

# DEUEL COUNTY, NEBRASKA

## ZONING REGULATIONS

ORIGINAL ADOPTED MAY 5, 1975  
AMENDED: APRIL 2002; JULY 2005

AMENDED THROUGH  
MARCH \_\_, 2015

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Deuel County, Nebraska

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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ESTABLISHING LAND USE ZONING AND SUBDIVISION STANDARDS WITHIN THE UNINCORPORATED AREAS OF DEUEL COUNTY, NEBRASKA; ESTABLISHING ZONING DISTRICTS; ADOPTING MAPS OF SAID AREAS AND ZONING DISTRICTS THEREIN; REGULATING THE USE OF LAND AND 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 REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DEUEL:

THAT THIS RESOLUTION SHALL APPLY TO THE UNINCORPORATED AREAS WITHIN DEUEL COUNTY, STATE OF NEBRASKA; AND DISTRICTS AND THEIR RELATED STANDARDS SHALL BE ESTABLISHED AS DEFINED HEREIN AND THE ZONING MAP ADOPTED AND MADE A PART HEREOF.

## ZONING

### ARTICLE 1. PURPOSE

#### SECTION 1. MINIMUM STANDARDS

These regulations shall permit and regulate development, construction, use and occupancy of land and buildings in prescribed districts in accordance with minimum standards. These standards have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout Deuel County.

#### SECTION 2. IN ACCORDANCE WITH COMPREHENSIVE PLAN

These regulations shall be for the purpose of implementing the Comprehensive Plan of the County. Specifically, those policies relating to land use and minimum development quality are strengthened by implementation via these regulations.

#### SECTION 3. DESIGN AND INTENT

These regulations are intended to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to secure safety from flood; to avoid undue concentration; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; to protect the tax base; to secure economy in governmental expenditures; and to preserve, protect, and enhance historic buildings, places, and districts; and preserve quality agricultural lands.

### ARTICLE 2. AUTHORITY

#### SECTION 1. AUTHORITY

The Deuel County Zoning Resolution and Map is authorized by Section 23-114 RRS Nebraska 1943 statutes as amended, and is hereby declared to be in accordance with all provisions of these statutes.

#### SECTION 2. APPLICATION OF REGULATIONS

Except as hereinafter provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, moved or structurally altered except in conformance with the regulations herein specified for the zoning district in which it is located; nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein.

In addition to other provisions provided herein, the following conditions shall be met prior to issuance of building permits:

- o The proposed use shall be placed on a legally existing lot. Said lot shall either have been in existence prior to the adoption of these regulations or if created after the adoption of these regulations, shall meet the provisions of these regulations and those of the Subdivision Resolution if any lot is ten (10) acres or less in size.
  
- o Each lot shall also have frontage on an existing dedicated public road. Said frontage shall be equal to the minimum lot width as described in each zone. Any other condition shall be approved by the County only by processing a subdivision in a manner described by the Deuel County Subdivision Resolution.

## ARTICLE 3. DISTRICTS AND BOUNDARIES

### SECTION 1. ESTABLISHMENT OF ZONING DISTRICTS

In order to carry out the provisions of this Resolution, Deuel County, Nebraska is hereby divided into the following zoning districts:

- A Agricultural District
- RE Residential Estate District
- TS Tourist Service District
- LI Light Industrial District
- HI Heavy Industrial District
- O Open District

### SECTION 2. BOUNDARIES

The boundaries of these zoning districts are established as shown on a map entitled, "Official Zoning District Map, Deuel County, Nebraska," dated \_\_\_\_\_, 2005, which map and all future amendments thereto are hereby made a part of this Resolution.

The Zoning Map shall be kept up to date and on file in the County Clerk's Office for the use and benefit of the public. Amendments in zoning district boundary lines or designations shall be made on such map within a reasonable time after the effective date of each Resolution approving such amendments.

The County shall not be required to publish the Zoning Map after each amendment thereto. Unless otherwise defined on the Zoning Map, district boundary lines are lot lines; the centerline of streets, alleys, railroad rights-of-way, or such lines extended; section lines; quarter section lines; City Limit lines; or other lines drawn to scale on the Zoning Map.

### SECTION 3. DIVIDED LOTS

When a lot is divided at the time of enactment of this Resolution, or by subsequent amendments, by a zoning district boundary line, the less restrictive zoning requirements may be extended not more than 25 feet into the more restrictive zoning district adjacent to the zoning district boundary line.

## ARTICLE 4. EXISTING USES

### SECTION 1. CONTINUANCE OF NONCONFORMING USES

Lawful uses of land, buildings, or structures not conforming to the provisions of these regulations at the date of enactment shall be allowed to continue without alteration; provided, that when a non-conforming use of any land, building, or structure is discontinued for a period of twelve months, the herein stated right to nonconformance shall be forfeited and any further use of the land, buildings, or structures shall conform to the provisions of these regulations.



## ARTICLE 5. AGRICULTURAL DISTRICT (A)

### SECTION 1. INTENT

The intent of this district is to preserve and protect agricultural production areas, identified as the Highlands Production Areas in the Future Land Use Plan. With agriculture being one of the main industries in Deuel County, it is vital that agricultural operations be protected from encroachment of non-agricultural uses. Non-farm-ranch single family dwellings and other types of urban uses, are discouraged from locating in the A - Agricultural District.

Some agricultural and non-agricultural uses are, however, frequently found to exist in rural areas, frequently serving rural and urban needs without detriment to agricultural interests under normal conditions, with proper design and location. These uses may be permitted by special review and approval by the Planning Commission and County Commissioners.

### SECTION 2. USES PERMITTED BY RIGHT

1. Accessory uses and structures commonly found with the principal permitted uses allowed in the AGRICULTURE DISTRICT.
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Article 21, Section 2, and in conformance with Article 13, Section 8.
3. Apiaries
4. Arenas, outdoor
5. Botanical gardens
6. Church and church facilities
7. Crops - The raising, storage and sale of items raised on-site (including but not limited to dry land and irrigated farming, truck farming, sod farms, nursery stock and greenhouses).
8. Fish hatcheries
9. Flood control and irrigating facilities
10. Guest house as defined in Article 21
11. Historic preservation areas (public) and related user services
12. Home occupations as defined in Article 13

13. Oil and gas transmission lines
14. Recreation and park facilities (public)
15. Residences as follows:
  - a) One farm-ranch residence per farm or ranch
  - b) Residences to house families principally employed on the farm or ranch. Said residences to remain in ownership of the farmer-rancher employer.
  - c) Two residences on the farm or ranch each housing one family related to the farmer-rancher. Said residences to remain in the ownership of the farmer-rancher.
  - d) Mobile homes may be considered as the permitted residence in "a" through "c" above:
16. Roadside stands selling products produced on-site
17. Schools - public and private (non-profit)
18. Temporary uses (see Article 13)
19. Tourist information
20. Water storage and treatment
21. Utility transmission or distribution lines, provided they primarily serve areas within the Agricultural District.

**SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES)**

1. Airports and landing strips
2. Amusement parks
3. Asphalt plants
4. Broadcast towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
  1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
  2. Towers must comply with the regulations of the Federal Aviation Administration (FAA).

5. Cemeteries, mausoleums and crematories
6. Colleges
7. Concrete batching plants
8. Dude ranches
9. Fairgrounds
10. Expansion of existing or development of new livestock confinement facilities/ operations as defined in Article 21, Section 8 and in accordance with Article 13, Section 8
11. Governmental facilities, which by necessity to provide efficient service, must locate in rural areas
12. Junk and salvage yards
13. Kennels
14. Membership clubs
15. Oil and gas storage (for use other than on-site), pumping oil wells and related facilities .
16. Planned unit developments, residential
17. Power generating facilities, not associated with Net Metering or Commercial Wind Energy Conversion Systems (CWECS) as governed by the provisions of Article 13, Section 13 of these Regulations.
18. Prisons
19. Race tracks
20. Recreation and park facilities (private, not to include any type of housing except a residence for security purposes)
21. A non-farm-ranch residence subject.to the following:
  - Each lot shall be at least three (3) acres in size and shall have a minimum frontage on an existing dedicated public road of not less than 125 feet.

- For each lot created, the seller shall reserve 160 acres of vacant or agricultural land (may include farm or ranch house site) within one half mile of the lot for agricultural use only, for as long as said reserved property is zoned for agriculture use. The Zoning Administrator shall note said reservations on the zoning map and on the building permit. Each 160 acre reservation shall serve the reservation requirements of only one lot. Also each reservation shall be so located and shaped to allow easy description by being 1/16th of a section (i.e., northeast 1/4 of the southwest 1/4, etc.).
  - Access roads serving non-farm/ranch residences shall be separated by a distance of no less than 1,000 feet along county roads.
22. Sand, gravel and other mining operations (see Article 14, Section 4)
  23. Sanitary land fill operations
  24. Sewage and wastewater treatment facilities
  25. Stadiums, indoor
  26. Storage of agricultural products not produced or intended for consumption on-site
  27. Telephone exchanges
  28. Utility office, repair or storage facilities, substations, transmission lines (major), relay stations and towers
  29. Veterinary hospital and related facilities
  30. Livestock auction facility
  31. Coal slurry and sludge pipelines
  32. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with “Net Metering” as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or “Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.
  33. Commercial Wind Energy Conversion Systems (CWECS) utilizing a single tower application or multiple tower applications or “Wind Farm,” held in single ownership or in an association of multiple owners, in conformance with the provisions of Article 13, Section 13 of these Regulations.

SECTION 4. MINIMUM AREA, YARD SETBACKS AND HEIGHT REQUIREMENTS

Lot Area (minimum)	3 acres
Lot Width (minimum)	
Interior Lot	125 feet
Corner Lot	150 feet
Lot Depth (minimum)	150 feet
Front Yard (minimum)	30 feet
Rear Yard (minimum)	
Principal building	25 feet
Accessory building	5 feet
Side Yard (minimum)	
Interior lot	Equal to height of proposed structure
Corner lot	30 feet
Maximum Building Height	No Limit

SECTION 5. GENERAL PROVISIONS

The use of land in this district shall also conform to the parking, signing, and other provisions of this Resolution.

## ARTICLE 6. RESIDENTIAL ESTATE DISTRICT (RE)

### SECTION 1. INTENT

It is intended that this district serve the needs of those who desire non-farm-ranch dwellings in the rural areas of Deuel County. Although this district is located in rural areas, it should not conflict with agricultural uses or be applied on productive agricultural land. The zoning district is generally located within the valley of the Lodgepole Creek and South Platte River on lands that are primarily utilized for natural grasses and hay. This district also is located in close proximity to portions of Highways 30, 138, and 385, as well as Interstate's 76 and 80, to provide ready access to area communities.

### SECTION 2. USES PERMITTED BY RIGHT

1. Accessory uses and structures commonly found with the principal permitted uses allowed in the Residential Estate District.
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Article 21, Section 2, and in conformance with Article 13, Section 8. .
3. Guest house as defined in Article 21
4. Historic sites
5. Home occupations as defined in Article 13
6. Horses or other livestock, provided, however, that such animals are kept or housed at least 50 feet from any adjacent residence and that no more than one such animal be permitted for each 20,000 square feet of lot area.
7. Irrigating facilities
8. Recreation and park facilities (public)
9. Residential, single family only (one unit per lot)
10. Schools, public and private non-profit
11. Temporary uses
12. Utility transmission lines primarily serving uses within the Residential Estate District

SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES)

1. Airports and landing strips
2. Apiaries
3. Arenas, outdoor
4. Botanical gardens
3. Broadcast towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
  1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility
  2. Towers must comply with the regulations of the Federal Aviation Administration (FAA).
6. Cemeteries
7. Church and church facilities
8. Colleges
9. Expansion of existing livestock confinement facilities/operations as defined in Article 21, Section 2, and in conformance with Article 13, Section 8.
10. Flood control and irrigation facilities
11. Mobile home, single
12. Oil and gas drilling
13. Recreation and park facilities (private)
14. Religious quarters
15. Residential planned unit developments (PUD) (See Article 15)
16. Sewage and wastewater treatment facilities
17. Utility substations and major transmission lines when said lines primarily serve areas other than the Residential Estate District
18. Water storage and treatment (public)

19. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with “Net Metering” as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or “Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.

**SECTION 4. MINIMUM AREA, YARD SETBACKS AND HEIGHT REQUIREMENTS**

Lot Area (minimum)	3 Acres
Lot Width (minimum)	
Interior lot	125 feet
Corner lot	150 feet
Lot Depth (minimum)	150 feet
Front Yard (minimum)	30 feet
Rear Yard (minimum)	
Principal building	25 feet
Accessory building	5 feet
Side Yard (minimum)	
Interior lot	Total of both side yards shall not be less than 30 feet, with the minimum of one side being 10 feet.
Corner lot	20 feet adjacent to a street, not less than 10 feet on the opposite side.
Maximum Building Height	30 feet

**SECTION 5. GENERAL PROVISIONS**

The use of land in this district shall also conform to the parking, signage, and other provisions of this Resolution.

**ARTICLE 7. RESERVED FOR FUTURE USE**



## ARTICLE 8. TOURIST SERVICE DISTRICT (TS)

### SECTION 1. INTENT

This district is intended 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. Nor should this district be used to create an endless commercial strip along major highways. This district should be used at interchanges, recreation service areas and on limited locations within established communities on main highways. Tourist related business are the primary customers in this district.

### SECTION 2. USES PERMITTED BY RIGHT

1. Accessory uses and structures commonly found with the principal permitted uses allowed in the Highway and Tourist Service District.
2. Campgrounds (no permanent residents, maximum occupancy is 30 days during any single calendar year).
3. Food and general merchandise (maximum retail floor area not to exceed 1,500 square feet).
4. Flood control and irrigation
5. Gas service stations
- G. Gift and souvenir shops
7. Historic sites
8. Hotels and motels
9. Liquor sales (on-site consumptive and carry-out sales as subordinate use to prime activity only).
10. Museums
11. Parking garages
12. Recreation and parks (public)
13. Recreation, commercial (those uses which rely on 50% or more of their business from tourists or through traffic customers).
14. Restaurants and fast food services, including drive-ins.
15. Temporary uses

16. Tourist information centers
17. Utility substations and transmission lines when said lines primarily serve the Tourist Service District and immediately adjacent areas.

SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES).

1. Amphitheater and auditorium
2. Aquariums
3. Arenas, outdoor
4. Botanical gardens
5. Bus and taxi depot
6. Emergency services
7. Fairgrounds
8. Planned Unit Development (commercial)
9. Sewage and wastewater treatment
10. Stadiums
11. Theater
12. Utility transmission lines when said lines primarily serve areas other than the Tourist Service District and immediately adjacent areas.
13. Water storage and treatment facilities
14. Zoos
15. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with “Net Metering” as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or “Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.

#### SECTION 4. MINIMUM YARD SETBACKS AND RELATED REQUIREMENTS

1. 25 feet from any street/road right-of-way and 25 feet from any alley centerline.
2. A landscaped area of at least 10 feet in width shall be provided adjacent to any Street/road abutting the commercial site.
3. If across the street from a residential district, a landscaped area not less than 25 feet in width shall be provided paralleling the right-of-way.
4. Curb cuts may be permitted through the landscaped area.
5. When abutting a residential district, the yard between the zone district boundary and any building shall not be less than two times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

#### SECTION 5. MAXIMUM BUILDING HEIGHT

Buildings in this district shall not exceed a height of 40 feet.

#### SECTION 6. GENERAL PROVISIONS

Use of land in this district shall also conform to the parking, loading, signage and other provisions of this Resolution.

#### ARTICLE 9. RESERVED FOR FUTURE USE

## ARTICLE 10. LIGHT INDUSTRIAL DISTRICT (LI)

### SECTION 1. INTENT

This district is intended to serve industrial activities within reasonable distances to existing communities. The uses are not obnoxious and are fully enclosed or screened from public view. With proper design, landscaping and traffic control, this district can contain desirable industrial parks in desirable settings.

### SECTION 2. USES PERMITTED BY RIGHT

1. Any manufacturing, processing fabrication or warehousing activity that is completely confined within a closed building and does not normally emit noise, smoke, odor outside of the building beyond the site property line.
2. Gas storage and distribution
3. Governmental facilities
4. Oil and gas drilling
5. Printing and newspaper facilities
6. Recreation, public
7. Related commercial activities such as offices, restaurants or gas stations and other commercial activities which primarily serve industrial activities.
8. Temporary uses
9. Train depots
10. Utility substations, transmission lines, offices and storage yards.
11. Water storage and treatment

### SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES)

1. Airports and landing strips
2. Colleges
3. Implement sales and service
4. Planned Unit Developments (office/industrial)

5. Power generating facilities, not associated with Net Metering or Commercial Wind Energy Conversion Systems (CWECS) as governed by the provisions of Article 13, Section 13 of these Regulations.
6. Sewage and wastewater treatment
7. Those industrial uses which normally are associated with noise, odor, or smoke, but due to size or method of design, can be compatible with the neighborhood and the intent of the district.
8. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with “Net Metering” as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or “Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.

#### SECTION 4. MINIMUM YARD SETBACKS AND RELATED REQUIREMENTS

1. 25 feet from any street/road right-of-way and 25 feet from any alley centerline.
2. When abutting a residential district the yard between the zone district boundary and any building shall not be less than three times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

#### SECTION 5. MAXIMUM BUILDING HEIGHT

Buildings in this district shall not exceed a height of 40 feet.

#### SECTION 6. GENERAL PROVISIONS

Use of land in this district shall also conform to the parking, loading, signing and other provisions of this Resolution.

## ARTICLE 11. HEAVY INDUSTRIAL DISTRICT (HI)

### SECTION 1. INTENT

It is intended that this district serve the much heavier industrial uses requiring heavy truck traffic, noise, smoke, and odor. This district will frequently serve the needs of agricultural related business.

### SECTION 2. USES PERMITTED BY RIGHT

1. All those uses which meet the requirements of the Light Industrial District and are listed as permitted uses.
2. Those manufacturing, processing and warehousing activities which generate heavy traffic, noise, smoke, or odor which cannot be maintained on the site. These obnoxious characteristics shall be maintained within the boundaries of this Heavy Industrial District.
3. Those uses listed below as Conditional Uses shall not be considered here as a permitted use.

### SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES)

1. Alfalfa dehydrates
2. Auto wrecking yards and other salvage operations
3. Cement, lime or gypsum processing
4. Chemical plants
5. Colleges
6. Fertilizer manufacturing
7. Other uses which by their nature could be objectionable to adjacent properties.
8. Planned Unit Developments (industrial)
9. Slaughterhouses
10. Stockyards
11. Tanneries
12. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.

#### SECTION 4. MINIMUM YARD SETBACKS AND RELATED REQUIREMENTS

1. 25 feet from any street/road right-of-way and 25 feet from any alley centerline.
2. If across the street from a residential district, a landscaped area not less than 25 feet in width shall be provided paralleling the right-of-way.
3. Curb cuts may be permitted through the landscaped areas.
4. When abutting a residential district, the yard between the zone district boundary and any building shall not be less than three times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

#### SECTION 5. MAXIMUM BUILDING HEIGHT

Buildings in this district shall not exceed a height of 40 feet.

#### SECTION 6. GENERAL PROVISIONS

Use of land in this district shall also conform to the parking, loading, signing and other provisions of this Resolution.

## ARTICLE 12. OPEN DISTRICT (O)

### SECTION 1. INTENT

The O - Open Space District is intended to limit development within the Lodgepole Creek and South Platte River bottom lands. Areas within this district are almost entirely encompassed by the 100-year flood plain of these water ways and drainage basins. Few dwellings exist in this region and those that are extant are located on isolated high grounds above the base flood elevation, or are older dwellings constructed prior to the adoption of modern flood plain maps and regulations. Primary uses of these lands have historically been cultivated crop lands, as the topography of the region is predominantly level. Flooding, wetness and high shrink-swell potential of area soils severely limit development. It is the intent of this District to limit additional development to isolated areas, either natural or man-made, that are elevated above the base flood elevation.

### SECTION 2. USES PERMITTED BY RIGHT

The following open uses, generally not requiring structures, shall be permitted. (Accessory farm structures may be located within this district, however, to the extent practical, the longest dimension of the structure should parallel the river and be located on nearest available high ground.) It should be understood that any use in this district could be severely damaged by flooding. Furthermore, it is not implied in any way that adjacent districts are free from flood hazard.

1. Apiaries
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Article 21, Section 2, and in conformance with Article 13, Section 8.
3. Crops - The raising, storage and sale of items raised on-site (including but not limited to dry land and irrigated farming, truck farming, and sod farms).
4. Fish hatcheries
5. Flood control and irrigating facilities
6. Historic preservation areas (public) and related user services
7. Oil and gas drilling and transmission lines
8. Recreation and park facilities
9. Roadside stands selling products produced on-site
10. Temporary uses



11. Utility substations, transmission lines and transmission relay stations (including radio towers and excluding office, repair or storage facilities)

In addition, the following uses are permitted if they are 10 feet or more above Lodgepole Creek stream elevation, or 14 feet or more above the South Platte River streambed elevation (Measured perpendicular to river), and not located within the 100-year flood plain as designated on the official firm maps of Deuel County converted by letter dated 1/1/87. Furthermore, this section in no way implies that flooding will not occur at these or higher elevations.

1. Residences as permitted in Article 5, Section 2 (15), and Section 3L
2. Schools - Public and private (non-profit)
3. Water storage and treatment

### SECTION 3. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW (SEE ARTICLE 14 FOR PROCEDURES)

The following conditional uses may be permitted, however, it will be necessary for the applicant to prove that the proposed use will not materially be damaged by floods, or that flooding damage will not increase as a result of the proposed project.

1. Airports and landing strips
2. Asphalt plants
3. Broadcast towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
  1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
  2. Towers must comply with the regulations of the Federal Aviation Administration (FAA).
4. Concrete batching plants
5. Expansion of existing livestock confinement facilities/operations as defined in Article 21, Section 2, and in conformance with Article 13, Section 8.
6. Governmental facilities which, by necessity to provide efficient service, must locate in rural areas.
7. Junk and salvage yards
8. Kennels

- 9. Power generating facilities, not associated with Net Metering or Commercial Wind Energy Conversion Systems (CWECS) as governed by the provisions of Article 13, Section 13 of these Regulations.
- 10. Oil and gas drilling, pumping and related facilities
- 11. Recreation and park facilities (private, not to include any type of housing except a residence for security purposes)
- 12. Sand, gravel and other mining operations (See Article 14, Section 4)
- 13. Sanitary land fill operations
- 14. Sewage and wastewater treatment facilities
- 15. Campgrounds
- 16. Tourist information center
- 17. Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with “Net Metering” as per Nebraska State Statutes 70-2001 to 70-2005 (August 30, 2009, as amended). Individual or “Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of Article 13, Section 13 of these Regulations.

**SECTION 4. MINIMUM AREA, YARD SETBACKS AND HEIGHT REQUIREMENTS**

Lot Area (minimum)	5 acres
Lot Width (minimum)	
Interior lot	250 feet
Corner lot	300 feet
Lot Depth (minimum)	350 feet
Front Yard (minimum)	50 feet
Rear Yard (minimum)	
Principal building	25 feet
Accessory building	5 feet
Side Yard (minimum)	
Interior lot	Equal to height of proposed structure
Corner lot	30 feet
Maximum Building Height	No Limit

**SECTION 5. GENERAL PROVISIONS**

The use of land in this district shall also conform to the parking, signing and other provisions of this Resolution.

## ARTICLE 13. GENERAL PROVISIONS

### SECTION 1. FENCES, HEDGES AND WALLS

Fences, hedges and walls may be permitted in the various districts as accessory uses in accordance with the following limitations:

1. No fence, in any district other than the A - Agricultural District, and fences used for the enclosure of utility facilities, shall exceed 6 feet in height, except as necessary to comply with subparagraph 5 below concerning the enclosure of outdoor swimming pools;
2. No fence, hedge, wall, shrubbery or sign shall interfere with the vision of motorists at any intersection.
3. Ornamental fences, walls and hedges not more than 2-1/2 feet in height shall be permitted in the front yard in any district. (There is no restriction in the Agricultural District.)
4. Fences, hedges and walls higher than 2-1/2 feet shall be set back from the front lot line 3 feet for each foot of fence height. (There is no restriction in the Agricultural District.)
5. All outdoor swimming pools shall be enclosed by a fence or wall at least 6 feet but not more than 8 feet in height with a gate or gates which can be securely locked.

### SECTION 2. OUTSIDE STORAGE

Automobiles which cannot meet state inspection standards for travel on public highways or do not have a current license plate shall not be permitted as an accessory use in any zoning district unless otherwise provided herein or unless they are screened from public view from adjacent properties, streets or highways.

### SECTION 3. SUPPLEMENTARY LOT AREA AND LOT WIDTH REGULATIONS

1. Where an individual lot was held in separate ownership from adjoining properties, or was platted prior to the effective date of this Resolution in a recorded subdivision and has less area or less width than required in other sections of this Resolution, such a lot may be occupied according to the permitted uses provided for the district in which the lot is located, provided no lot area or lot width is reduced more than one-third the zoning requirements otherwise specified by this Resolution.
2. For the purpose of complying with the provisions of this Resolution, no part of an area or width of a lot shall be included as an area or width required for another lot.
3. No lot shall have a front lot line or street frontage of less than 40 feet.

#### SECTION 4. SUPPLEMENTARY YARD REGULATIONS

1. Developed areas: In any district, where lots comprising 50 percent or more of the frontage on one side of a street between intersecting streets have been improved with buildings at the time of passage of this Resolution, the average front yard or setback of such buildings shall be the minimum front yard or setback required for all new construction in such block. Vacant lots shall be calculated at the present Resolution setback requirement to determine the block average. In no instance shall the setback be less than 10 feet.
2. Reduction: No part of a yard required for any building for the purpose of complying with the provisions of this Resolution shall be included as a yard for another building, and all yards shall be open and unobstructed except as otherwise provided herein.
3. Architectural features: Cornices, canopies, eaves or similar architectural features may extend into a required yard not more than 2 feet.
4. Fire escapes: Fire escapes may extend into a required yard not more than six feet.
5. Patios and uncovered porches: Patios and uncovered, unenclosed porches may extend into a required front or rear yard not more than 6 feet and a side yard of not more than 3 feet.
6. Reversed corner lots: The side yard along the street side of a reversed corner lot shall be not less than the required front yard for principal buildings along such a side street.
7. Accessory buildings: Permitted accessory buildings may be located only in the required rear yard of a principal building, provided such accessory buildings are located at least 3 feet from any property line and located at least 5 feet from another accessory building.
8. Setback: Within 150 feet of a road intersection, no structure, storage areas and solid fences will be permitted.

#### SECTION 5. SUPPLEMENTARY BUILDING HEIGHT REGULATIONS

1. All dwellings shall be constructed with at least 50 percent of the roof surface higher than seven feet from grade.
2. It shall be unlawful to construct, build, or establish any building, trees, smokestack, chimney, flagpole, wire, tower or other structure or appurtenance thereto which may constitute a hazard or obstruction to the safe navigation, landing, and take-off of aircraft at a publicly used airport.
3. Approvals of buildings of heights greater than permitted herein may occur when approved by the County in accordance with Article 14.

**SECTION 6. OFF-STREET PARKING REQUIREMENTS**

Each new building or change of use, or addition to any use, shall provide off-street parking spaces as hereinafter designated:

<u>Building Type</u>	<u>Spaces Required Per Unit of Measure As Defined *</u>
Auto Repair Shop	1 - 150 square feet of gross floor space, plus 1 - each employee
Auto, truck implement and mobile home sales	1 - each employee
Animal hospital or kennel .	1- each employee
Boarding or lodging house, tourist home	1 - guest bedroom and resident family
Commercial recreation (not specifically mentioned)	1 - 200 square feet of gross floor space, plus 1 - each employee
Car Wash	1 - each employee
Single and two-family residential dwelling	2 - dwelling unit
Multiple dwellings	1.5 - 1 bedroom unit 2 - 2 bedroom unit 2.5 - 3 bedroom unit 3 - 4 bedroom unit 3 plus 1/2 - each additional bedroom over 4
Gas Station	1 - 50 square feet gross floor space
Hotel, motel	1 - guest bedroom, plus 1 - each 3 employees
Membership clubs	1 - 6 member
Mobile home park	2.2 - mobile home

<u>Building Type</u>	<u>Spaces Required Per Unit of Measure As Defined *</u>
Professional office in a residential building	1 - 100 square feet floor space used by such office
Auditorium, stadium, theater, convention hall, or similar place of public use	1 - 4 seats n bench capacity computed at 1 seat for each 20 inches
Bowling alley	3 - lane
Churches	1 - 7 seats in principal place of assembly 1
Drive-in restaurant or stand	- 25 square feet of floor space
Funeral home	1 - 75 square feet of assembly room
Hospital	1 - 3 beds
Manufacturing, processing, or bottling or general industry	1 - 2 employees on maximum shift or not less than 1 for each 500 square feet of gross floor space
Medical office or clinic	1 - 150 square feet gross floor space
Offices and office buildings	1 - 300 square feet gross floor space
Schools (commercial)	1 - 50 square feet gross floor space
Public library, gallery, museum	1 - 300 square feet gross floor space
Research institute or laboratory	1- 2 employees per maximum shift
Restaurants, cafe and drinking places	1 - 150 square feet gross floor space

Retail store, shop, bank	1 - 200 square feet gross floor space
Elementary, junior high school and private schools (non-commercial)	1 – 1/2 classroom or parking required for auditorium, whichever is greater
Senior high school	1 – 1/4 classroom and parking required for auditorium
Warehouse and storage buildings	1 - employee

Parking requirements for buildings containing more than one use shall be established by determining the required number of spaces for each separate use.

1. In lieu of locating parking spaces required by this Resolution on the lot which generates the parking requirements, such parking spaces may be provided on any lot or premises owned by the owner of the parking generator, within 300 feet of the property generating such parking requirements, for any business, commercial or industrial use. Ownership in this regard may include participation in a parking district or other joint venture to provide off-street parking areas to the extent that each zoning requirement can be met by a proportionate or greater number of off-street parking spaces in the lot held in joint ownership.
2. All area counted as off-street parking space shall be unobstructed and free of other uses.
3. Unobstructed access to and from a street or alley shall be provided for all off-street parking spaces.
4. Parking lot lighting shall be reflected away from residential areas.
5. Parking lots shall not be located in the required front yards of any residential district.
6. Off-street parking spaces may be provided in areas designated to serve jointly two or more buildings or users provided that the total number of off-street parking spaces shall not be less than that required by this Resolution for the total combined number of buildings or uses.
7. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this Resolution shall be included as a part of an off-street parking space similarly required for another building or use and no part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this Resolution shall be converted to any use other than parking unless additional parking space is provided to replace such converted parking space and to meet the requirements of any use to which such parking space is converted.

## SECTION 7. NON CONFORMING USES AND BUILDINGS

Except as otherwise provided in this Resolution, the lawful use, location, height and size of any building or parcel of land existing at the time of enactment of this Resolution, or of any amendments to this Resolution, may be continued even though such use, location, height or size does not conform to the Requirements of this Resolution. The following conditions shall apply to such non-conforming use.

1. Ordinary repairs and maintenance of a non-conforming building shall be permitted. Said repairs and maintenance shall in no way make the building less conforming than exists prior to such repairs and maintenance.
2. A non-conforming building which has been damaged by fire or other natural causes may be restored to its original condition or level of non-conformity provided no more than 40% of the structure was destroyed.
3. A non-conforming use may be changed to a use which is more conforming. (Example: an industrial use in a residential area could be changed to commercial use and be considered more nearly conforming to the residential district uses.)
4. A non-conforming use or building cannot be expanded in any way which expands the degree of non-conformity (except the use may be expanded within the same building if the building was designed for such expansion and no structural alterations are required.).
5. Whenever a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established. Any further use shall be in conformance with the provisions of this Resolution.

## SECTION 8. LIVESTOCK CONFINEMENT FACILITIES

A feed lot is considered to be a livestock confinement facility, which is used for a period of at least 30 consecutive days, and where feeding is other than by grazing. Furthermore, to be classified as a livestock confinement facility, the maximum number of animals in confinement at anyone time must exceed 100 or more beef or dairy cattle; 500 or more swine; 2,000 or more sheep; 3,000 or more turkeys; or 10,000 or more chickens, ducks or geese.

All new or newly expanded Livestock Confinement Facilities shall conform to the following development standards.

1. New Livestock Confinement Facilities shall not be developed within 3 miles of an incorporated city or village.
2. New Livestock Confinement Facilities shall not be developed within 1 mile of a residence or school without first receiving a signed nuisance waiver from the homeowner or school board to be affected by the new Confinement Facility.
3. Existing Livestock Confinement Facilities shall not be expanded that are located within 3 miles of an incorporated city or village.
4. An existing Livestock Confinement Facility shall not be expanded that is located within if mile of a residence or school without first receiving a signed nuisance waiver from the homeowner or school board to be affected by the expansion of the existing Livestock Confinement Facility.

5. Livestock Confinement Facilities shall be set back from any county road, state or federal highway right-of-way not less than 50 feet and 150 feet from any intersection of county roads.
6. Prior to the issuance of a Livestock Confinement Facility Permit, the applicant shall provide evidence that the proposed operation will satisfy the current health standards applied to Livestock Confinement Facilities by the Nebraska Department of Environmental Quality.

The following shall apply to the application and issuance of a permit to establish or expand a Livestock Confinement Facility. The process of applying for a Livestock Confinement Facility Permit may occur with the application for a Conditional Use Permit. The application for the Livestock Confinement Facility Permit must follow the permit approval process as follows:

1. A public hearing on the application shall be held by the County Planning Commission. All property owners located within 1 mile of the Livestock Confinement Facility shall be notified of the time and place of the hearing in writing by certified mail at least 10 days in advance of the hearing. Public notice of the time and place of the hearing shall be given by publication at least 10 days in advance of the hearing.
2. After the public hearing, the Planning Commission shall make a recommendation on the Livestock Confinement Facility Permit. The Secretary of the Planning Commission shall forward the recommendation to the Board of County Commissioners within 10 days of completion of the public hearing.
3. The Board of County Commissioners shall deny, approve, or conditionally approve the Livestock Confinement Facility Permit within 45 days after receipt of the recommendation from the Planning Commission.
4. The Planning Commission shall then make a recommendation on a Conditional Use Permit as outlined in Article 18.
5. The Board of County Commissioners shall deny, approve, or conditionally approve the Conditional Use Permit as outlined in Article 18.
6. In all cases, the applications for the permits shall be reviewed by the standards set forth in Article 18.

Recommended for adoption March 27, 2002.  
Amended 4-1-02

## SECTION 9. TEMPORARY USES

1. A temporary permit may be obtained from the Planning Commission (or its authorized staff representative) upon the filing of an application requesting a temporary use and accompanied with the application fee. Temporary stands, structures, motor vehicles and trailers shall be removed on the date of termination of the permit unless a specific date is stated herein. Temporary structures shall be shown to be so constructed as to not constitute a fire hazard or hazard to the health or safety of the public prior to issuance of the permit. Such temporary stands or structures shall not be constructed of materials which are substantially deteriorated, nor shall any of the above temporary stands, structures, motor vehicles or trailers be allowed to deteriorate to the point where they shall constitute a fire or other hazard to the health, safety or welfare of the public.



2. The following uses may be allowed by temporary permit and need not be enclosed within a building:
- Temporary construction yard or building for construction materials and equipment, mobile home for office use, and concrete batch plants, incidental and necessary for construction. Each permit shall specify the location of the building, mobile home office, yard or batch plant. No area more than two miles distant shall be served by such temporary building, mobile home office or yard. Each permit shall be valid for a period of not more than six calendar months and may be renewed for three successive six-month periods at the same location.
  - Temporary office incidental and necessary for the sale of new construction by the permittee. Each permit shall specify the location of the office and the area within which such sales may be made. No area more than two miles distant from the office shall be served. Each permit shall be valid for a period of not more than six calendar months and may be renewed for three successive six - month periods at the same location.
  - Mobile homes may be used for temporary living quarters incidental and necessary for the construction of a residence on the property. Application fee is not required herein for residential uses.
3. Temporary group assemblages of 500 or more persons and on public, or private lands, not currently improved for such group assembly ("improved" meaning having adequate improved parking, permanent restrooms, permanent water supply and permanent fixed buildings or structures to house a large group) shall only be permitted after a public hearing has been held by the County Commissioners, and they have approved, or conditionally approved the request.

The request for such temporary use shall be submitted at least 30 days prior to said assemblage to the County Clerk who shall set a hearing date and notify adjacent property owners. The application should include the written authorization of the property owner, a legal description of the property, a description of the proposed use or activity and a description of the facilities to be provided to serve the crowd; i.e. water, restrooms, parking, trash collection and removal, police protection and others as may be appropriate.

An application fee shall be submitted with the request. This fee may later be returned in part or in total if so ordered by the County Commissioners.

The County Commissioners shall, after hearing the matter, approve, approve with conditions or deny the request. Conditions of approval, if applied, may include those conditions deemed necessary to protect the public health, safety and welfare.

## SECTION 10. HOME OCCUPATIONS

A home occupation shall be allowed as a permitted accessory use provided all of the following conditions are met:

1. Such use shall be conducted entirely within a dwelling and carried on by the inhabitants living there and no others;
2. Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof;
3. The total area used for such purposes shall not exceed one-half the first floor area of the user's dwelling unit;
4. Identification advertising signs shall be limited to a surface not exceeding one square foot in area.
5. There shall be only incidental sale of stocks, supplies, or products conducted on the premises;
6. There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation;
7. There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line;
8. A home occupation shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation;
9. In particular, a home occupation may include, but is not limited to the following, provided all requirements contained herein are met: art studio, dressmaking or millinery work, professional office, office for insurance or real estate sales, teaching, and the renting of rooms to not more than two persons per dwelling;
10. A home occupation shall not be interpreted to include the following: barber shops, beauty parlors, photo studios, dance studios, antique sales, animal hospitals or clinics, medical or dental clinics, mortuaries, any type of store, sales, display showrooms, tourist homes, restaurants, and animal grooming parlors.

## SECTION 11. AIRPORT REQUIREMENTS

The "Airport Zoning Regulations" enforced by the Chappell Joint Airport Zoning Board shall continue in effect and control use and height in those instances where the "Airport Zoning Regulations" are more restrictive than the provisions of the Deuel County Zoning Resolution.

## SECTION 12. TREE PLANTING REQUIREMENTS / SHELTER BELTS

All planting of trees / shelter belts shall be setback a minimum distance of 57' (fifty-seven) feet measured from the center of the county road to the first row of trees.

## SECTION 13. SMALL AND COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

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

These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. Deuel County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

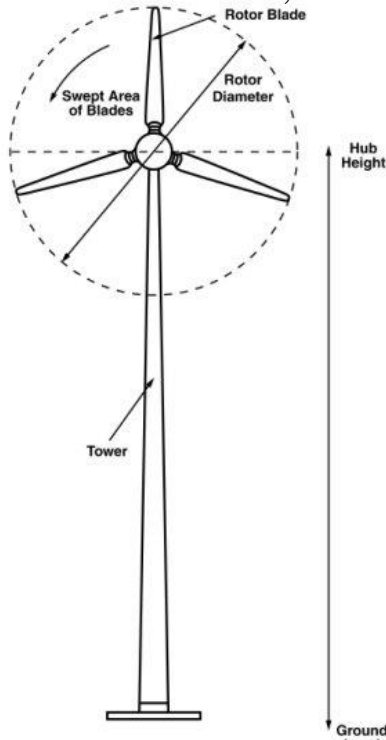
### 13.2 Types of Wind Energy Systems:

1. Small Wind Energy Conversion System - (SWECS) – A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts and which is incidental and subordinated to Permitted Principal and Accessory Uses in the same zoning district. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be sold back to the utility company. *(25 Kilowatt limit approved by the Deuel County Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*
2. Commercial Wind Energy Conversion System – (CWECS) A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, in which the main purpose is to supply electricity to off-site customers.

### 13.3 Definitions:

- A. Aggregated Project – Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

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



C. Feeder Line – 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 the interconnection shall be the substation serving the WECS.

D. Height, hub – The height above grade of the fixed portion of the tower, including the generation unit, measured to the hub or center point of the rotor blade diameter.

E. Height, total system – The height above grade of the system, including the generating unit and measured the highest vertical extension of any rotor blades or rotors.

F. Meteorological Tower – For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads or other similar applications to monitor weather conditions.

G. Rotor Diameter – The diameter of the circle created by the outer most point of the rotor blades of the windmill. (see Diagram #1)

H. Shadow flicker – Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on nearby properties.

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

J. Tower – The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

- K. Transmission Line – The electrical power lines that are High Voltage Transmission Lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- L. Wind Energy Conversion System (WECS) – An aggregation of parts including the base, tower, generator, rotor, blades, supports, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill, or wind turbine.
- M. Wind Turbine Generator – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

### 13.4 Small Wind Energy Conversion System

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of a maximum of Twenty-Five (25) kilowatts of electrical energy supplied by the wind. The facility may include wind turbine(s) with total height(s) of one hundred and eighty (180) feet or less and any transmission lines. The SWECS is primarily used to generate energy for use by its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. **To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering.** *(25 Kilowatt limit approved by the Deuel County Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*

#### General Site and Design Standards

1. Located on a lot or parcel of at least three (3) acres;
2. Shall be permitted as a Conditional Use permitted by special review in the “A”, “RE”, “TS”, “LI”, “HI” and “O” Zoning Districts.
3. SWECS shall maintain a minimum setback distance from any property line of one and one-half (1.5) times the total system height of the windmill for non-participating property owners. Adjoining property owners (second or third additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers) participating in the same or Aggregated Project shall have no setback requirements between adjoining properties.
4. SWECS shall maintain a minimum setback distance from any public road, or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.

5. In no case shall a WECS be located within any required setback or in any front yard area.
6. Turbines and towers shall be painted or coated, shall be of a non-reflective white, grey, or other neutral color and shall not be used to display advertising.
7. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
8. All electrical wires associated with a small wind energy system other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
10. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
11. The owner of a small wind energy facility shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the facility.
12. Construction access must be re-graded and re-vegetated to minimize environmental impacts.
13. A SWECS application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

#### Application Requirements

1. A survey map at an appropriate scale identifying:
  - Site boundary;
  - Adjacent public right-of-ways;
  - Existing structures;
  - Proposed small wind energy system and accessory structures;
  - Adjacent ownership and existing residences;
  - Existing overhead utility lines.

2. A report or documentation from the Manufactures including the following:
  - a. Small wind system specifications including manufacturer and model; rotor diameter, tower height, tower type (freestanding or guyed);
  - b. Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location;
  - c. Certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
3. Compliance with FAA Regulations, including any Documentation required by the FAA certifying approval of proposed location when located within the three (3) mile Planning Jurisdiction of any airport.
4. Signed letter of Notification by the property owner submitted to the Electrical Supplier/Purchaser, Deuel County Assessor's Office, and Deuel County Zoning Administrator signifying utility service is approved.
5. Require proof of insurance on application.

### **13.5 Commercial Wind Energy Conversion System – (CWECS)**

A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, of which the main purpose is to supply electricity to off-site customers.

Commercial Wind Energy Conversion Systems may be included as an aggregated project. Such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project. All individual wind turbine towers of an aggregated project shall be in conformance with Section 6.55 (A) items one through 15.

#### **General Site and Design Standards:**

1. Located on a lot or parcel of at least ten (10) acres in size.
2. The entire aggregated project shall be permitted as a **Conditional Use** permitted by special review in an "A" Agricultural District.
3. If an aggregated project, setbacks from multiple entities (turbines) shall be one and one-tenth (1.1) times the height of the total system.

4. Each CWECS location must have a 911 address.
5. CWECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. This shall include documentation of:
  - a) Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11; and
  - b) Projections of the “shadow flicker” on any existing structures located off the property on which the CWECS will be constructed and the extent and duration of the shadow flicker on these existing structures.
6. CWECS shall maintain a minimum setback distance from any property line of one and one-half (1.5) times the total system height of the windmill for non-participating property owners. Adjoining property owners participating in the same Aggregated Project shall have no setback requirements between adjoining properties.
7. CWECS shall maintain a minimum setback distance from any public road, or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.
8. In no case shall a WECS be located within any required setback or in any front yard area.
9. Structures for wind turbines shall be self-supporting tubular towers, if painted or coated shall be of a non-reflective neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
10. Colors and surface treatment of the CWECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.
11. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker, and blade glint affecting residences within or immediately adjacent to the project area.



12. CWECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such light should be positioned or shielded to avoid visual impact on neighboring properties, and shall be a white flashing light from daylight till twilight and a steady red light night time. Light system must be maintained and working at all times.
13. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.
14. A Meteorological Tower is permitted by a **Conditional Use Permit** for the purposes of the Aggregated Project. Meteorological towers shall meet the same setback requirements of those established for an Aggregated Project. If the tower is non-functional, it shall be removed after a period of two (2) years.
15. CWECS shall have a minimum setback of one-quarter (1/4) mile from any adjacent residence not owned by the owner of the CWECS. However, no setback is required between an adjacent residence that is owned by a participating member of the same Aggregated Project.

### **Application Requirements**

The applicant for a conditional use permit for construction of a CWECS shall file an application with the Deuel County Zoning Administrator. The application shall include the name(s) of the project applicant(s), the name of the project owner(s), and the legal description and address for the project. The application shall also include the following documents:

A survey map illustrating the following:

1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
2. Location and elevation of all components of the proposed CWECS.
3. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed CWECS;
5. Location of any overhead utility lines on the property;

6. Location of all known communications towers within two (2) miles of the proposed CWECS
7. Access roads;
8. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves, or habitat areas to a distance of 2,640 feet (one-half mile).
9. Provide a copy of the Easement Deed from the Deuel County Register of Deeds Office for each property involved in the CWECS.
10. Provide a map illustrating all transmission lines connecting to the Substation.
11. Copy of Agreement or Notification of Compliance Letter between any municipal Airport Authority and the Applicant.

Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:

1. Existing or proposed tourist or recreation activities;
2. Residential activities;
3. Industrial activities;
4. Agricultural activities;
5. Commercial activities

Soil erosion, sediment control, and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:

1. Grading;
2. Construction and drainage of access roads and turbine pads;
3. Design features to control dust;
4. Design features to maintain downstream water quality;
5. Re-vegetation to ensure slope stability;
6. Restoring the site after temporary project activities;
7. Disposal or storage of excavated materials;
8. Protecting exposed soil;

9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
10. Maintenance of erosion controls throughout the life of the project.

Applicant shall provide information regarding flora and fauna of the proposed project area including:

1. Officially listed threatened or endangered species;
2. Critical habitat and habitat conditions;
3. An avian study based on the US Fish and Wildlife Services “Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines”

Standard drawings of the structural components of the CWECS, including structures, tower, base, and footings.

Certification by a registered engineer that:

1. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
2. All applicable local, state, and federal building, structural and electrical codes have been followed;
3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Deuel County;
4. The rotor and over speed control have been designed for the proposed use on the proposed site;
5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

### **Construction and Operations**

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

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

The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CWECS

Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

### **Safety Measures**

Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.

The Planning Commission shall determine the height, color, and type of fencing, if needed, for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment, and entrances. The sign shall contain the following information:

1. Warning – high voltage
2. Manufacturer’s name
3. Operator’s name
4. Emergency phone number
5. Emergency shutdown procedures

Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.

Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.

The CWECS operator shall maintain a current insurance policy which will cover liability, installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CWECS shall be warranted against any system failures reasonably expected in severe weather operation conditions

## **Discontinuation and Decommissioning.**

- A. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Deuel County Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CWECS.
- B. Each CWECS shall have a decommissioning plan outlining the anticipated means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a profession engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning.

The decommissioning plan shall include the method or means of removing the CWECS and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. To secure the performance of this obligation, the CWECS will put in place decommissioning security in the form of a removal bond or other security instrument ten (10) years after commercial operations begin. The amount of security will be the cost of removal and restoration, net of salvage value of the equipment.

*(Resolution \_\_\_\_\_ March \_\_, 2015.)*

- C. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

### **606.10 Noise**

No CWECS shall exceed 60 dBA at the nearest structure occupied by humans. In the event of periods of severe weather, as defined by the United States Weather Service, a CWECS may exceed 60 dBA

## **SECTION 14. WPO WELLHEAD PROTECTION OVERLAY DISTRICT**

### **14.01 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 adjoin 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.

### **14.02 Prerequisite Requirements for Application of this District**

Prior to the application of this overlay district to any lands in Deuel 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).

### **14.3 Limitation on Application of this District**

This district may be applied only to Wellhead Protection areas officially approved by the NDEQ. 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.

### **14.4 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

### **14.05 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 NDEQ 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 NDEQ, 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 NDEQ 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 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 NDEQ.
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 requirement 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 NRD.

#### **14.06 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.

#### **14.07 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.

#### **14.08 Minimum Setback**

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.

#### **14.09 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.

(Entire Section 14, Amended Regulations on 8-15-12)

## ARTICLE 14. CONDITIONAL USES PERMITTED BY SPECIAL REVIEW

### SECTION 1. INTENT AND REVIEW CONSIDERATIONS

1. Conditional uses are generally those types of uses which under desirable conditions are allowable in the district in which they are listed as conditional uses. The Planning Commission and the Board of County Commissioners shall consider the following in approving or denying a requested conditional use:
  - Compatibility with the surrounding area.
  - Positive and negative short and long range impacts of the proposed use.
  - The need for the use, especially at the requested location.
  - Compatibility of the proposed use with the County Comprehensive Plan.
  - The uses effect on the health, safety and welfare of the inhabitants of the area and the County.
  - Compatibility with the intent of this Resolution and specifically the district in which the use is proposed.
2. It is understood that these conditional uses are not automatically approved after the required review. Conditions may arise which would find unresolvable conflicts between the proposed use and existing or long term use of the area and its impact on the neighborhood or county. To the extent practical, conditions may be attached to the approval of a proposed use to assure compliance with the objectives of this Resolution,

### SECTION 2. APPLICATION REQUIREMENTS

1. All applications for a conditional use shall be submitted to the Planning Commission (or its authorized staff representative) at least 20 days prior to a regular meeting of the Planning Commission.
2. The application, when submitted, shall be accepted only when it includes the following information:
  - A certified boundary surveyor adequate legal description of the property for which the application is made to adequately define the location of the site,
  - Authorization from the property owner agreeing to the submittal of the application if the owner is not the applicant.
  - Plans for the proposed use defining in adequate detail the location of all proposed buildings, parking areas, access, building heights, landscaping concepts, signing and lighting concepts and all other significant constructional features which may help the County to adequately review the impacts of the proposed use.

- Plans either written or graphic defining drainage concepts, methods for disposal of sewage or other wastes, and methods of supplying adequate water for use as well as fire protection.
  - Analysis of soils conditions which may limit or enhance the desirability of the proposed use.
  - A vicinity map which defines access to the site and defines adjacent zoning and land use. In urban areas, this information may be shown for a distance of 600 feet from the site; in rural areas this distance shall be extended to 2,500 feet. (The Planning Commission may request a larger area of coverage if the proposed use may impact a much larger area such as would occur with an airport, for example.)
  - A written description of the operation and a time table for its development, defining construction stages, etc.
  - A statement regarding the applicants approach to providing and improving, if applicable, public roads, parks and other related public improvements.
  - Due to unusual circumstances related to a particular request, or where an unusual hardship may occur, the Planning Commission or its authorized agent may waive any of the above application requirements. Waiver by the authorized agent does not preclude the Planning Commission or County Commissioners from requiring said information at a later date.
3. An application fee shall be submitted to cover processing and hearing costs.
  4. The original application plus four copies of the application shall be submitted to the Planning Commission (or its authorized staff representative.)

### SECTION 3. PROCEDURES

1. Upon receipt of a complete application and filing fee, the Planning Commission or its authorized staff representative shall set the request for public hearing by publishing a description of the request and the time, date and place for hearing at least 10 days prior to the scheduled hearing date. Adjacent property owners abutting or across the street (or alley) from the subject site, shall be notified in writing of the proposed request and scheduled hearing time, date and place. If, in the opinion of the Planning Commission or its authorized agent, the proposed use could impact a much larger area, the notice area may be extended. Current tax records shall be used to determine ownership.
2. The staff representative for the Planning Commission shall, prior to the hearing, accomplish the following:
  - Refer the request to other interested agencies and County departments for comment.

- Prepare a staff report outlining findings and recommendations which will assist the Planning Commission in making a decision in the matter.
  - Refer the report to the Planning Commission and the applicant at least three days prior to the scheduled hearing date.
3. The Planning Commission shall hear and review the matter and within 30 days of the first hearing, do one of the following:
    - Recommend approval with or without conditions to the County Commissioners and reasons for approval.
    - Recommend denial to the County Commissioners and reasons for said denial.
    - Table the matter for a specified period of time with the consent of the applicant for further study and review.
  4. The Planning Commission's recommendations shall be forwarded to the County Commissioners along with the application file. Said recommendations shall be recorded in the Planning Commission meeting minutes or in some other written form for review by the County Commissioners.
  5. The County Clerk shall set a hearing date before the County Commissioners and provide notification in the manner prescribed in Section 3.1 above.
  6. The County Commissioners shall hear and review the matter, and shall, within 30 days of said hearing, do one of the following:
    - Approve the request
    - Approve the request with conditions necessary to protect the public health, safety and welfare
    - Deny the request, or
    - Table the matter for a specified period of time with the consent of the applicant for further study and review.

The reasons for the County Commissioner's action on the request shall be defined in the official minutes of the County Commissioner's meetings.

7. Within one year of the approval, construction on the proposed project shall have commenced or the approval is void. However, the applicant may file a letter requesting an extension prior to the expiration of the initial approval. If this letter is filed prior to expiration, the Planning Commission shall review the extension request and recommend to the County Commissioners approval for a specified period up to 12 months or denial, indicating their reasons for such action.

8. The Planning Commission's recommendation shall be forwarded to the County Commissioners for final disposition. The County Commissioners shall then approve the extension up to a maximum of 12 months or deny the request, defining their reasons for such actions.
9. No further extensions shall be granted. After expiration, a new application is required if construction has not started and processed in the manner described herein and approved before the use could be developed.
10. Starting of construction after approval and prior to expiration and diligently pursuing same, permanently establishes the applicant's rights to the approved use unless conditions of approval state otherwise.

#### SECTION 4. SAND, GRAVEL AND OTHER OPEN PIT MINING OPERATIONS STANDARDS

The following minimum standards shall apply to all approved open pit mining operations:

1. The operator shall maintain haulage roads in a reasonably dust free condition if within one-fourth mile of a previously established residential subdivision.
2. The hours of operation shall be limited to a period between 6:00 a.m. and 10:00 p.m. if the operation is located within one-fourth mile of a previously established subdivision.
3. Excavations shall occur no nearer than 10 feet from any property line, nor nearer than 150 feet from any residence, unless written consent of the owner of the residence or property is provided to the Planning Commission. Excavation shall occur not nearer than 25 feet from any public road.
4. The slopes of any excavation shall not exceed (2: 1) 2 feet horizontal to 1 foot vertical slope.
5. A reclamation plan shall be submitted with the conditional use request. This plan shall include the following:
  - Use of area after excavation
  - Methods and type of re-vegetation proposed
  - Description of final grading concept which will remove rough contours, smoothing ridges, mounds, etc., into a more natural condition
  - Any other plans or description which will further define the operator's intent to reclaim the site
  - A reclamation staging program.
6. A bond may be required by the County as a condition of approval to insure full compliance with conditions of reclamation.

## ARTICLE 15. PLANNED UNIT DEVELOPMENTS (PUD)

### SECTION 1. INTENT

It is the intent of this Article to augment normal zoning requirements by achieving the following:

- To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;
- To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economics may endure to the benefit of those who need homes;
- To lessen the burden of traffic on streets and highways;
- To encourage the building of new neighborhoods incorporating the best features of modern design;
- To conserve the value of the land;
- To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and
- To encourage integrated planning in order to achieve the above purposes and in order to achieve the objectives of the County Comprehensive Master Plan.

### SECTION 2. PROCEDURES

1. All requests for Planned Unit Developments shall be processed under the procedures of Article 14 Conditional Uses Permitted by Special Review. In addition to the information required therein, additional plans and details should be provided as needed to describe the project. The Planning Commission, if deemed necessary, can require additional information if needed to properly evaluate the proposed request.
2. If desired, the applicant may, prior to submitting complete plans, submit a general plan for the subject site. This general plan will define location and density of land uses, access and other schematic concepts to provide a general concept of the project. This general or master plan shall be submitted to the Planning Commission for review and comment only. No official action is taken; the review is for informational purposes only.

3. The final plan and development standards, after approval by the County, shall be recorded in the County Clerk's and Recorder's office. Thereafter, all permits issued for development shall substantially conform to the approved recorded PUD plans. Deviations from the recorded plans can only occur after reapplication, following the same procedures for new applications.
4. In those instances where land is also intended to be sold, the requirements of the County Subdivision regulations shall also be met. To the extent logical, PUD plans and subdivision plans can be processed simultaneously.

### SECTION 3. STANDARDS

Since it is the stated intent of PUD to encourage variety, development standards shall be kept to a minimum. It is felt, however, that standards for open space and density must be defined to preserve the concepts of the Comprehensive Plan. The following standards and conditions shall apply to all PUD plans.

1. Public open space shall be dedicated, reserved for future use, or developed as a private park based on the following formula:

Gross Density  $X 2 + 5 =$  % of public open space required. (Example: 10 units per acre gross density  $X 2 + 5 = 25$  or 25% public open space required.)

This public open space shall be used for public recreation and open space purposes only. This may include up to 50% of a school site. This public open space may also be placed in a recreation district. In lieu of dedication of land as set forth hereinabove, the County Commissioners may decide to implement one or a combination of the following policies.

- The County Commissioners may determine that the PUD applicant shall pay to the County in cash an amount based upon the average market value of the PUD property and based upon the formula as set forth hereinabove. The fee shall be negotiated with the applicant and if the County and the applicant fail to agree on the value of the land, such value shall be fixed by a real estate appraisal by two qualified appraisers who are acceptable to both the applicant and the County. If appraisals are required to satisfy negotiations, the cost of said appraisals shall be the applicant's responsibility.
- In lieu of dedicating land within the proposed PUD site, the applicant may dedicate an alternate parcel of land, consisting of the same number of acres which would be required to be dedicated from the proposed PUD site based upon the above formula, in another area to which he has title which, in the sole and exclusive opinion of the County Commissioners, is capable of being utilized for public purposes. In any event, the final decision shall be the County Commissioners'.

In determining which of the above policies to implement; the Planning Commission and the County Commissioners shall consider the following: The size of the proposed PUD development and its adequacy for accommodating a public use site; the public facility aspects of the County Comprehensive Master Plan and the applicable school district's master plan; the existing parks and other public uses in the area; the topography, geology, and location of land within the proposed PUD site available for public dedication; the needs of the people in the area, and any other appropriate factors.

2. Common private open space shall also occur in PUD areas at a rate not less than forty (40) percent of the total size. Up to fifteen (15) percent of the forty (40) percent requirement may be in private open space.
  - Common private open space as required herein is shared jointly with all PUD residents and is used for recreation or visual open space relief but is not used by the general public and is considered to be that portion of the site not developed as public (dedicated) open space, building pads, storage areas, driveways, and parking areas. The twenty-five (25) percent common private open space requirement shall not apply to areas developed with single family detached homes where the minimum lot size is 7,000 square feet.
  - (private open space as required herein is outdoor space deeded to an individual resident of the PUD which may be used for personal recreation space, visual relief, or for similar purposes by the owner of said space.)

The applicant shall provide for and establish an organization for the ownership and maintenance of any common open space, or show that other adequate arrangements for the ownership and maintenance thereof be made. Regardless, approval of the organizational concept shall be part of the approved PUD plan.

3. To encourage development of private common area in a manner usable by adjacent residents, the following incentives shall be applicable:
  - Recreation Building - Each (1) square foot of building ground coverage is counted as (2) square feet of required open space;
  - Swimming Pool (enclosed) - Each (1) square foot of building ground coverage is counted as (2) square feet of required open space;
  - Swimming Pool (open) - Each (1) square foot of water surface is counted as (1.5) square feet of required open space;
  - Tennis Court - Each (1) square foot of court is counted as (1.25) square feet of required open space;
  - Putting Greens - Each (1) square foot of putting green is counted as (1.25) square feet of required open space; and



- Tot lot or other play equipment - Each (1) square foot of designated lot or equipment are counted as (1.25) square feet of required open space.
4. To encourage use of the PUD concepts, and to recognize the fact that good residential planning can effectively accommodate more people; densities may be increased in approved PUD's over the density permitted outright in each zone as follows:

Zoning		
<u>District</u>	<u>Permitted by Right</u>	<u>Permitted by PUD</u>
A	.2 units per acre	.3 units per acre
RS	3.5 units per acre	4 units per acre
RE	.9 units per acre	1.1 units per. acre
RL	4 units per acre	4.5 units per acre
RM	17.5 units per acre	20 units per acre

5. If approved by the County, a residential PUD may include all forms of housing (single family, farm house, mobile, apartments, etc.). The design, however, shall protect the welfare of existing and future residents within and adjacent to the project.

## ARTICLE 16. MOBILE HOME PARKS

### SECTION 1. INTENT

It is intended that the requirements for mobile home parks should be such that the quality of an adjacent property is not detrimentally affected by the location of a mobile home park. The mobile home park is basically a low to medium density residential use and should be treated as such. Since this form of single family housing physically contrasts substantially with typical on-site constructed housing, it is necessary to review each request via the procedures of Article 14 "Conditional Uses Permitted by Special Review." This review procedure allows design adjustments to fit the constraints of any site.

### SECTION 2. DEVELOPMENT STANDARDS

In those districts where mobile home parks are listed as Conditional Uses Permitted by Special Review, all applications must first be processed via the procedures of Article 14. In addition to possible conditions being attached as the result of the review, the following standards shall also apply:

1. Density: Not to exceed six units per acre, unless otherwise approved by the County\*
2. Minimum Lot Size: 3,000 square feet.
3. Minimum Lot Width: The average lot width shall not be less than 40 feet.
4. Minimum Separation Between Homes: 20 feet
5. Parking: Two off-street spaces per unit plus one Guest space for each five units.
6. Minimum Street Width: No Parking on Street, 25 feet minimum paved width; Parking One Side Only, 80 feet minimum paved width; Parking Both Sides, 36 feet minimum paved width.
7. Access to Dedicated Street shall be provided. However, parks of over 50 units may be required to provide additional access points for emergency access safety.
8. Lighting; A minimum of 0.8 foot-candles on all driveways and walks shall be provided.
9. Walkways: Shall be provided adjacent to streets or on an interior system.
10. Park Space: Fifteen percent of the total site shall be developed, for common park purposes. In large projects, a portion of this amount or additional area may be required for dedication for a public park.
11. Footings, Foundations and Wind Pressure: All mobile homes shall have footings, foundations, and tie downs in accordance with applicable provisions of the Building Code as adopted by the County to satisfy soil bearing, loading, and wind pressures.

Each mobile home development shall submit engineered footings, foundations, and tie down design for approval by the County. Wheels shall not be used for bearing pressures.

12. Architectural Control (Optional): Architectural standards may be set for a mobile home park, including requirements of wood siding or other similar design features.
13. Landscaping: A landscaping concept plan shall be submitted for review and approval.
14. Low Profile (Optional): Excavation shall occur to lower the profile of the units so the floor level of the unit is not higher than ten inches ten inches (10") from the ground level.
15. Fencing: A decorative fence or wall shall be provided around the perimeter of the site, or landscaping or earth mounds of six feet in height to screen the park from. view when adjacent or across the street from a residential use other than a mobile home park or an area likely to be developed residentially.
16. Setbacks, Street: No mobile home unit shall be located closer than ten feet to a private street.
17. Setbacks, Boundary: Mobile homes shall be placed no nearer than 20 feet from any boundary that is not a street, and 25 feet from any boundary adjacent to a street.
18. Storage: Storage units shall be designed as an integral part of the site and shall be screened from normal view.
19. Utilities: All utilities shall be placed underground. Public sewer and water shall be provided.
20. Trash Collection Receptacles: Shall be provided and properly screened from view.
21. Camper and Boat Storage: Provisions shall be made for camper and boat storage either adjacent to the mobile homes or in a central location(s). One hundred (100) square feet for each mobile home space shall be provided.
22. Bonding: Bonding or some guarantee in a form acceptable to the County Attorney shall be provided to guarantee performance of plans.

\* Where exceptional design concepts are offered incorporating either those items designed as optional herein, or other features which help to establish quality living environments, the County Commissioners after recommendation from the Planning Commission, may allow an increase in density up to but not exceeding 20% or 7.2 units per acre.

## ARTICLE 17. SIGNS

The following regulations shall govern the locations, areas, heights, and types of signs permitted within the zoning jurisdiction of this Resolution.

### SECTION 1. GENERAL REGULATIONS

1. All signs hereafter constructed, erected, painted, or otherwise established, moved, altered or changed shall comply with these regulations. Nonconforming signs existing at the time of enactment of this Resolution may be repaired or maintained, but may not be otherwise established, moved, altered, or changed except in compliance with the provisions of this Resolution.
2. Lot frontage or width of front of building used as the basis for determining permitted sign area for one building or use shall not be used again as the basis for determining the permitted sign area for another building or use, except as otherwise provided in this section.
3. On a corner business outlet having a single public entrance, the longer front of the business outlet may determine the maximum sign dimensions.
4. Moving signs in which an entire sign or any portion thereof moves or gives the impression of moving at a rate of more than five (5) revolutions, oscillations, or movements per minute will not be permitted in any zoning district.
5. "Revolving beacon," "flashing," or "fountain" effects or signs with such effects are prohibited in all zoning districts, as are all other lighting effects which could impair a motorist's vision.
6. No sign in any district shall interfere with clear and unobstructed vision of any sign or device used for the control of traffic, or with clear and unobstructed vision of traffic on any street.
7. Sign regulations in this Resolution shall not apply to official Federal, State, County or City signs, including traffic signs, which are erected and intended for public information, direction, safety, or control purposes.
8. A business having separate public entrances on two or more sides of a building shall be permitted to identify each individual entrance with a sign, the maximum dimensions of which shall be determined by the respective width of the building, or frontage of lot, where said public entrance is located. Any such sign shall be confined to the size permitted by that portion of the building frontage whereon the entrance being identified is located.
9. In the case of a business occupying a single floor other than the first floor of a building, permitted sign area for said business may be determined as if said business were located on the first floor. However, this exception shall not apply to a business occupying several floors, including the first floor, and in no case shall the front width of more than one floor occupied by a single business be used as the basis for determining maximum sign area for that business.

10. Signs used solely for the purpose of identifying hazards are exempt from these regulations, provided the sign itself does not create a hazard,

## SECTION 2. RESIDENTIAL AREAS

Only the following signs shall be permitted in RE District:

1. One identification sign per residential use provided such sign does not exceed one (1) square foot in area per side. Such sign may be illuminated by indirect lighting methods only.
2. One identification sign and/or bulletin board per church, school, or other public or semi-public use, provided each sign and/or bulletin board shall not exceed twenty (20) square feet. Such sign- may be illuminated by indirect lighting methods only.
3. One real estate sign provided such sign does not exceed five (5) square feet and is unlighted.
4. One construction sign per lot on which construction or major modification or a building or structure is in progress, provided the area of such sign does not exceed twenty (20) square feet, and the sign is unlighted, Such sign shall be removed from the lot upon completion of construction.
5. One directional sign per lot, provided such sign does not exceed two (2) square feet in area, and is unlighted,
6. One political sign per lot subject to the provisions of Section 7 as hereinafter set forth.
7. In any subdivision for which a plat has been approved by the County, non-illuminated subdivision signs may be erected, subject to the following area requirements: Two (2) square feet of sign surface area shall be permitted for each lot in the subdivision up to and including thirty-two (32) lots, and one (1) square foot of sign surface shall be permitted for each lot in excess of thirty-two (32) lots; (but in no case shall the total sign surface area for any subdivision exceed one hundred thirty (130) square feet, and the maximum surface area for any face of a sign shall not exceed sixty-four (64) square feet). Only one (1) sign having a surface area on a single face of more than thirty-two (32) square feet shall be permitted in a subdivision. Said subdivision signs may be displayed for a period of time not to exceed two (2) years from the date of permit for the first building in the subdivision, or the duration of the project, whichever is less, unless an extension for a specific period of time is granted by the Board of Adjustment.
8. All signs in residential areas must be set back at least ten (10) feet from any lot line.

SECTION 3. AGRICULTURAL AREAS

Only the following signs shall be permitted in the A District:

1. Those signs permitted in residential areas defined in Section 2 above.
2. One on-site identification sign for the principal permitted use provided the sign does not exceed 16 square feet per face and does not exceed 20 feet in height.
3. Off-site directional signs subject to the following standards and definitions along state and federal routes only:

- Directional signs are those signs situated on a premises other than the site where such functions being advertised are located, and are giving guidance as to where, how distant, and the type of goods, services and functions which are available (provided the site being advertised is within 40 miles of the sign).

- Maximum area per face: 1,000 sq. ft.
- Maximum height: 50 feet
- Minimum setback from the right-of-way: 600 feet
- Minimum spacing signs (other than an official traffic sign) 100 feet
- Minimum distance from an intersection 600 feet
- Minimum distance from an exit or entrance on an interstate: 1,000 feet
- Minimum distance from a park, historic site, playground or rest area: 500 feet
- Quantity

Distance from Corporate Limits	
0- 1 Miles	1 (Number of Signs) = 0
5 Miles	(Maximum of 1 sign per mile)
Over 5 Miles	(0)

## SECTION 4. COMMERCIAL AND INDUSTRIAL AREAS

All types of on-site signs authorized by this Resolution may be installed In TS, LI and HI Districts, subject to the following regulations:

1. The surface area of all signs shall be limited to one-half (1/2) square foot of sign for each lineal foot of front width of business building; provided that the maximum total surface area for all signs combined shall not exceed two hundred (200) square feet, and that the maximum surface area of the face of any single sign shall not exceed one hundred (100) square feet.
2. On buildings including more than one business, the front width of each individual business unit shall be used to determine the maximum sign area for that business.
3. No point on any sign shall project above the roof structure of the building to which it is attached. Signs attached to parapet walls shall not project above the highest point of said parapet wall. In no case shall the maximum height of a sign be more than 25 feet from the ground.
4. No free-standing sign shall project more than ten (10) feet beyond the minimum required setback for the principal building and shall not be located within ten (10) feet from a side lot line, and in no case shall it be located within ten (10) feet from a street right-of-way line.
5. Projecting signs and marquees shall not project more than two (2) feet from the principal building.
6. No free-standing sign in these districts shall exceed twenty-five (25) feet in height.
7. A greater height may be approved by the County Commissioners after review and recommendation by the Planning Commission, if said height is needed to adequately identify the on-site business, and if such height is not detrimental to adjoining properties or the character of the area.

## SECTION 5. ADVERTISING SIGNS AND BILLBOARDS

1. Advertising signs or billboards (those signs advertising products not sold on the same site as the sign location) shall not be permitted in any zoning district other than the LI or HI Districts.
2. Advertising signs or billboards shall not be located within twenty-five (25) feet from any lot line fronting on or adjoining a street right-of way and shall not be within ten (10) feet from any side lot or property line.

3. The dimensions of advertising signs or billboards shall be limited to the lesser of:  
(a) twenty (20) feet in width by ten (10) feet in height or (b) one (1) square foot of aggregate sign area per two (2) linear feet of lot frontage on a street; provided that said maximum dimension may be increased by one additional square foot of said sign area for each one (1) linear foot of setback, beyond said twenty-five (25) foot setback, measured in one direction only from any lot line-fronting on or adjoining a street right-of-way, but in any case not exceeding a total of two hundred fifty (250) square feet of aggregate sign area on any lot. In determining the total permitted sign area of advertising signs or billboards, the total sign area of all signs on the lot shall be considered as part of the total area permitted.
4. Advertising signs or billboards shall not exceed twenty (20) feet in total height from the ground level.

#### SECTION 6. TEMPORARY SIGNS

1. Temporary signs shall not exceed seventy-five (75) square feet in area,
2. Temporary signs shall not remain in place for a period of more than thirty (30) days, except however, that the Zoning Administrator may extend the time period for an additional fifteen (15) days. Any further time extension shall thereafter be applied for to the Board of Adjustment and said Board may grant such time extension as it deems reasonable and necessary.

#### SECTION 7. POLITICAL SIGNS

1. Political signs may be either permanent or temporary type signs,
2. Political signs are not authorized in any zoning district except for a period of thirty (30) days before a National, State, City or local governmental subdivision election to which they apply, and such signs must be removed within a period of five (5) days after such election.
3. Political signs shall be limited in area and location as follows:
  - a) In residential areas such signs shall be limited to one (1) per residential lot, shall not exceed four (4) square feet in total area, and shall be unlighted.
  - b) Political signs in Business, Commercial, and Industrial areas (except billboards) shall be limited to a total surface area of one (1) square foot of sign for each five (5) lineal feet of building frontage or each four (4) feet of lot frontage whichever is greater. No single sign shall exceed ten (10) square feet of area on anyone face and the aggregate area of all signs on anyone lot or building frontage shall be governed by the provisions of Section 4 of this Article.
  - c) Political signs must be set back at least ten (10) feet from property lines.
  - d) No political signs shall be permitted on the public streets, parks, alleys, or other public areas.



## ARTICLE 18. ADMINISTRATION, PERMITS, ENFORCEMENT

### SECTION 1. ZONING ADMINISTRATION

1. Appointment of Administrator. The County Commissioners shall designate a zoning administrator who will be charged with the authority and responsibility of administering, establishing rules of procedure for, and enforcing the terms of these regulations.
2. Duties and Powers of Administrator. The zoning administrator shall receive all applications for permits to construct, alter, repair, occupy and use or change the use of land, buildings and structures as required by these regulations; collect a fee for administration where required by these regulations; and issue such permits to construct, alter, repair, occupy and use or change the use of land, buildings and structures when the provision of these regulations have been complied with; and shall deny any permit which would allow violations of the terms of these regulations. He shall issue all necessary notices or orders to cease illegal use or construction of land, buildings or structures as required to ensure compliance with the intent and terms of these regulations. He shall receive applications and fees for amendments to the zoning map and transmit such applications to the Planning Commission as required by these regulations.

### SECTION 2. PERMITS AND CERTIFICATES

1. Permit Required. It shall be unlawful to construct, enlarge, alter, remove or demolish structures, signs or buildings or change the occupancy of land or buildings from one use to another without first filing an application with the zoning administrator in writing and obtaining the required permit. Permits are not required for those utility uses which are listed as "Uses Permitted by Right."
2. Form of Application. The application for a permit shall be submitted in such form as the zoning administrator may prescribe.
3. Fees for Permits. Fees paid for permits as specified by the fee schedule shall be deemed sufficient for the purpose of this chapter.
4. Certificate of Use and Occupancy. Provisions for the issuance of a certificate of use and occupancy as contained in the building code shall apply to the enforcement of these regulations.

### SECTION 3. ENFORCEMENT

1. Notice of Violation. The zoning administrator shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of a building, structure, or land in violation of these regulations, or in violation of a permit or certificate issued under the provisions of these regulations, and the order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

2. Prosecution of Violation. If the notice of violation is not complied with promptly, the zoning administrator shall request the County Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building, structure or land in violation of the provisions of these regulations, or of the order or direction made pursuant thereto.
3. Violation Penalties. Any person who shall violate a provision of these regulations, or shall fail to comply with any order or direction made pursuant thereto, shall be guilty of a Class II Misdemeanor, punishable by a fine, or by imprisonment for not more than 30 days or until such imposed fine is paid, and each day that any such violation or failure to comply occurs, or is continued, shall constitute a separate offense.

#### SECTION 4. 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 building permit as herein provided.

## ARTICLE 19. BOARD OF ADJUSTMENT

### SECTION 1. PURPOSE, MEMBERSHIP

1. In accordance with Chapter 23, Article 1, Section 23-168 of Nebraska Reissue Revised Statutes 1943, the Board of County Commissioners shall constitute a Board of Adjustment. In accordance with the state statutes then, the Board of Adjustment shall have the authority to make special exceptions to the terms of this Resolution as hereinafter provided.
2. As changes occur in the membership of the County Commissioners, so shall like changes occur in the membership of the Board of Adjustment, wherein the official members of the County Commission shall always be the official members of the Board of Adjustment.

### SECTION 2. MEETINGS

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 in the office of the Board and shall be a public record.

### SECTION 3. APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any County officer or department.

The appeal filed in writing shall define the appeals being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

## SECTION 4. HEARING

The chairman of the Board of Adjustment shall set a hearing within 30 days of receipt of the appeal by the Clerk of the Board. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general distribution 10 days prior to actual hearing. The Clerk of the Board shall also notify the interested parties in the case of the hearing date, time and place.

## SECTION 5. AUTHORITY

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or an agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures,
2. 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 any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, 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 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 resolution."

No such variance shall be authorized by the Board unless it 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.

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 Resolution.

In exercising the above-mentioned powers such Board may 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 ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of two 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 Resolution or to effect any variation in such Resolution.

## ARTICLE 20. AMENDMENTS

### SECTION 1. INITIATION OF AMENDMENT

An application for an amendment may be initiated in anyone of the following ways:

1. By the owner of the property for which the amendment would apply, or an authorized agent for the owner, or
2. By the Planning Commission, or
3. By the County Commissioners, who would instruct the Planning Commission to review an amendment.

An amendment to either the text or to the zoning map is considered to be an amendment to this Resolution.

### SECTION 2. APPLICATION

1. All applications for amendments shall be submitted to the Planning Commission (or its authorized staff representative) at least 20 days prior to a regular meeting of the Planning Commission.
2. An application for a zoning map change when submitted, shall be accepted only when it includes all of the following information:
  - A certified boundary survey adequate legal description of the property for which the application is made to adequately define the location of the site by dimensions.
  - Authorization from the property owner agreeing to the submittal of the application if the owner is not the applicant.
  - A vicinity map which defines access to the site and defines adjacent zoning and land use. In urban areas, this information shall be shown for a distance of 600 feet from the site; in rural areas, this distance shall be extended to 2,500 feet. (The Planning Commission may request a larger area of coverage if the proposed use may impact a much larger area.)
  - A written description which defines the reasoning for such a change in zone. This description may be supported by submitting a master plan or other graphic materials describing the proposed use.
3. An application fee shall be submitted to cover processing and hearing costs.

### SECTION 3. PROCEDURES

1. Upon receipt of a complete application and filing fee, the Planning Commission or its authorized staff representative shall set the request for public hearing by publishing a description of the request and the time, date and place for hearing at least 10 days prior to the scheduled hearing date. Adjacent property owners abutting or across the street (or alley) from the subject site shall be notified in writing of the proposed request and scheduled hearing time, date and place. If, in the opinion of the Planning Commission or its authorized agent, the proposed use could impact a much larger area, the notice area may be extended. Current tax records shall be used to determine ownership.
2. The staff representative for the Planning Commission shall prior to the hearing, accomplish the following:
  - Refer the request to other interested agencies and County departments for comment.
  - Prepare a staff report outlining findings and recommendations which will assist the Planning Commission in making a decision in the matter.
  - Refer the report to the Planning Commission and the applicant at least three days prior to the scheduled hearing date.
3. The Planning Commission shall hear and review the matter and within 80 days of the first hearing do one of the following:
  - Recommend approval to the County Commissioners and reasons for approval.
  - Recommend denial to the County Commissioners and reasons for said denial.
  - Table the matter for a specified period of time with the consent of the applicant for further study and review.
4. The Planning Commission's recommendations shall be forwarded to the County Commissioners along with the application file. Said recommendations shall be recorded in the Planning Commission meeting minutes or in some other written form for review by the County Commissioners.
5. The County Clerk shall set a hearing date before the County Commissioners and provide notification in the manner prescribed in Section 3-1.
6. The County Commissioners shall hear and review the matter, and shall within 30 days of said hearing, do one of the following:
  - Approve the request,
  - Deny the request, or

- Table the matter for a specified period of time with the consent of the applicant for further study and review.

The reasons for the County Commissioner's action on the request shall be defined in the official minutes of the County Commissioner's meetings.

#### SECTION 4. SIMILAR AMENDMENTS

A proposed rezoning request for a similar classification and/or area to one already reviewed by the County Commissioners shall not be reconsidered by the County Commissioners 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 5. TIME LIMITATIONS ON AMENDMENTS TO THE ZONING DISTRICT MAP

At the time the Planning Commission and the County Commissioners consider an initial zoning request, a rezoning request, and/or any amendments to the Zoning District Map, the applicant shall be advised that the land must be developed in accordance with the designated zoning classification within two years after the date of granting same, and that in the event such development is not completed or substantially commenced within said two year period the County may, at its sole and exclusive option, review said zoning classification and initiate proceedings to rezone the land to the classification said land held immediately prior thereto or to such other zoning classification as may be determined by the County Commissioners.



## ARTICLE 21. DEFINITIONS

As used in this Ordinance the following words shall be interpreted and defined in accordance with the provisions set forth in this Section.

### SECTION 1. RULES OF CONSTRUCTION OF LANGUAGE

- The particular controls the general.
- In case of any difference of meaning or implication between the text of this Ordinance and the captions for each section, the text shall control.
- The word "shall" is always mandatory and not directory. The word "may" is permissive.
- Words used in the present tense include the future, unless the context clearly indicates the contrary.
- Words used in the singular number include the plural, and words used in the plural number include the singular unless the context clearly indicates the contrary.
- A "building" or "structure" includes any part thereof. A "building or other structure" includes all other structures of every kind, regardless of similarity to buildings.
- The phrase "used for" includes "arranged for," "designated for," "intended for," "maintained for," and "occupied for."

### SECTION 2. WORDS AND TERMS

- ACCESSORY USE OR BUILDING. A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts; swimming pools; detached garages; garden houses; antenna/satellite dishes; broadcast towers, amateur radio or land mobile communication/cellular towers of 100 feet or less; and residential, agricultural and recreation storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.
- AGRICULTURAL FARM OR OPERATION. Farm or farm operation shall mean any tract of land over 20 acres in area used for or devoted to the commercial production of farm products.
- AREA OF LOT. The total horizontal area within the lot lines of a lot.
- AUTOMOBILE PARKING AREA. A lot or part thereof used for the short term storage of automobiles which meet state inspection standards for travel on public highways, provided such automobiles are not for sale.

- BOARDING AND ROOMING HOUSE. A building or portions thereof which is used to accommodate for compensation, three or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word "compensate" shall include compensation in money, services or other things of value.
- BUILDING. Any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which:
  - (a) is permanently affixed to the land;
  - (b) has one or more floors and a roof; and
  - (c) is bounded by either open space or the lot lines of a lot.
  - (d) Designed for shelter of persons, animals or property.
- BUILDING HEIGHT. The vertical distance from the average of the finished ground level at the center of all walls of a building to the highest point of the roof surface, exclusive of chimneys, ventilators, pipes, and similar apparatus.
- CONDITIONAL USE PERMIT. A written permit issued with authorization of the County. The conditional permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted conditional uses in each of the district zoning regulations.
- DWELLING, MULTIPLE-FAMILY. A Building occupied by two or more families living independently of each other in separate dwelling units, but not including hotels or motels.
- DWELLING ONE-FAMILY. A detached building, arranged and designed as a single dwelling unit other than a mobile home and intended to be occupied by not more than one family, and which has not less than one bathroom.
- EASEMENT. A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.
- EMPLOYEES. The gross number of persons to be employed in the building in question during any season of the year at any time of the day or night.
- DWELLING UNIT. One or more rooms including at least one single kitchen; designed for or occupied as a unit by one family, for living and cooking purposes, located in a one family or multiple-family dwelling.
- FLOOR AREA. The gross floor area of the building measured along the outside walls of the building and including each above ground floor level, but not including basements, open balconies, garages, other enclosed automobile parking area, and not including one-half of all storage and display areas for hard goods.

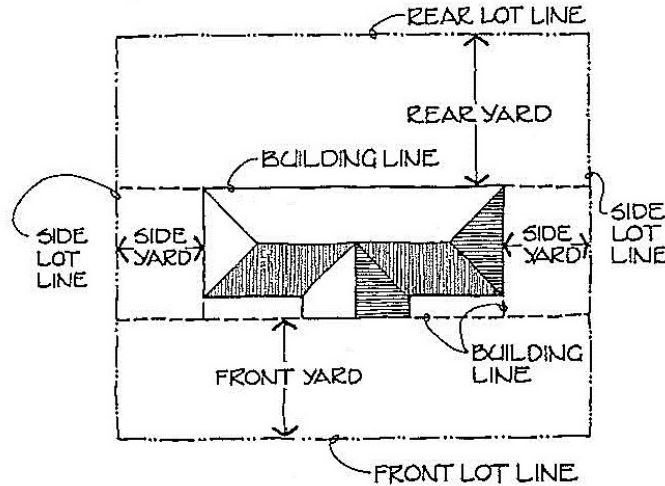
- GAS STATION. A building and premises used for the retail sale of gasoline, oil or other fuel for motor vehicles, which may also include incidental uses such as washing and lubricating services, and the sale and servicing of tires, batteries, and other automotive accessories; but not including body and fender work; painting, major automobile repairs or the storage or sale of automobiles.
- GUEST HOUSE. An accessory use designed for the temporary lodging of guests. It shall not have a kitchen or kitchen appliances since preparation of food in a guest house is not permitted.
- 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.
- HOTEL AND MOTEL. A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are six or more guest rooms.
- JUNK YARD. (see Salvage or Junk Yard)
- LANDFILL. A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.
- LANDSCAPING OR LANDSCAPED. Any combination of living plant materials such as trees, shrubs, grass, and herbaceous plants, and including but not limited to organic decorative materials such as gravel, rock, and bark, provided, however, that at least 25% of the required landscaped area be covered by living plant materials.
- LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS. Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals.
- 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.
- LOT LINE, FRONT. The property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line and the shorter street frontage shall be considered the front line.
- LOT LINE, REAR. The line opposite the front lot line.

- LOT LINE, SIDE. Any lot lines other than front lot lines or rear lines.
- LOT REVERSED CORNER. A corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.
- 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 to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.
- MOBILE HOME. A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.
- MOBILE HOME PARK. Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure . used or intended for use as part of the equipment of such mobile home park.
- MODULAR HOME. Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.
- 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 \_\_\_\_\_ (original date of Adoption of these Regulations), and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

- NONCONFORMING STRUCTURE. An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- NONCONFORMING USE. An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.
- PARCEL. A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
- PARKING SPACE, OFF -STREET. An area, enclosed or un-enclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.
- RECYCLING CENTER. A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.
- RECYCLING COLLECTION POINT. A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.
- SALVAGE OR JUNK YARD. A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage or used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
- PRE-SCHOOL NURSERIES. Is an establishment for the part-time care and instruction, whether or not for compensation, of five or more children of less than seven years of age, other than those residing on the lot.
- PROFESSIONAL OFFICE. An office for professions such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others, who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists,
- SIGNS. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located but not including any flag, badge or insignia of any government or governmental agency or of any civic, charitable, religious or fraternal organization.

- STREET. A public thoroughfare with at least 30 feet of right-of-way which affords the principal means of access to abutting property,
- STRUCTURE. Anything constructed or erected, the use of which requires 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 signs.
- STRUCTURAL ALTERATIONS. Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.
- PLANNED UNIT DEVELOPMENT. A unit development is a project which includes usable open space for the mutual benefit of the entire tract, is designed to provide variety and diversity through the variance of normal location and bulk regulations, and preserves the unique features of the development or site while still being in harmony with the surrounding neighborhood.
- SIGN AREA. The total surface of the entire sign includes any parts and appurtenances thereof, except principal supports, the total cross-sectional area of which supports does not exceed two (2) square feet and on which there is no display of advertising material or any lighting. In the case of any sign having continuous regularly shaped display surfaces, the sign area shall be measured by determining the perimeter of said surface or surfaces and all area within said perimeter shall be said sign area. In the case of non-continuous and/or irregularly shaped display surfaces, the sign area shall be measured by placing the smallest possible imaginary rectangle, triangle or circle over all of the outside points of said surface and all area within said rectangle, triangle or circle shall be included in the sign area.
- WIDTH OF LOT. The distance parallel to the front lot line, measured between side lot lines through that part of the building or structure where the lot is narrowest.
- YARD. A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.
- YARD, FRONT. A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.
- YARD, REAR. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.
- YARD, REQUIRED. The required minimum open space between the property line and the building line. The required yard shall contain no building, or structure other than the projection of the usual steps, or open porches, or as otherwise provided in this resolution.

- YARD, SIDE. A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

- ZONING ADMINISTRATOR. The person duly designated by the County governing body to enforce these regulations.
- ZONING DISTRICT. The term "zoning map" means a map or maps officially enacted by the County Board, as part of this chapter showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the County Clerk, as an official record of the County.