DEBRA S MIDWEST MANAGEMENT WITH UNION BANK BUYER ID: 9029	Redemption Principal 1,359.20 Original Certificate 1,359.20
TS230061	03/06/2023	PU	STATEMENTS: 2021-00001496 - RE PARCEL: 0760039720 PERM ID: 0760039720 DORCHESTER VILLAGE LOT 801	CORTEZ/JOSEPHINA MIDWEST MANAGEMENT WITH UNION BANK BUYER ID: 9029	Redemption Principal 395.60 Original Certificate 395.60
			STATEMENTS: 2021-00003288 - RE	HERNANDEZ/ALTAGRACIA ELENA	

Saline
TAX SALE LISTING
3/8/2023 To 3/15/2023

Sale ID Redemption #	Sale Date Red. Date	Sale Type	Legal Description	Certificate Holder	Redemption Amount Sale Amount
			STATEMENTS: 2019-00009589 - RE 2020-00009628 - RE 2021-00009750 - RE	WILLIAMS/DARON	
TS230068	03/06/2023	PU	PARCEL: 0760046506 PERM ID: 0760046506 TOBIAS VILLAGE 2ND ADDITION LOT 3 BLK 8	CASEY RAHORST BUYER ID: 9139	Redemption Principal 476.38 Original Certificate 476.38
			STATEMENTS: 2020-00007663 - RE 2021-00007806 - RE	SCHOENHOLZ/ALLEN W	
TS230069	03/06/2023	PU	PARCEL: 0760043965 PERM ID: 0760043965 SHEARER'S ADDITION TO WESTERN VILLAGE LOTS 9-10-11-12 BLK. 3	CASEY RAHORST BUYER ID: 9139	Redemption Principal 415.13 Original Certificate 415.13
			STATEMENTS: 2021-00007817 - RE	SCHRIER/JOHN S & SHIRLEY G	

Saline
TAX SALE LISTING
3/6/2023 To 3/15/2023

Certificate Holder	Bank Code	Total Purchased	# of Sales	Average Price	Certificate Fee	Total Due
Adair 0001 with Union Bank	9108	3,269.20	2	1,634.60	40.00	3,309.20
Alyson Acquisition, LLC	9082	2,538.09	2	1,269.05	40.00	2,578.09
Ambrose Land Holdings LLC	9106	2,259.42	1	2,259.42	20.00	2,279.42
Avery Real Estate, LLC	9083	3,047.87	3	1,015.96	60.00	3,107.87
Basil Land Holdings LLC	9105	4,366.44	3	1,455.48	60.00	4,426.44
Benjamin Enterprises, LLC	9073	2,423.51	2	1,211.76	40.00	2,463.51
Blaise Land Holdings LLC	9104	810.18	1	810.18	20.00	830.18
Borromeo Land Holdings LLC	9125	3,470.00	2	1,735.00	40.00	3,510.00
BRAVO SECURITIES with Union Bank	9132	2,791.66	2	1,395.83	40.00	2,831.66
BSP Ventures, LLC	9069	3,228.61	3	1,076.20	60.00	3,288.61
CASEY RAHORST	9139	7,831.74	9	870.19	180.00	8,011.74
Casilda Land Holdings LLC	9123	7,650.35	3	2,550.12	60.00	7,710.35
CECILIA LAND HOLDINGS LLC	9135	3,674.51	2	1,837.26	40.00	3,714.51
CELSUS LAND HOLDINGS LLC	9129	2,069.65	2	1,034.83	40.00	2,109.65
Central Properties with Union Bank	9034	2,146.10	2	1,073.05	40.00	2,186.10
Community Solutions of the Midwest LLC	9071	3,375.02	3	1,125.01	60.00	3,435.02
Cooper Properties, LLC	9072	11,141.75	3	3,713.92	60.00	11,201.75
Easton Investments, LLC	9084	2,048.04	2	1,024.02	40.00	2,088.04
Emerson Property Services, LLC	9070	2,385.41	2	1,192.71	40.00	2,425.41
EMMA L WOODALL	9133	3,332.91	3	1,110.97	60.00	3,392.91
Heartland Investors with Union Bank	9085	6,941.69	2	3,470.85	40.00	6,981.69
HERITAGE MANAGEMENT SERVICES WITH	9142	3,143.36	2	1,571.68	40.00	3,183.36
Husker Partners with Union Bank	9088	3,031.40	2	1,515.70	40.00	3,071.40
INDIA INVESTMENTS with Union Bank as	9144	2,402.20	2	1,201.10	40.00	2,442.20
J.L. SPRAY	9141	3,742.28	3	1,247.43	60.00	3,802.28
JESSICA JO GARDNER	9140	275.72	1	275.72	20.00	295.72
MIDWEST MANAGEMENT WITH UNION BANK	9029	1,754.80	2	877.40	40.00	1,794.80
STEPHEN M WOODALL	9131	3,639.02	3	1,213.01	60.00	3,699.02
Tri City Ventures LLC	9124	11,420.01	2	5,710.01	40.00	11,460.01
Grand Totals:		110,210.94	71	1,552.27	1,420.00	111,630.94

SALINE COUNTY
REQUEST TO OCCUPY COUNTY RIGHT-OF-WAY

MAR 17 2023

Shawn Cross, hereinafter referred to as owner, requests to construct/bury Electric Cable/ Utility Line occupying the Right-of-Way of the Saline County Public Road System at (legal description):
SE44-8-1 RD 400

Construction on Gravel Roads **MUST** be Tunneled/ Bored
Trenching on dirt roads optional by pre-approval only

(Please indicate one) : Trenching X (pre-approved by Highway Superintendent)
Tunneled/Bored _____

Owner proposes to place and maintain the aforesaid construction on Saline County Public Right-of-Way at owner's expense and hereby absolves Saline County, its officials and employees from any liability from the placing and maintaining of said construction.

The owner will cooperate fully with the officials of Saline County and will keep them fully and immediately informed of all construction or maintenance work required on Saline County public Right-of-Way. The surface of the road will be restored to the same condition as it was prior to the work and such restoration will be accomplished to the reasonable satisfaction of the Saline County officials.

Person to be contacted, prior to construction, is the County Highway Superintendent, Courthouse, second floor, phone (402) 821-2737. Each location to be inspected by Saline County when permit is submitted and upon project completion. Saline County will determine if any labor or gravel will be required to restore the surface of the road or County Right-of-Way to the same condition as it was prior to the project. If determined necessary, the work shall be performed and gravel supplied by the owner.

Attach a sketch or map indicating approximate location to or from an easily recognized landmark.

Date 3-14-23

Shawn Cross
Signature of "Owner"

Phone 641-1616

310 420th
Friend NE 68359
(complete mailing address)

At the option of the County Board of Commissioners, the owner shall furnish a Surety Bond for an amount specified by the Board. The form of the bond shall be acceptable to the Saline County Board.

Surety Bond Required: YES ___ NO X Amount _____

COMMENTS: (County only) I recommend that this permit be granted subject to

Shawn Cross agreeing to return the damaged area to its original condition.

THIS PERMIT SUBJECT TO REQUIREMENTS LISTED ON ATTACHED SHEET

Date March 28, 2023

Signature - Highway Superintendent

We hereby grant Shawn Cross permission to occupy the County Right-of-Way at the location indicated and according to the procedure and conditions described in this document.

Date March 28, 2023

Signature - Chairman of County Board

Date 3-14-23

SALINE COUNTY

REQUIREMENTS

(Bore or Bury Electric Cable\Utility Line)

1. The cable must be buried a MINIMUM of five (5) feet BELOW ditch elevation.
2. Saline County will be notified no less than 48 hours in advance of any construction.

CALL: Bruce Filipi (402)-821-2737 (Hwy. Supt. Office)
(402)-826-9394 (Cell)

3. The applicant, Shawn Cross will adequately sign the location of the Electric Cable/Utility line at frequent intervals and at all culvert locations to insure that the applicant, Shawn Cross will be notified before any future excavation by county forces.
4. The applicant, Shawn Cross will be required to relocate the Electric Cable/Utility line at their own expense, if necessary, for any future roadway construction.

5 & 6 Apply to trenching operations only (Dirt Roads)

5. The applicant, Shawn Cross will be responsible for obtaining adequate compaction of backfill for all trench cuts. Backfill will be placed in successive horizontal layers not exceeding six (6) inches, and properly compacted.
6. All waste material from the trenching operation will be evenly distributed over the ditch side slopes or back slopes. All roadway side slopes, ditches or back slopes disturbed by the trenching operation will be reseeded with a mixture of grass seed as recommended by the Nebraska Game & Parks Commission for seeding county roadways.

Applicant: Shawn Cross
Signature

Address: 710 42nd
Fried NW 68359

Phone # 641-1616

APS7040
3/22/23
12:15:53

SALINE
BOARD PREAPPROVAL REPORT
GENERAL
FROM 04/07/2023 TO 04/07/2023

Account #	Description	Account Amt	Vendor	Invoice Description	Claim #
601-00 BOARD					
00-2-1704	MILEAGE ALLOWANCE	318.13	MARVIN KOHOUT	JULY MILEAGE AUGUST MILEAGE	23040023

	601-00 BOARD	318.13			

605-00 ASSESSOR					
00-3-0101	OFFICE SUPPLIES	205.98	EAKES OFFICE PLUS	INV 8683035-0	23040008

	605-00 ASSESSOR	205.98			

607-00 ELECTION					
00-2-0100	POSTAL SERVICE	2,000.00	U.S.P.S - POC	CLERK POSTAGE	23040053
00-2-1704	MILEAGE ALLOWANCE	61.05	DEE DRAKE	MILEAGE	23040007
00-3-0101	OFFICE SUPPLIES	20.00	SECRETARY OF STATE ELECTI	3/13/23 PSTCRD	23040046

	607-00 ELECTION	2,081.05			

608-00 PLANNING-ZONING COMMISSION					
00-2-1704	MILEAGE ALLOWANCE	24.17	MITCH FRITZ	MILEAGE MEETING	23040018
00-2-1704	MILEAGE ALLOWANCE	33.34	JEFFREY D KOLL	MILEAGE MEETING	23040024
00-2-1704	MILEAGE ALLOWANCE	26.79	ARON OURECKY	MILEAGE MEETING	23040037
00-2-1704	MILEAGE ALLOWANCE	17.62	MARK STROUF	MILEAGE MEETING	23040051

	608-00 PLANNING-ZONING COMMISSION	101.92			

610-00 VOICE/DATA SERVICES					
00-4-0201	DATA PROCESSING-MIPS	56.88	STATE OF NE-DEPT OF ADMIN	FEB 2023	23040049
00-4-0204	LANDLINE SERVICES	284.31	WINDSTREAM	ACCT 09035389	23040067
00-4-0205	MOBILE PHONE SERVICES	2,082.88	VERIZON WIRELESS	INV 9929806600	23040057

	610-00 VOICE/DATA SERVICES	2,424.07			

621-00 CLERK OF DIST. COURT					
00-2-1801	DUES, SUB, REG, & TRAINING	40.00	NACO	INV N2677	23040031

	621-00 CLERK OF DIST. COURT	40.00			

622-00 COUNTY COURT SYSTEM-JUDGE					
00-2-0100	POSTAL SERVICES	4.20	VISA	ACCT 6942	23040060

APS7040
3/22/23
12:15:53

SALINE
BOARD PREAPPROVAL REPORT
GENERAL
FROM 04/07/2023 TO 04/07/2023

Account #	Description	Account Amt	Vendor	Invoice Description	Claim #

622-00	COUNTY COURT SYSTEM-JUDGE	4.20			

631-00	CLERK OF DIST. COURT CHILD SUPPORT	192.00	VISA	ACCT 8604	23040059
00-2-1700	TRAVEL EXPENSES				

631-00	CLERK OF DIST. COURT CHILD SUPPORT	192.00			

641-00	BUILDING & GROUNDS (COURT HOUSE)	172.00	BLACK HILLS ENERGY	9947 0482 76	23040003
00-2-0503	HEATING/FUELS	36.41	WALKER UNIFORM RENTAL	INV 1260503	23040063
00-2-9900	MISCELLANEOUS	43.20	DOLLAR GENERAL CHARGE SAL	ACCT 899593338	23040006
00-3-0103	JANITORIAL SUPPLIES	167.35	MENARDS LINCOLN STORE SOU	INV 4993	23040030
00-3-0119	BUILDING SUPPLIES	38.00	DOLLAR GENERAL CHARGE SAL	ACCT 899593338	23040006

641-00	BUILDING & GROUNDS (COURT HOUSE)	456.96			

645-00	EXTENSION OFFICE	38.58	KAY KOTTAS	MILEAGE MEETING	23040025
00-1-0101	SALARY - BOARD MEMBERS	37.27	SANDRA J KRIVOHAVEK	MILEAGE MEETING	23040026
00-1-0101	SALARY - BOARD MEMBERS	18.28	AUSTIN NICHOLSON	MILEAGE MEETING	23040033
00-1-0101	SALARY - BOARD MEMBERS	22.86	AARON NIEDERKLEIN	MILEAGE MEETING	23040034
00-1-0101	SALARY - BOARD MEMBERS	28.10	KELLEN EUGENE NOVAK	MILEAGE MEETING	23040035
00-1-0101	SALARY - BOARD MEMBERS	29.41	MICHELE A RENNER	MILEAGE MEETING	23040040
00-1-0101	7 SALARY - BOARD MEMBERS	50.37	DEBORAH L STEUK	MILEAGE MEETING	23040050
00-1-0101	SALARY - BOARD MEMBERS	29.41	THERESA VERNON	MILEAGE MEETING	23040058
00-2-0100	POSTAL SERVICE	539.69	UNL COOPERATIVE EXTENSION	REIMBURSE REIMBURSE	23040054
00-2-1200	OFFICE EQUIPMENT REPAIR	1,076.81	UNL COOPERATIVE EXTENSION	REIMBURSE REIMBURSE	23040054
00-2-1704	MILEAGE ALLOWANCE	15.52	MELANIE KUNC	MILEAGE	23040027
00-2-1704	MILEAGE ALLOWANCE	15.72	BECKY VALES	MILEAGE	23040056
00-2-1704	MILEAGE ALLOWANCE	315.12	MADELINE WERNER	MILEAGE MILEAGE	23040066
00-2-1801	DUES, SUB, REG, & TRAINING	25.00	UNL COOPERATIVE EXTENSION	REIMBURSE REIMBURSE	23040054
00-3-0101	OFFICE SUPPLIES	268.48	UNL COOPERATIVE EXTENSION	REIMBURSE REIMBURSE	23040054

645-00	EXTENSION OFFICE	2,510.62			

651-00	SHERIFF	19.71	GALLS LLC	INV 023744835	23040019
00-1-1100	UNIFORM ALLOWANCE	370.65	VISA	INV 424039826 INV 42403984	23040062
00-2-1801	DUES, SUB, REG, & TRAINING	10.00	NEBRASKA LAW ENFORCEMENT	INV 11807	23040032
00-2-9900	MISCELLANEOUS	532.24	EMBLEM ENTERPRISES INC	INV 881363	23040010
00-2-9900	MISCELLANEOUS	6.30	TYSON OSBORN	FOODMESTO REIM FUEL REIMB	23040036

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00-2-9900	MISCELLANEOUS	524.47	VISA	INV 424039826 INV 42403984	23040062
00-3-0112	LAW ENFORCEMENT SUPPLIES	66.50	EVIDENT INC	INV 219146A	23040012
00-3-0209	FUEL	25.00	TYSON OSBORN	FOODMESTO REIM FUEL REIMB	23040036
00-3-0212	EQUIPMENT REPAIRS-COMMERCIAL	575.00	FEHLHAFFER'S INC	INV 4124	23040013
651-00 SHERIFF		2,129.87			
662-00	ATTORNEY-CHILD SUPPORT				
00-2-0100	POSTAL SERVICE	712.00	SALINE COUNTY ATTORNEY PE REIMBURSE		23040042
00-2-1801	DUES, SUB, REG, & TRAINING	305.89	EQUIFAX WORKFORCE SOLUTIO	INV 2054461925	23040011
662-00 ATTORNEY-CHILD SUPPORT		1,017.89			
671-00	JAIL				
00-1-1100	UNIFORM ALLOWANCE	494.60	VISA	INV 424039826 INV 42403984	23040062
00-2-0609	7 MAINTENANCE CONTRACTS/REPAIRS	669.05	MCKINNIS INC	INV 42485	23040029
00-2-1200	OFFICE EQUIPMENT REPAIR	394.04	US BANK EQUIPMENT FINANCE	INV 496712811	23040055
00-2-1701	MEALS REIMBURSEMENT-STAFF	12.01	ANTHONY D LYTTLE	MEAL REIMB	23040028
00-2-1701	MEALS REIMBURSEMENT-STAFF	10.26	JENNIFER RETCHLESS	MEAL REIMB	23040041
00-2-1701	MEALS REIMBURSEMENT-STAFF	8.18	JENNIFER WARNING	MEAL REIMB	23040065
00-2-1801	DUES, SUB, REG, & TRAINING	56.88	VISA	INV 424039826 INV 42403984	23040062
00-2-1900	BOARD OF PRISONERS-MEALS	9,750.11	SUMMIT FOOD SERVICE LLC	INV 2000169375 INV 20001688	23040052
00-2-3000	MEDICAL SERVICES	3,487.56	CRETE AREA MEDICAL CENTER	STAFF PHYSICAL CNTL 7798523	23040005
00-2-3000	6 MEDICAL SERVICES	695.00	FRIEND COMMUNITY HEALTHCA	DOS 03/09/23 DOS 03/16/23 D	23040017
00-2-9900	6 MISCELLANEOUS	732.00	CRETE AREA MEDICAL CENTER	STAFF PHYSICAL CNTL 7798523	23040005
00-2-9900	MISCELLANEOUS	64.89	SCHUERMAN WELDING INC	INV 19674	23040045
00-3-0100	SUPPLIES & MATERIALS-LINENS ET	301.40	ECOLAB	INV 6337003320 INV 63369177	23040009
00-3-0100	SUPPLIES & MATERIALS-LINENS ET	13.68	VISA	INV 424039826 INV 42403984	23040062
00-3-0101	OFFICE SUPPLIES	17.00	VISA	INV 424039826 INV 42403984	23040062
00-3-0103	JANITORIAL SUPPLIES	126.83	ECOLAB	INV 6337003320 INV 63369177	23040009
00-3-0103	7 JANITORIAL SUPPLIES	139.15	THE HOME DEPOT PRO	INV 734692593	23040022
00-3-0103	JANITORIAL SUPPLIES	62.34	WALKER UNIFORM RENTAL	INV 1260502	23040064
00-3-0105	MEDICAL SUPPLIES	241.17	VISA	INV 424039826 INV 42403984	23040062
00-3-0119	7 BUILDING SUPPLIES	136.80	ANYTIME PLUMBING & HEATIN	INV 24383VI INV 24393VI	23040002
00-3-0119	BUILDING SUPPLIES	204.41	VISA	INV 424039826 INV 42403984	23040062
00-3-0209	FUEL	25.00	VISA	INV 424039826 INV 42403984	23040062
671-00 JAIL		17,642.36			
690-00	911 EMERGENCY SERVICES				
00-1-1100	7 UNIFORM ALLOWANCE	77.96	HEATH SPORTS AND TEES	INV E24607	23040021
00-1-1100	UNIFORM ALLOWANCE	114.98	VISA	INV 424039826 INV 42403984	23040062
00-2-1801	DUES, SUB, REG, & TRAINING	175.05	VISA	AR0E8E4E2281 AR0E8E4E30A013	23040061
00-2-1801	DUES, SUB, REG, & TRAINING	10.91	VISA	INV 424039826 INV 42403984	23040062

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690-00 911 EMERGENCY SERVICES

378.90

693-00 EMERGENCY MANAGEMENT (CIVIL DEF)
00-2-2000 PRINTING AND PUBLISHING

50.00 FLOOD COMMUNICATIONS OF B INV 2/28/23

23040015

693-00 EMERGENCY MANAGEMENT (CIVIL DEF)

50.00

970-00 MISCELLANEOUS & MISC. COURTS

00-1-0803	DENTAL INSURANCE	150.00	KARA BURDA	REIMBURSE DNTL	23040004
00-1-0803	DENTAL INSURANCE	50.00	KEVEN ZUMPF	REIMBURSE DNTL	23040068
00-1-1400	MISCELLANEOUS INS	476.00	FIRST CONCORD BENEFITS GR	MARCH 2023	23040014
00-2-2412	COUNTY COURT ATTORNEY	1,999.30	STEPHANIE FLYNN LAW OFFIC	CR 22 193 CR 22 100	23040016
00-2-2414	JUVENILE ATTORNEY	1,964.92	REBECCA ANDERSON	JV 20 27 JV 22 57 JV 21 100	23040001
00-2-2502	PROFESSIONAL FEE: HUMAN RESOUR	1,497.00	SOARIN GROUP LLC	INV INV-10309	23040048
00-2-2515	CONTRACTUAL SERVICES (PUBLIC D	6,666.67	SCOTT RYAN GROPP, ATTORNE	APRIL 2023	23040020
00-2-2601	DISTRICT COURT COSTS	12.69	SALINE COUNTY ATTORNEY PE	REIMBURSE	23040042
00-2-2601	DISTRICT COURT COSTS	36.00	SALINE COUNTY DISTRICT CO	CLAIM 1744	23040043
00-2-2800	INSTITUTIONAL COSTS	214.00	REGION V SYSTEMS	INV 23-0316	23040039
00-2-2915	JUVENILE CONTRACTUAL COST (JUV	5,170.00	SARPY COUNTY SHERIFF	FEB 2/1-22/23	23040044
00-2-9900	MISCELLANEOUS	257.00	PHYSICIANS LABORATORY PC	INV 5150124	23040038
00-3-0150	MISC. VEHICLE SUPPLIES (CAR EX	79.82	SHOP QWIK	FEBRUARY 2023	23040047

970-00 MISCELLANEOUS & MISC. COURTS

18,573.40

0100 GENERAL FUND

48,127.35

705-00 BRIDGE/ROAD MAINTENANCE

00-2-0501	LIGHT	1,094.02	NORRIS PUBLIC POWER	ACCT 124625900 ACCT 2204198	23040073
00-2-0502	WATER	46.70	CITY OF FRIEND	ACCT 1986 ACCT 523	23040070
00-2-1400	ROAD EQUIPMENT REPAIR PARTS	28.95	FILTERCARE OF NEBRASKA LL	INV 128856	23040071
00-2-1400	ROAD EQUIPMENT REPAIR PARTS	553.39	TRUCK CENTER COMPANIES	INV 108086126 INV 10808629	23040075
00-3-0106	SHOP SUPPLIES	702.34	MATHESON TRI-GAS INC	INV 0027423162	23040072
00-3-0202	GRAVEL AND BORROW	13,533.11	BEATRICE CONCRETE CO INC	INV S1 181645 INV S1 18164	23040069
00-5-0318	SAFETY EQUIPMENT	2,128.00	SUMMIT FIRE PROTECTION CO	INV 110405859	23040074

705-00 BRIDGE/ROAD MAINTENANCE

18,086.51

0300 ROAD & BRIDGE FUND

18,086.51

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BOARD PREAPPROVAL REPORT
ROAD & BRIDGE
FROM 04/07/2023 TO 04/07/2023

Account # 1099	Description	Account Amt	Vendor	Invoice Description	Claim #
630-00 DISTRICT	COURT-BAILIFF				
00-3-0101	OFFICE SUPPLIES	5.69	EAKES OFFICE PLUS	INV 8661804-0	23040076
	630-00 DISTRICT COURT-BAILIFF	5.69			
	0900 DISTRICT COURT-BAILIFF FUND	5.69			
612-00 EMPLOYEE WELLNESS					
00-2-5631 6	BLOOD TESTS	5,859.19	MADONNA REHAB HOSP-FIT FO	INV FFW9490	23040077
	612-00 EMPLOYEE WELLNESS	5,859.19			
	1502 EMPLOYEE WELLNESS FUND	5,859.19			
837-00 AGING SERVICES					
00-1-1400	PROGRAM EXPENSE	285.00	SAMANTHA COSAERT	3/8-21/23	23040079
00-1-1400	PROGRAM EXPENSE	109.77	VISA	ACCT 5190	23040083
00-1-1400	PROGRAM EXPENSE	400.47	VISA	ACCT 8975	23040084
00-1-1400	PROGRAM EXPENSE	29.08	VISA	ACCT 3108	23040095
00-2-1200	HISPANIC OUTREACH	70.94	JESSICA ACOSTA	REIMBURSE	23040078
00-2-1200	HISPANIC OUTREACH	206.25	MARCIA EMAL	MILEAGE FOOT CLINIC	23040080
00-2-1200	HISPANIC OUTREACH	138.75	DARLENE PRIBYL	MILEAGE FOOT CLINIC	23040081
00-2-1200	HISPANIC OUTREACH	150.00	PURFOODS, LLC DBA MOM'S M	INV MM022023	23040082
00-2-1200	HISPANIC OUTREACH	341.86	VISA	ACCT 8975	23040084
00-2-1704	MILEAGE ALLOWANCE	69.69	MARCIA EMAL	MILEAGE FOOT CLINIC	23040080
00-2-1704	MILEAGE ALLOWANCE	18.99	DARLENE PRIBYL	MILEAGE FOOT CLINIC	23040081
	837-00 AGING SERVICES	1,820.80			
	2250 AGING SERVICES FUND	1,820.80			
672-00 DRUG COURT					
00-2-2515	CONTRACTED SERVICES	1,200.00	KALKWARF & SMITH LAW OFFI	APRIL 2023	23040085
00-2-3030	DRUG TESTING	89.50	REDWOOD TOXICOLOGY LABORA	INV10887220231	23040086
	672-00 DRUG COURT	1,289.50			

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BOARD PREAPPROVAL REPORT
DRUG COURT
FROM 04/07/2023 TO 04/07/2023

Account #	Description	Account Amt	Vendor	Invoice Description	Claim #
	2390 DRUG COURT FUND	1,289.50			
666-00 JUVENILE SERVICES AID PROGRAM GRANT 00-1-0200 SALARIES		1,065.00	ANITA STOUGARD	3/8-21/23	23040087
666-00 JUVENILE SERVICES AID PROGRAM GRANT		1,065.00			
2516 JUVENILE SERVICES AID PROGRAM GRANT FUND		1,065.00			
911-00 COVID AMERICAN RESCUE PLAN 00-2-9900 COVID AMERICAN RESCUE PLAN 00-2-9900 COVID AMERICAN RESCUE PLAN		3,993.60 4,423.66	FORREST A DOYLE STEPHEN M SUNDAY	PREMIUM PAY PREMIUM PAY	23040088 23040089
911-00 COVID AMERICAN RESCUE PLAN		8,417.26			
2580 COVID AMERICAN RESUCE PLAN FUND		8,417.26			
600-00 911 EMERGENCY MANAGEMENT FUND 00-2-0200 TELEPHONE EXP (SURCHARGE)		249.37	WINDSTREAM	ACCT 090010615	23040090
600-00 911 EMERGENCY MANAGEMENT FUND		249.37			
2910 911 EMERGENCY MANAGEMENT FUND FUND		249.37			
600-00 911 WIRELESS SERVICE FUND 00-5-1217 911 WIRELESS SERVICE FUND 00-5-1217 911 WIRELESS SERVICE FUND		812.69 1,109.12	VISA WINDSTREAM	AR0E8E4E2281 AR0E8E4E30A0 ACCT 090010615	23040091 23040092
600-00 911 WIRELESS SERVICE FUND		1,921.81			

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BOARD PREAPPROVAL REPORT
911 WIRELESS SERVICE
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2913	911 WIRELESS SERVICE FUND	1,921.81			

665-00	LAW ENFORCEMENT COMMISSARY				
00-2-1900	FOOD	6,563.09	SUMMIT FOOD SERVICE LLC	INV 2000168658 INV 20001686	23040093
00-2-9900	MISCELLANEOUS	2,203.05	SUMMIT FOOD SERVICE LLC	INV 2000168658 INV 20001686	23040093
00-2-9900	MISCELLANEOUS	123.50	VISA	INV WALMART ACCT 27604646	23040094

665-00	LAW ENFORCEMENT COMMISSARY	8,889.64			

2965	LAW ENFORCEMENT COMMISSARY FUND	8,889.64			

	GRAND	95,732.12			
