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ARTICLE 1

GENERAL PROVISIONS

1. TITLE

This Resolution shall be known, referred to, and cited as the Zoning Resolution of Frontier County in the State of Nebraska.

1.2 JURISDICTION

The provisions of this Resolution shall apply within the planning jurisdiction of Frontier County as established on the map entitled "The Official Zoning Map of Frontier County, Nebraska". The jurisdiction includes the rural and unincorporated areas of Frontier County, except for the one mile planning jurisdiction of Curtis, Maywood, and Eustis, plus that portion of Farnam's extra territorial jurisdiction that extends into Frontier County

1.3 PURPOSE

In pursuance of the authority conferred by Section **23-114.03** of Nebraska Statutes as amended, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Frontier County and for implementing the Comprehensive Plan of the County.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

The zoning regulations set forth by this resolution within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located. In each and every case, a zoning permit shall be required.

2.3 YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of this resolution shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this resolution shall meet the minimum requirements established by this resolution.

2.4 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Where applicable, Municipal, State or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

2.5 NONCONFORMITIES

Nonconformities; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

2.51 NONCONFORMING LOTS OF RECORD: The Zoning Administrator may issue a Zoning Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by current zoning regulations.

2.52 NONCONFORMING STRUCTURES

Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Damage or Destruction: In the event any nonconforming nonresidential structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

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

2.53 NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is

charged with protecting the public safety who declares such structure to be unsafe and orders its restorations to a safe condition.

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property repair or replacement shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

Change in use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

ARTICLE 3

GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this resolution.

3.11 TENSE: Words used in the present tense include the future tense.

3.12 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

3.13 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissive.

3.14 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Resolution and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

3.2 GENERAL TERMINOLOGY

The word “County” shall mean the County of Frontier, Nebraska. The words “County Board” shall mean the Frontier County Board of Commissioners. The words “Planning Commission” shall mean the County Planning Commission of Frontier County duly appointed by the governing body of Frontier County.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

3.3 DEFINITION

For the purpose of this resolution certain words and terms used herein are defined as follows:

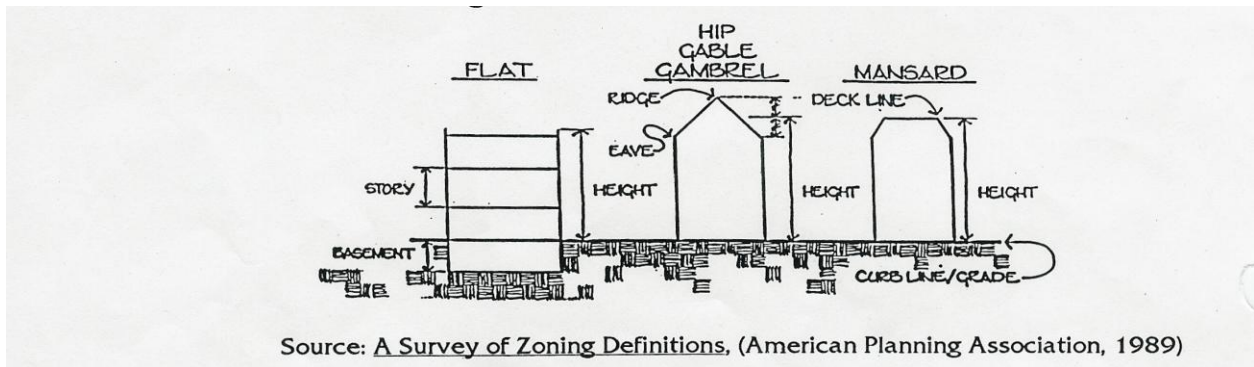
3.31 ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, 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.

3.32 AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over 10 acres in area used for or devoted to the commercial production of farm products.

3.33 BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

3.34 BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. “Building” includes “structure”.

3.35 BUILDING HEIGHT: The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front line or from the grade in all other cases.



3.36 CAMP GROUNDS: Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

3.37 CENTER PIVOT: A device used to apply irrigation water- see requirement in 5.19(a), 5.29(a) and 5.39.

3.38 COMMERCIAL USE: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee, including Intensive Livestock Facilities/Operations 6.4.

3.39 COUNTY ROADS: All Public Roadways in Frontier County so designated by the Board of County Commissioners as “County Roads”. Said roads are maintained by county employees utilizing County, State and/or Federal Funds.

3.39.1 COUNTY ROAD RIGHT OF WAY: The distance, extending from the centerline of said county roads, upon which the Frontier County Board of Commissioners have controlling authority.

3.39.2 COUNTY ROAD APPLICATIONS: Those Application forms that shall be completed and approved prior to any roadway alteration and/or construction or movement along or upon said roadway any item not considered to be normal traffic by any person or persons as individuals or representatives of any company other than those in the employee and/or under the direct supervision of the Frontier County Board of Commissioners.

Forms include: (forms may be obtained in the office of the County Clerk)

1. Frontier County Department of Roads Road Crossing Permit County Road Right-of-Way
2. Frontier County Department of Roads Road Occupancy Permit county Road Right-of-Way
3. Frontier County Nebraska Permit to Move Building or Structure Over County Roads
4. Frontier County Driveway Agreement
5. Frontier County Department of Roads Permit to Clean and/or Fill Ditch on County road Right-of-Way

COUNTY ROAD RIGHT-OF-WAY DRAINAGE POLICY:

1. Frontier County will maintain and improve drainage on county right-of-way only for purposes of protecting county roads and other public facilities. If a landowner is not effectively preventing silting in the county road ditch, the landowner shall clean and maintain said ditch at the landowners expense. If landowner fails to do so, the County reserves the right to clean and maintain said ditch and assess the cost to the landowner.
2. Frontier County shall maintain the constructed capacity of culverts and bridges on county roadways.
3. Frontier County shall maintain natural drainage ways (as determined from US Geological survey maps, aerial photos or other authoritative, objective source materials) that lie within county rights-of-way, in accordance with Nebraska State Statute 31-224.
4. When landowners alter natural drainage patterns to effectively re-route natural drainage ways onto county rights-of-way, by their actions they assume responsibility for construction, maintenance and improvement of ditches and other structures that may be required to convey water to the nearest downgrade natural drain. Furthermore, said landowners, by their actions, assume liability and the County Board may seek to impose upon said landowners, liability for damage to county roads and other public facilities that may result from landowners' actions.
5. If landowners alter natural drainage patterns to effectively re-route natural drainage ways onto county rights-of-ways and fail to adequately maintain the capacity of those drainage ways, as determined by the Frontier County Board of Commissioners in consultation with

Natural Resources District of jurisdiction, Frontier County will seek to assess the costs of said maintenance against the landowner by appropriate action, which may include but not be limited to assessing costs against the property as tax liens.

6. Landowners or tenants shall obtain permits from the Frontier County Commissioners prior to any ditch cleaning or any other activities on county right-of-way. Failure to do so may result in civil liability or criminal prosecution.
7. Nebraska State Statutes 39-301 to 39-303 provide the County Commissioners the authority to regulate the encroachment on county roadways and their rights-of-way from both ground and surface water. In addition a Natural Resource District of jurisdiction may be called upon to aid in the enforcement of penalties resulting from violations. Natural Resource District authority is provided through Nebraska State Statute 46-266 surface water and 46-656-11 ground water. Penalties are prescribed in State Statute.

3.40 DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

3.41 DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

3.42 DWELLING, SINGLE FAMILY: A dwelling having accommodations for an occupied by one family.

3.43 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.

3.43.1 IMPACT EASEMENT: See 3.44

3.44 CONFINEMENT/INTENSIVE LIVESTOCK OPERATION IMPACT EASEMENT: An easement which runs with the land, executed by the owner(s) and tenants, if applicable, of property which reduces the setback requirement for an applicant for the location and/or expansion of either a Confined/Intensive Livestock Operation or a residence not of the same ownership of the said Confinement/Intensive Livestock Operation as provided by the Frontier County Zoning Regulations, as the same may from time to time be amended. (Reference: Section 5.12; Section 5.16; Section 5.25; and Section 6.4.) Said Impact Easement shall hold the owner(s) of a Confined/Intensive Livestock Operation use harmless from odor or other impacts associated with such use when operated in accordance with the terms of the Easement.

3.45 FARM RESIDENCE: Residential dwellings located on a farm including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

3.45.1 FARMSTEAD: A farm, including it's land and buildings.

3.45.2 FARMYARD: An area surrounded by or adjacent to farm buildings.

3.46 FLOOD PLAIN: Those lands within the zoning jurisdiction of Frontier County which are subject to a one percent (1%) or greater chance of flooding in any given year. The regulatory flood plain for this Resolution shall be based on the official Flood Hazard Boundary Map or Flood Insurance administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be on file in the Office of the County Clerk.

3.47 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.

3.48 INTENSIVE LIVESTOCK, CONFINEMENT FACILITIES/ OPERATIONS: means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. This regulation shall apply to those operations that exceed the following animal capacities:

1. Cattle - 2,500 head
2. Dairy Cattle - 300 head
3. Hogs - 1,000 head (over 50 lb/head)
4. Sows - 100 head
5. Nursery Pigs - 1,000 head (under 50 lb/head)
6. Sheep - 500 head
7. Turkeys - 2,000 birds
8. Layers and Broilers - 2,000 birds
9. Fish - 10,000 fish
10. Fur-bearing - 1,000 head

Animal feeding operation classification by animal numbers and size are found in NDEQ Title 130 Livestock Waste Control Regulations.

Such intensive livestock, confinement facilities/operations shall be considered commercial uses.

3.49 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 overall exposed waste at the end of each operating day. Facilities must conform to State and Federal regulations.

3.50 **LIGHT MANUFACTURING:** A use engaged in the manufacture, predominately from previously maintained materials, of finished products, or parts, including processing, fabrication, assembly, treatment packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

3.51 **LOT:** A parcel of land occupied or intended for occupation by a use permitted in this resolution and fronting upon a road.

3.52 **LOT, CORNER:** A lot abutting two or more roads at their intersection.

3.53 **LOT DEPTH:** The average horizontal distance between the front and rear lot lines.

3.54 **LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the road.

3.55 **LOT OF RECORD:** A lot which is recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

3.56 **LOT WIDTH:** The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

3.57 **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.

3.58 **MOBILE HOME:** A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more that 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 those

manufactured in sections or parts away from the site and transported thereto for assembly. Mobile homes shall be skirted with a material that is compatible with the exterior finish of the mobile home and have tie downs.

3.59 **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. A mobile home park shall have adequate storm shelter.

3.60 **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.

3.61 **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 December 6, 1999, 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.

3.62 **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.

3.63 **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.

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

3.65 **PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a road and permitting ingress and egress of a motorized vehicle.

3.66 **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.

3.67 **RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure. Deposited items must be in enclosed containers.

3.68 **ROAD:** All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for road purposes.

3.69 **IMPROVED COUNTY ROAD:** A road that is regularly maintained by the county, has been surfaced with gravel or blacktop, and has not been designated a minimum maintenance road by the County Board of Commissioners.

3.70 **ROAD, CENTER LINE:** A line midway between road lines.

3.71 **ROAD LINE:** A dividing line between a lot, tract, or parcel of land and the contiguous road. The right-of-way line of a road.

3.72 **RUMINANT FACILITY:** An intensive livestock facility/operation with or without a lagoon system which is designed to contain waste from livestock that are members of the even-toed, hoofed mammals of the suborder Ruminantia, such as cattle, sheep, and goats, which characteristically have a stomach divided into four compartments, and chewing a cud consisting of regurgitated, partially digested food.

3.73 **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 appliances; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household appliances in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

3.74 **SIGNAGE:** A posted notice bearing a designation, direction or command.

3.75 **SIMPLE STOMACH FACILITY:** An intensive livestock facility /operation with or without a lagoon system which is designed to contain the waste from livestock that are, as one example, members of the swine family Suidae, such as pigs, swine or hogs, which characteristically have a single stage stomach.

3.76 SPECIAL USE PERMIT: A written permit issued with authorization of the County Board. The special permit provides permission under or with specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

3.77 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 road signs.

3.78 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. Zoning Permit Required.

3.79 TOWNHOUSE: One of a group or row of not less than three (3) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.80 VARIANCE: A variance is a relaxation of the terms of the zoning resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the resolution would result in unnecessary and undue hardship. In compliance with Nebraska State Statute 23-168.03.

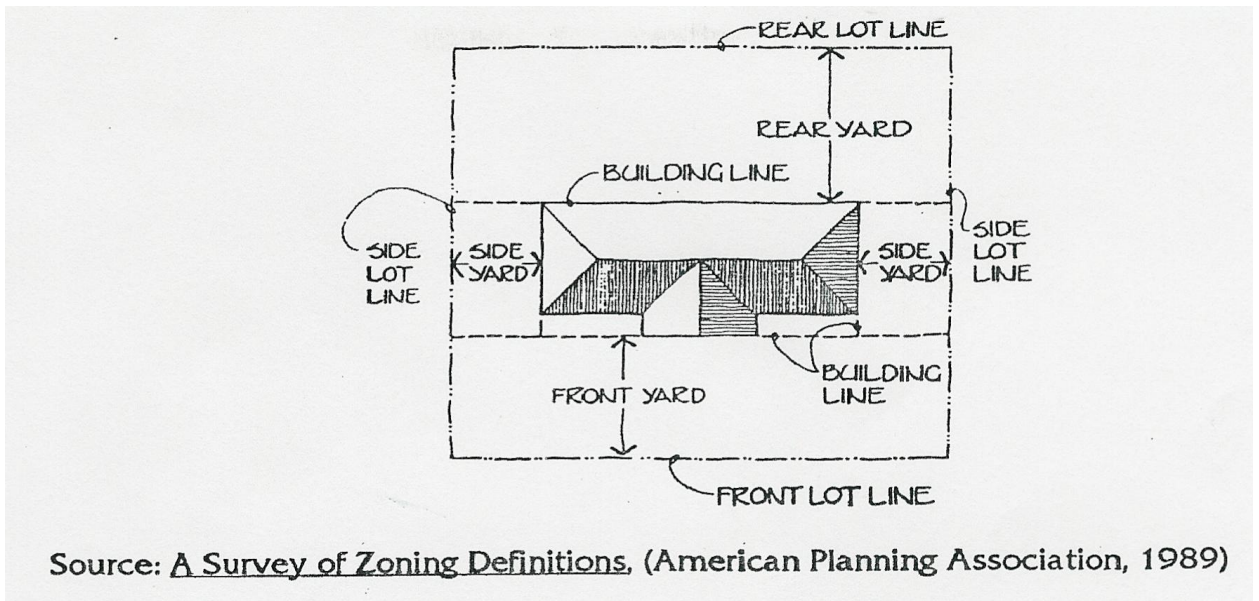
3.81 WATER WELLS: Irrigation, Dometic and Stock- see regulation in 5.19(a) and 5.29(a)

3.82 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.

3.83 YARD, FRONT: A yard extending from the front lot line adjoining a public road to the front of the building between side lot lines.

3.84 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.

3.85 YARD, REQUIRED: The required minimum open space between the property line and the yard line. The required yard shall contain on building or structure other than the project of the usual steps, or open porches, or as otherwise provided in this resolution.



3.86 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.

3.87 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these regulations.

3.88 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.

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created zoning districts for Frontier County, as named and described in Article 5 of this Resolution.

1. AG-1 - Agriculture District
2. AG-R - Agricultural Residential District
3. HC - Highway Commercial/Commercial District
4. I - Industrial District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which is made a part hereof by reference, which map(s) are designated as the Frontier County Zoning Map, dated July 8, 2014, and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the “Official Zoning Map.”
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this resolution shall be maintained in the offices of the County Clerk for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map(s) as follows:

“On (date), by official action of the County the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), “which entry shall be signed by the Chairperson of the County Board and attested by the County Clerk.”

No amendment to this resolution which involves matter portrayed on the Official Zoning Map(s) shall become effective until after such change and entry have been made on said map(s).

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this resolution.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the County Board may, by resolution, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of roads, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city or village limits shall be construed as following such city or village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this resolution the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

ARTICLE 5

ZONING DISTRICTS

5.1 AG-1 AGRICULTURE DISTRICT

5.11 INTENT: This district is designated for general agriculture use and is intended to preserve and protect agriculture production from encroachment by incompatible uses.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined in Section 3.48. Animal limitations within one (1) mile of the corporate limits of the City of Curtis, Villages of Eustis, Maywood, Moorefield and Stockville located on an AG-1 or AG-R zoning tract of land shall not exceed the following:
 - A. Cattle - 500 head
 - B. Dairy Cattle - 60 head
 - C. Hogs - 200 head
 - D. Sows - 20 head
 - E. Nursery Pigs - 200 head
 - F. Sheep - 100 head
 - G. Turkeys - 400 birds
 - H. Layers and Broilers - 400 birds
 - I. Fish - 2,000 fish
 - J. Fur-bearing - 200 head

Other conditions include:

- A. Tract of land must be located at least one (1) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the owner and/or operator of the subject facility; and
 - B. Total limit of livestock at one facility located within one (1) mile of the corporate limits of any village shall not exceed a combination of 1,000 head.
 - C. No lagoons permitted.
2. Public Uses: Including fire stations, public elementary and high schools, colleges, public utilities and utility distribution systems;

3. Bulk grain and produce storage, excluding commercial warehouses;
4. Irrigation, flood, erosion and sediment control projects;
5. Single family dwellings, including ranch and farm dwellings; and one additional single/two family dwelling for the purpose of housing relatives or permanent agriculture workers.
 - A. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located at least on (1/2) mile from the outer boundaries of an existing ruminant intensive livestock confinement facility/operation, or (reference 6.4, 1b for setbacks) from the outer boundaries of an existing simple stomach intensive livestock confinement facility/operation;
 - B. Existing farmsteads, as of the effective date of this ordinance (December 6, 1999), of forty (40) acres or more not previously subdivided, as defined in the zoning regulations, can be subdivided one time into two parcels, the minimum size of one of said parcels shall not be less than three (3) acres. Parcel must contain an up-to-date residence in livable condition. This is subject to Special Use Permit approval.
 - C. All single family dwellings shall have direct frontage on, or direct access to, an improved county road;
 - D. The parcel of land upon which the single family dwelling is located must have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Department of Health and Human Services.
 - E. The setback requirements specifically set forth herein may be decreased by an applicant, for the establishment and/or expansion of a livestock operation and/or a single family residence, not of the same ownership of the said Confinement/Intensive Livestock Operation by the approval of a Special Use Permit, which approval shall include a confinement/Intensive Livestock Operation Impact Easement, where appropriate for the protection of the health, safety, environment and general welfare, signed by the property owner(s) and tenant(s), if applicable, of the property which shall be affected by said decrease in setback. Said easement shall be acknowledged before a Notary Public, filed and recorded in the office of the Register of Deeds of Frontier County, and indexed against the property described therein. Said filing and records shall be evidence of the property owner(s) and tenant(s), if applicable, consent to the decrease in the setback distance as set forth herein.

Said Easement shall run with the land and be binding upon the current and future owner(s) and tenant(s) of the property described therein. In the event the Confinement/Intensive Livestock Operation is discontinued and dismantled and/or abandoned for a period of twenty four (24) months then said easement shall be automatically released by recording in the Office of the Register of Deeds, a legal affidavit, signed by the originators and/or succeeding property owners, of the recorded Impact Easement, with any future easements to be handled as a newly established easement consisting of appropriate requirements. Setback distances shall be measured from the nearest point of the property which shall be affected by the granting of said easement to the buildings, lagoons, and/or livestock waste storage or application site(s) of the applicant. Easements under this section shall be required for applicants for Confinement/Intensive Livestock Operations not meeting the setback requirements, and shall include the facility or facilities and/or site(s) where livestock waste is stored or where the application of livestock waste on land owned and/or leased (rented) is intended for the purpose of livestock waste disposal.

6. Greenhouses and garden centers;
7. Bed and breakfast; and
8. Churches, places of worship and cemeteries.
9. Oil well tank batteries and access roadways.

5.13 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8; and
3. Roadside stands for the temporary sale of produce.
4. Small wind energy systems of less than 100 KW capacity. (See ARTICLE 15 of these Regulations)

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the “AG-1” Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Airports and heliports including crop dusting strips;

2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;
4. Broadcast and communications towers and stations, including Amateur Radio or land mobile towers of more than 100 feet; (See ARTICLE 14 of these Regulations)
5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards in accordance with Section 6.3;
9. Mineral extraction, which shall include the following, sand and gravel extraction and quarries;
10. Private elementary, high schools and colleges;
11. Expansion of existing or development of new intensive livestock confinement facilities/operations as described in Section 3.48 in accordance with Section 6.4;
12. Veterinary facilities;
13. Dog breeding establishments and kennels;
14. Manufacturing, Commercial and/or Industrial operations;
15. Hospitals, penal institutions and sanitariums;
16. Nursing and care homes;
17. Public and private, including non-profit, charitable institutions; and
18. Recreational motel-lodging, bed and breakfast;
19. Commercial/utility grade wind energy system of more than 100 KW capacity. (See ARTICLE 15 of these Regulations)

5.15 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AG-1 Agriculture District.

5.16 SPECIAL REGULATIONS: Disposal of any confinement or feedlot waste on land within Frontier County other than on the property upon which the confinement or feedlot is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska, and the following minimum sanitation and odor practices, and those conditions imposed by the planning commission upon the property owner of land upon which the waste is to be disposed, in consideration of the health, safety and general welfare of the public, and subject to the approval of the Board of Commissioners:

- a. No livestock waste disposal shall be closer than thirteen hundred and twenty (1,320) feet to a neighbors residence, UNLESS AGREED TO THROUGH THE USE OF AN IMPACT EASEMENT 3.44
- b. An intensive livestock confinement facility/operation which is designed with a non-pervious floor in order to flush all waste to a two-stage lagoon system; the two-stage system must be double lined. The solids from the first pit when removed must be disked in within 24 hours and be one (1) mile away from any residence, or chisel injected at a minimum depth of 10 - 12 inches.
- c. There shall be no storage of livestock waste within a designated flood plain or floodway.
- d. No livestock waste shall be disposed of within a designated flood plain or floodway.
- e. No livestock waste may be disposed of by using a center pivot irrigation system.
- f. The setback requirements specifically set forth herein may be decreased by an applicant, for the establishment and/or expansion of a livestock operation and/or a single family residence, not of the same ownership of the said Confinement/Intensive Livestock Operation by the approval of a Special Use Permit, which approval shall include a confinement/Intensive Livestock Operation Impact Easement, where appropriate for the protection of the health, safety, environment and general welfare, signed by the property owner(s) and tenant(s), if applicable, of the property which shall be affected by said decrease in setback. Said easement shall be acknowledged before a Notary Public, filed and recorded in the office of the Register of Deeds of Frontier County, and indexed against the property described therein. Said filing and records shall be evidence of the property owner(s) and tenant(s), if applicable, consent to the decrease in the setback distance as set forth herein. Said Easement shall run with the land and be binding upon the current and future owner(s) and tenant(s) of the property described therein. In the event the Confinement/Intensive Livestock Operation is discontinued and dismantled and/or abandoned for a period of twenty four (24) months then said easement shall be automatically released by recording in the Office of the Register of Deeds, a legal affidavit, signed by the originators and/or succeeding property owners, of the recorded Impact Easement,

with any future easements to be handled as a newly established easement consisting of appropriate requirements.

Setback distances shall be measured from the nearest point of the property which shall be affected by the granting of said easement to the buildings, lagoons, and/or livestock waste storage or application site(s) of the applicant. Easements under this section shall be required for applicants for Confinement/Intensive Livestock Operations not meeting the setback requirements, and shall include the facility or facilities and/or site(s) where livestock waste is stored or where the application of livestock waste on land owned and/or leased (rented) is intended for the purpose of livestock waste disposal.

5.17 MINIMUM LOT REQUIREMENTS

All Permitted Principle and Permitted Special Uses:

Lot Size: 40 acres

5.18 MINIMUM SETBACK REQUIREMENTS

Front Setback: There shall be a minimum front setback of not less than a depth of twenty-five (25) feet. (No structure shall be constructed closer than 25 feet from the edge of a county road right-of-way except as listed under 5.19a)

Rear Setback: No limitations; unless abutting a residential district then the minimum rear setback shall be fifteen (15) feet.

Side Setback: No limitations; unless abutting a residential district then the minimum side setback shall be ten (10) feet.

5.19 MAXIMUM HEIGHT: No limitation.

5.19a Due to the specific design of a center pivot for a specific location the following setback shall apply: All center pivot points, including structures such as anchors, stops and power supplies shall be so located that the total watering pattern, including any end guns, shall not encroach upon the right-of-way of any county road. Full compliance with described setbacks shall be the responsibility of the pivot owner with design assurances provided by the manufacturer, installer, and/or supplier. Pivot owners shall comply with Nebraska State Statute Section 39-302. A minimum setback of ten feet (10 ft.), measured from the road right-of-way edge of any permanent pad, shall be required of all center pivot points and associated structures. Center pivot points are a permanent structure and shall require an approved zoning permit.

Domestic and Stock Water Wells and Accessory Equipment shall be located no closer than ten(10) feet from the edge of any Frontier County Road Right of Way. This shall include any foundations or supporting structures.

5.2 AG-R AGRICULTURAL RESIDENTIAL DISTRICT

5.21 INTENT: This district is intended to provide for low-density, acreage residential development in selected areas within or in close proximity to the corporate limits of the Frontier County villages. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

5.22 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined in Section 3.48.
2. One single-family dwelling, in accordance with Section 5.25;
3. Irrigation and flood control projects;
4. Child care home;
5. Public parks and recreational areas;
6. Community buildings and/or facilities owned and/or occupied by public agencies;
7. Public and/or private schools and colleges; and
8. Churches, places of worship, and cemeteries.
9. Oil well tank batteries and access roadways.

5.23 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures;
2. Home occupations in conformance with Article 8.2; and
3. Roadside stands for sale of agricultural produce.
4. Small wind energy systems of less than 100 KW capacity. (See ARTICLE 15 of these Regulations)

5.24 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-R Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Child care center;
4. Radio, television and communications towers and transmitters; (See ARTICLE 14 of these Regulations)
5. Camp grounds;
6. Wind generating systems; (See ARTICLE 15 of these Regulations)
7. Commercial kennels;

8. Public and private charitable institutions;
9. Greenhouses and nurseries; and
10. Animal clinics, animal hospitals and veterinarian services.
11. Mineral Extraction, which shall include the following: sand and gravel extraction and quarries for various other minerals or elements.

5.25 SPECIAL REGULATIONS: Single family dwelling shall be located and contained within 1,320 feet either side of any hard surface road right-of-way and/or to include those areas as designated to be "Residential Acreage" on the Frontier County Comprehensive Plan 1999-2009 Map Illustration 4.11, Section 4, 4.20 as adopted on December 6, 1999. (Administratively corrected on November 27, 2001 by Gerald J. Huntwork, Zoning Administrator and approved by County Board of Commissioners on November 28, 2001.) and in conformance with the following:

1. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located at least one-half (1/2) mile from the outer boundaries of an existing ruminant intensive livestock confinement facility/operation, or (reference 6.4, 1b for setbacks) from the outer boundaries of an existing simple stomach intensive livestock confinement facility/operation;
2. Existing farmsteads of ten (10) acres or more not previously subdivided as of the effective date of this ordinance December 6, 1999) as defined in the zoning regulations can be subdivided one time into two parcels, the minimum size of one of said parcels shall not be less than three (3) acres; Parcel must contain an up-to-date residence in livable condition. This is subject to Special Use Permit approval.
3. All single family dwellings shall have direct frontage on, or direct access to, an improved street, highway or county road;
4. The parcel of land upon which the single family dwelling is located must have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Department of Health and Human Services.
5. The setback requirements specifically set forth herein may be decreased by an applicant, for the establishment and/or expansion of a livestock operation and/or a single family residence, not of the same ownership of the said Confinement/Intensive Livestock Operation by the approval of a Special Use Permit, which approval shall include a confinement/Intensive Livestock Operation Impact Easement, where appropriate for the protection of the health, safety, environment and general welfare, signed by the property owner(s) and tenant(s), if applicable, of the property which shall be affected by said decrease in setback. Said easement shall be acknowledged before a Notary Public, filed and recorded in the office of the Register of Deeds of Frontier County, and indexed against the property described therein. Said filing and records shall be evidence of the property owner(s) and tenant(s), if applicable, consent to the decrease in the setback distance as set forth herein. Said Easement shall run with the land and be binding upon the current and future owner(s) and tenant(s) of the property described therein. In the event the Confinement/Intensive Livestock Operation is discontinued and dismantled and/or

abandoned for a period of twenty four (24) months then said easement shall be automatically released by recording in the Office of the Register of Deeds, a legal affidavit, signed by the originators and/or succeeding property owners, of the recorded Impact Easement, with any future easements to be handled as a newly established easement consisting of appropriate requirements.

Setback distances shall be measured from the nearest point of the property which shall be affected by the granting of said easement to the buildings, lagoons, and/or livestock waste storage or application site(s) of the applicant. Easements under this section shall be required for applicants for Confinement/Intensive Livestock Operations not meeting the setback requirements, and shall include the facility or facilities and/or site(s) where livestock waste is stored or where the application of livestock waste on land owned and/or leased (rented) is intended for the purpose of livestock waste disposal.

5.26 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from AG-R Agricultural Residential District.

5.27 MINIMUM AREA AND YARD REQUIREMENTS:

| <u>MINIMUM REGULATIONS</u> | <u>PERMITTED USES</u> |
|---|-----------------------|
| Lot Area (designated as AG-R on official zoning map) | 10 acres |
| Required Front Setback | 25 feet |
| Required Rear Setback | 15 feet |
| Required Side Setback | 10 feet |
| No structure shall be constructed closer than 25 feet from any road right of way. | |

5.28 MAXIMUM HEIGHT: Thirty-five (35'); however, non-residential structures shall have no height limitations.

5.29 PARKING REGULATIONS: Parking shall be in conformance with the provisions of Article 7 of these regulations.

5.29a Due to the specific design of a center pivot for a specific location the following setback shall apply: All center pivot points, including structures such as anchors, stops and power supplies shall be so located that the total watering pattern, including any end guns, shall not encroach upon the right-of-way of any county road. Full compliance with described setbacks shall be the responsibility of the pivot owner with design assurances provided by the manufacturer, installer, and/or supplier. Pivot owners shall comply with Nebraska State Statute Section 39-302. A minimum setback of ten feet (10 ft.), measured from the road right-of-way edge of any permanent pad, shall be required of all center pivot points and associated structures. Center pivot points are a permanent structure and shall require an approved zoning permit.

Domestic and Stock Water Wells and Accessory Equipment shall be located no closer than ten(10) feet of the edge of any Frontier County Road Right of Way. This shall include any foundations or supporting structures.

5.3 HC HIGHWAY COMMERCIAL/COMMERCIAL DISTRICT

5.31 INTENT: The HC Highway Commercial/Commercial District is intended for the purpose of providing commercial services. Off-road parking is required in order to reduce adverse effects on adjacent properties. Parking shall be in accordance with provisions of ARTICLE 7 of this Resolution.

5.32 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right, in each case a Zoning Permit shall be required:

1. Automobile wash facilities;
2. Churches and other religious institutions;
3. Construction sales and services;
4. Convenience store or filling station;
5. Detached banking facilities (ATM);
6. Electric and telephone substations;
7. Farm implement sales and services;
8. Garden centers and nurseries;
9. Irrigation equipment sales and services;
10. Mini storage facilities;
11. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
12. Restaurants and cafes;
13. Service stations;
14. Stores or shops for sale of goods at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices;
18. Medical clinics;
19. Truck and automobile sales and service; and
20. Oil well tank batteries and access roadways.

5.33 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted, in each case a Zoning Permit shall be required:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Small wind energy systems of less than 100 KW capacity. (See ARTICLE 15 of these Regulations)

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the HC Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna, including communications towers; (See ARTICLE 14 of these regulations)
4. Recycling centers; and
5. Commercial/utility grade wind energy systems of more than 100 KW capacity. (See ARTICLE 15 of these Regulations)
6. Intensive Livestock Facilities/operations as described in 3.38 and 6.4 of these regulations.

5.35 SCREENING REQUIREMENTS:

1. Where a site adjoins or is located across a road or property line from a Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence of such height that material is not visible from a roadway or adjoining property.

5.36 PROHIBITED USES: All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the HC Highway Commercial District.

5.37 HEIGHT AND AREAS REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

| | Minimum | | | | | |
|----------------|------------------|--------------|-------------------|------------------|------------------|---------------|
| | Lot Area | Lot | Required | Required | Required | Required |
| | <u>(Sq. Ft.)</u> | <u>Width</u> | <u>Front Yard</u> | <u>Side Yard</u> | <u>Rear Yard</u> | <u>Height</u> |
| Permitted Uses | 7,500 | 50' | 25' | 7' | 20' | 35' * |

*Maximum height thirty-five (35') feet; however non-residential structures shall have no height limitations.

5.38 PARKING REGULATIONS:

1. Parking within the HC Highway Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

5.39 PIVOTS AND WELLS: Due to the specific design of a center pivot for a specific location the following setback shall apply: All center pivot points, including structures such as anchors, stops and power supplies shall be so located that the total watering pattern, including any end guns, shall not encroach upon the right-of-way of any county road. Full compliance with described setbacks shall be the responsibility of the pivot owner with design assurances provided by the manufacturer, installer, and/or supplier. Pivot owners shall comply with Nebraska State Statute Section 39-302. A minimum setback of ten feet (10 ft.), measured from the road right-of-way edge of any permanent pad, shall be required of all center pivot points and associated structures. Center pivot points are a permanent structure and shall require an approved zoning permit.

Domestic and Stock Water Wells and Accessory Equipment shall be located no closer than ten(10) feet of the edge of any Frontier County Road Right of Way. This shall include any foundations or supporting structures.

5.4 I INDUSTRIAL DISTRICT

5.41 INTENT: This district is designed to provide for a wide range of light industrial and related uses.

5.42 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right. In each case a Zoning Permit shall be required:

1. Animal hospitals;
2. Automobile and truck sales and services;
3. Automotive wash facilities;
4. Bottling works;
5. Building material sales and ready-mix concrete plants;
6. Carpenter, cabinet, plumbing or sheet metal shops;
7. Carpet and rug cleaning and repair services;
8. Disinfecting and exterminating services;
9. Dry cleaning, laundering and dyeing services;
10. Dyeing and finishing of textiles;
11. Educational and scientific research services;
12. Electrical sales and services;
13. Equipment rental and leasing services;
14. Farm machinery and equipment - retail;
15. Farm supplies - retail;
16. Feeds, grains and hay - retail;
17. Food lockers and storage services;
18. Freight forwarding services;
19. Furniture repair and reupholster services;
20. Fur trading services;
21. Garden centers and nurseries;

22. Gas utility maintenance yard;
23. Light manufacturing operation;
24. Landscape sales and services;
25. Mobile and modular home sales and manufacturing;
26. Newspaper publishing plants and commercial printing;
27. Photoengraving;
28. Photo finishing services;
29. Public utility and public service uses;
30. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;
31. Service stations;
32. Stores or shops for the sale of industry goods at retail;
33. Telephone services;
34. Transportation warehousing;
35. Truck wash services;
36. Veterinarian services;
37. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
38. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature; and
39. Mini-warehouse
40. Oil well tank batteries and access roadways.

5.43 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures. In each case Zoning Permit shall be required.

1. Small wind energy systems of less than 100 KW capacity. (See ARTICLE 15 of these regulations)

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include the following:
sand and gravel extraction and strip mine operations and quarries;
4. Airport;
5. Agricultural processing or milling, such as but not limited to ethanol production facilities; and
6. Manufacturing and basic industrial processing facilities not meeting the definition of Light Manufacturing in Section 3.47.
7. Commercial/utility grade wind energy system of more than 100 KW capacity. (See ARTICLE 15 of these regulations)

5.45 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

5.46 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

| | <u>Minimum Lot Area (Sq. Ft.)</u> | <u>Lot Width</u> | <u>Required Front Yard</u> | <u>Required Side Yard</u> | <u>Required Rear Yard</u> | <u>Height</u> |
|-------------------|---|----------------------|--------------------------------|---|-------------------------------|---------------|
| Permitted Uses | None | 100' | 40' | 0', or 10' when abutting a residential district | 15' | None |

5.47 PARKING REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of this Resolution.

5.48 PIVOTS AND WELLS: Due to the specific design of a center pivot for a specific location the following setback shall apply: All center pivot points, including structures such as anchors, stops and power supplies shall be so located that the total watering pattern, including any end guns, shall not encroach upon the right-of-way of any county road. Full compliance with described setbacks shall be the responsibility of the pivot owner with design assurances provided by the manufacturer, installer, and/or supplier. Pivot owners shall comply with Nebraska State Statute Section 39-302. A minimum setback of ten feet (10 ft.), measured from the road right-of-way edge of any permanent pad, shall be required of all center pivot points and associated structures. Center pivot points are a permanent structure and shall require an approved zoning permit.

Domestic and Stock Water Wells and Accessory Equipment shall be located no closer than ten(10) feet of the edge of any Frontier County Road Right of Way. This shall include any foundations or supporting structures.

5.5 AG-WP, WELLHEAD PROTECTION OVERLAY DISTRICT

5.51 INTENT: The intent of this district is that it is to overlay any of the primary zoning districts as described in Frontier County Zoning Regulations with the purpose of assisting municipalities maintain and operate public water supply systems and/or wells, (as defined in Title 179 Nebraska Department of Health Chapter 2) within the county which serve municipalities within or adjoining Frontier County. Said overlay District shall assist in providing protection for such supply systems and/or wells through the regulation of land uses which have the potential for contamination of the groundwater source(s) from which said wells derive water. The intent of the district is also to protect existing and future agricultural uses and facilitate other agricultural production 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 wells located within this district, and from over-regulation by said municipalities, or public water supply systems with regard to wellhead protection.

5.52 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT: Prior to the application of this district to any lands in Frontier County, the municipality which maintains, intends to establish, and/or 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 prior to 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 Areas Act (Neb. Rev. Stat. 46-1501 through 46-150-9). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality. (NDEQ)
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
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 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,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area(s),
7. The municipality or other public water supply system shall execute an interlocal agreement with Frontier County for the administration and enforcement of the rules and regulations of this Wellhead Protection Overlay District. In such agreement, the municipality or other public water supply system shall agree to accept the Wellhead Protection Regulations and Restrictions set forth in this Overlay District, agree to pay to the County fees negotiated between such entity and the County for the administration and enforcement of the rules and regulations of this district in areas under County jurisdiction, agree to pay all costs associated by any legal challenge to the requirements of this district, and agree to hold the County harmless for any liability related to the requirements of this district except for proper administration and enforcement of the requirements of this district by the County, together with other terms and conditions which are acceptable to the parties involved in any such interlocal agreement.

5.53 LIMITATION ON APPLICATION OF THIS DISTRICT: This district may only be applied to lands within Wellhead Protection Areas based upon a twenty (20) year time of travel recharge zone as defined and officially approved by the Nebraska Department of Environmental Quality.

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

5.54 AMENDMENT TO OFFICIAL ZONING MAP: Whenever the requirements of this Resolution have been complied with and the County Planning Commission and the County Board of Commissioners have, following public hearing by both parties, approved the application of this overlay zoning district on land within the County, in accordance with the procedures for amendment of the Frontier County Official Zoning Map set forth in this Resolution, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

5.55 PERMITTED PRINCIPAL USES AND STRUCTURES: Requirements shall be consistent with those requirements in the District in which the Wellhead Protection Agricultural District exists: 5.1 AG-1 Agriculture District or 5.2 AG-R Agricultural Residential District, or 5.3 Highway Commercial District or 5.4 I Industrial District.

5.56 PERMITTED ACCESSORY USES AND STRUCTURES: Requirements shall be consistent with those requirements in the District in which the Wellhead Protection Agricultural District exists: 5.1 AG-1 Agriculture District or 5.2 AG-R Agricultural Residential District, or 5.3 Highway Commercial District or 5.4 I Industrial District.

5.57 PERMITTED SPECIAL USES: Requirements shall be consistent with those requirements in the District in which the Wellhead Protection Agricultural District exists: 5.1 AG-1 Agriculture District or 5.2 AG-R Agricultural Residential District, 5.3 Highway Commercial District or I Industrial District. Provided all uses comply with the additional wellhead protection restrictions set forth in Section 5.59 of this resolution.

5.58 A. PROHIBITED USES AND STRUCTURES

B. SPECIAL REGULATIONS

C. MINIMUM LOT REQUIREMENTS

D. MINIMUM YARD REQUIREMENTS

E. MAXIMUM HEIGHT

F. PARKING REGULATIONS

G. In addition the following uses are specifically prohibited in any area on which this well protection overlay district is applied:

1. Confined and/or intensive animal feeding uses and associated waste handling facilities
2. Other types of waste handling facilities.
3. Commercial and industrial uses, which utilize or produce any hazardous materials, as determined by United States Environmental Protection Agency, including commercial uses which maintain anhydrous ammonia, agricultural chemicals, other fertilizers or bulk storage of gasoline, kerosene, or diesel fuel for resale.

5.59 WELLHEAD PROTECTION RESTRICTIONS: The following restrictions shall apply to uses within any area of land 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 in association with other land use, shall comply with the rules and regulations of Titles 126 and 159 administered by the Nebraska Department of Environmental Quality or other responsible department or agency of jurisdiction. Storage of gasoline, diesel fuel or other similar fuels, whether on a farm or other land area, in excess of one thousand one hundred (1,100) shall be prohibited except when a conditional or special use for a commercial or industrial use is authorized. In any authorization of any such conditional or special use, a condition of approval shall include compliance with the rules and regulations of Titles 26 and 159.
2. Fuel storage associated with an irrigation well engine shall comply with the rules and requirements of Title 126 and shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30.
3. Fuel storage, except when associated with a commercial or industrial use authorized as a conditional or special use (Item 1 above) and except for any fuel storage associated with any irrigation well engine (Item 2 above), 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 and pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a conditional or special use for such uses are authorized and such authorization shall include a condition that all such uses shall comply with the applicable rules and regulations of Titles 118, 121, 126, 128 and 198.
5. No septic tank, tile field associated with a residential, commercial, industrial or other use shall be located within one thousand (1,000) feet of any well protected under this wellhead protection overlay zoning district, provided however that if a lot of record exists as of the effective date of application of this wellhead protection overlay zoning district, one (1) septic tank and tile field may be established. All new septic tanks and tile fields established within any wellhead protection overlay zoning district shall comply with the rules and regulations of Title 124. *
6. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet of any well protected under this wellhead protection overlay zoning district. Provided that if a lot of record, as of the effective date of application of this wellhead protection overlay zoning and the entirety of said

lot of record lies within a wellhead protection overlay district, one (1) well may be established. All wells shall be developed in accordance with the rules and regulations of Title 178- Chapter 10 and Title 178 Chapter 12.

7. The application of fertilizer or pesticide to the land or crop through an irrigation system (chemigation) shall comply with rules and regulations 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 Title 196- Rules and Regulations Pertaining to Ground Water Management Areas, for non point origin contamination, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resource District(s).

* denotes Administrative change 7-26-2005

5.6 AH AIRPORT HAZARD OVERLAY DISTRICT

5.61 INTENT: The intent of this district is that it is to overlay any of the primary zoning districts as described in sections 5.1, 5.2, 5.3, 5.4, and 5.5 of this resolution to protect the safe use of public airports and private airstrips in the county by limiting the location and the height of structures within the operation, approach, transition, and turning zones around public airports and registered private airstrips. (Registered with the Nebr. Dept. of Aeronautics), as designated on the official zoning map of Frontier County, Nebraska and detailed on the Curtis Municipal Airport Zoning Map, which is attached as an appendix to this Resolution and incorporated by reference into this resolution.

5.62 LOCATION, BOUNDARIES, ZONES AND HEIGHT RESTRICTIONS: The location, boundaries, zones and height restrictions described below are intended to provide airspace protection within the Airport Hazard Area of the Curtis Municipal Airport located in the Northwest ¼ Section 26, Township 8 North, Range 28 West, in Frontier County, Nebraska and any registered private airstrips. The areas located within the Airport Hazard Area as described in this section are hereby zoned as follows:

Subdivision 1. Airport Hazard Area Description. The **Airport Hazard Area** shall consist of Operation Zones, Approach Zones, Turning Zones and Transition Zones as described in this section.

Subdivision 2. Zone Descriptions

A. The **Operation Zones** are longitudinally centered on each existing or proposed runway.

1. **Length.** For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and

proposed turf runways, the operation zones begin and end at the runway ends.

2. **Width.** For existing and proposed instrument runways, the operation zones are 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zones are 500 feet wide, with two hundred fifty feet on either side of the runway centerline.
 3. **Height.** The height limit of operation zones is the same as the height of the nearest point on an existing or proposed runway on the surface of the ground, whichever is higher.
- B. The **Approach Zones** extend from the end of each operation zone and are centered along the extended runway centerlines. An approach zones dimensions are as follows:
1. **Instrument Runways**
 - a. **Length and Width.** The approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand (1,000) feet wide at the end of the nearest runway (i.e., adjacent to the operation zone) and expands uniformly to sixteen thousand eight hundred forty (16,840) feet wide at the farthest end of the zone (i.e., ten miles (10) from the operation zone).
 - b. **Height Limit.** The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally (50:1), except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three (3) miles from said operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally (50:1) and continues to the ten (10) mile limit.
 2. **Visual Runways**
 - a. **Length and Width.** An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred (500) feet wide at the end of the zone nearest the runway (i.e., adjacent to the operation zone) and expands uniformly so that a point on the extended runway centerline three (3) miles from the operation zone, the approach zone is three thousand seven hundred feet wide.

b. Height. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every forty (40) feet horizontally, except that the height limit shall not exceed one hundred fifty (150) feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at the runway end.

C. The Transition Zones extend outward at a right angle to the runway centerline and upward at the rate of one foot vertically for every seven feet horizontally (7:1). The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty (150) feet above the highest elevation on the existing or proposed runway.

D. The Turning Zones are located at a distance of three miles (3) radius from the corners of the operational zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the operation zone, approach zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

Subdivision 3. Height Restrictions. No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in above in Subdivision 2.

5.63 LOCATION SKETCH AND ZONING MAP.

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Airport Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Airport zoning Map shall at all times be on file in the office of the Frontier County Clerk.

5.64 PERMIT REQUIRED AND EXCEPTIONS.

Subdivision 1. Permit Required.

Anyone wishing to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character; or to plant or replant any tree or other object of natural growth which, when mature, would violate the requirements of Section 1, Subdivision 3 above, within the Airport Hazard Area must first obtain a permit from Frontier County Zoning Authority, including the Nebraska Department of Aeronautics where applicable. In addition zoning and /or special use permits shall be required for projects located on property owned by the Curtis Municipal Airport that are outside prescribed hazard zones. The Joint Curtis Airport Zoning Authority shall have approval jurisdiction. (§3-702)

Subdivision 2. Exceptions. There are no exceptions from permit requirement.

Subdivision 3. Application Form. Application for a permit as required under these regulations shall be made on a form to be available in the office of Frontier County Clerk or online at www.co.frontier.ne.us or the office of Curtis City Clerk.

Subdivision 4. Permit Fee.

The fee for each permit issued shall be: Zoning Permit \$25.00 and Special Use Permit \$50.00 and all fees so paid shall be deposited with the Frontier County Treasurer.

5.65 NON-CONFORMING STRUCTURES.

Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth; and no such structures or objects of natural growth that have been torn down, destroyed, deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of twelve (12) months or more; shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as poles, wires, guys and all other equipment necessary for the operation and maintenance of the same within the regulated zone.

5.66 MARKING OF NON-CONFORMING STRUCTURES.

Whenever the Joint Curtis Municipal Airport Zoning Authority determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Joint Curtis Municipal Airport Zoning Authority. The owner(s) and Lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object. The Joint Curtis Municipal Airport Zoning Authority shall specify the required marking and lighting, consistent with §3-407. The cost of marking or lighting shall not be assessed against the owner or lessor of said premise.

5.67 ADMINISTRATIVE AGENCY.

The Joint Curtis Municipal Airport Zoning Authority shall enforce these regulations and shall be the administrative agency provided for in Neb. Rev. Stat. §3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided in the Airport Zoning Act.

5.68 ZONING BOARD OF ADJUSTMENT.

The Joint Curtis Municipal Airport board of Zoning Adjustment shall be the Board of Adjustment with respect to these regulations. Said board shall have and exercise the powers conferred by Section §3-320, et. Seq. (Reissued 2007) and such other powers and duties as are conferred and imposed by law.

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL

The County Commissioners may authorize by special permit after public hearing, any of the buildings or land uses designated in this resolution as permitted special uses.

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County Board. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Following discussion and a public hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Following discussion and a public hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of any municipality, county, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas.

Except as otherwise provided herein, no special use permit shall be granted by the County Board, without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district, and

2. Not be detrimental to adjacent property, and
3. Not tend to depreciate the value of the surrounding structures or property, and
4. Be compatible with the stated intended use of the district, and
5. Not change the character of the district, and
6. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the County Board.

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AG-1 and I Zoning Districts under the following conditions:

1. Located on a tract of land at least one (1) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section may be subject to annual review and renewal by the County Board.

In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

6.4 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS (are classified as commercial uses) 3.38

Intensive livestock facilities/operations shall only be allowed by special use permit in the AG-1 Agricultural District under the following conditions:

1.
 - a. A ruminant facility with a dry lot and lagoon system located on a tract of land at least one-half (1/2) mile from any residence or commercial or industrial facility or church or school, or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. However, the minimum distance may be increased as determined by the County Board.

- b. "Hogs in head equivalents over 55 pounds. The setbacks to read:

| | |
|-------------------|---------------------|
| 751-2500 head | Setback 3/4 mile |
| 2501-5000 head | Setback 1 mile |
| 5001-7,500 head | Setback 1 1/2 miles |
| 7501 head or more | Setback 2 miles |

Under the provisions of these swine regulations any new intensive feeding facility/operation shall have the following provisions:

- a. The first stage lagoon must be a deep pit that is covered with a non-permeable cover or building structure.
- b. The second stage must meet NDEQ and EPA regulations and any pertinent County Zoning Regulations.

Swine feeding facilities/operations of 750 head (hogs in equivalents over 55 pounds) and under shall be permitted by right and shall not require a County Special Use Permit and there shall be no minimum distance setback required. The Nebraska Department of environmental Quality (NDEQ) may or may not require a permit. A Zoning Permit shall be required.

- c. The setback requirements specifically set forth herein may be decreased by an applicant, for the establishment and/or expansion of a livestock operation and/or a single family residence, not of the same ownership of the said Confinement /Intensive Livestock Operation by the approval of a Special Use Permit, which approval shall include a confinement/Intensive Livestock Operation Impact Easement, where appropriate for the protection of the health, safety, environment

and general welfare, signed by the property owner(s) and tenant(s), if applicable, of the property which shall be affected by said decrease in setback. Said easement shall be acknowledged before a Notary Public, filed and recorded in the office of the Register of Deeds of Frontier County, and indexed against the property described therein. Said filing and records shall be evidence of the property owner(s) and tenant(s), if applicable, consent to the decrease in the setback distance as set forth herein. Said Easement shall run with the land and be binding upon the current and future owner(s) and tenant(s) of the property described therein. In the event the Confinement/Intensive Livestock Operation is discontinued and dismantled and/or abandoned for a period of twenty four (24) months then said easement shall be automatically released by recording in the Office of the Register of Deeds, a legal affidavit, signed by the originators and/or succeeding property owners, of the recorded Impact Easement, with any future easements to be handled as a newly established easement consisting of appropriate requirements.

Setback distances shall be measured from the nearest point of the property which shall be affected by the granting of said easement to the buildings, lagoons, and/or livestock waste storage or application site(s) of the applicant. Easements under this section shall be required for applicants for Confinement/Intensive Livestock Operations not meeting the setback requirements, and shall include the facility or facilities and/or site(s) where livestock waste is stored or where the application of livestock waste on land owned and/or leased (rented) is intended for the purpose of livestock waste disposal.

2. A management plan for the facility, acceptable to the County Board, which provides for the proper disposal of animal waste in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor.
3. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
4. Special use permits granted under this section may be subject to annual review and renewal by the County Board.
5. An intensive livestock confinement facility/operation which is designed with a non-pervious floor in order to flush all waste to a two-stage lagoon system; the two-stage system when emptied or land applied must be 1. Disked in within 24 hours and be one (1) mile away from any residence other than the residence of the facility owner or 2. Chisel injected at a minimum depth of 10-12 inches.
6. The County Board may consider an alternative manure management and disposal plan.

ARTICLE 7

PARKING REGULATIONS

7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.
2. All off-road parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-road parking. Garages and driveways may be considered as off-road parking spaces.
5. A plan, drawn to scale, indicated how the off-road parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

7.2 OFF-ROAD PARKING REQUIREMENTS

At the time of construction, alteration or enlargement of a structure or building or change in the use of land, off-road parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

| <u>Use</u> | <u>Minimum Number of Parking Spaces</u> |
|--|---|
| 1 Residential | |
| Single family, two-family dwelling | 1 per dwelling unit |
| Multifamily | |
| Efficiency and one-bedroom | 1 per dwelling unit |
| Two-bedrooms | 1 ½ per dwelling unit |
| Three or more bedrooms | 2 per dwelling unit |
| 2 Mobile Trailer Park | 1 per trailer unit |
| 3 Hotel and Motel | 1 per rental unit plus 1 for every 4 employees |
| 4 Hospitals, nursing homes, rest homes, or similar uses | 1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift |

- 5 Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc. 1 for every four persons
- 6 Bowling Alley 2 for each individual lane or alley
- 7 Retail sales department stores, restaurants, taverns, grocery stores, etc. 1 per 200 square feet of floor area as determined by exterior wall dimensions
- 8 Professional office establishments 1 per 500 square feet of floor area as determined by exterior wall dimensions
- 9 Manufacturing, wholesale warehouse and similar uses 1 for every 2 employees on the largest working shift

10 Storage Buildings

11 Repair Facilities

12

13

7.3 OFF-ROAD LOADING REQUIREMENTS

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

| <u>Number</u> | <u>Loading Area</u> | <u>Gross Floor Area</u> |
|---------------|---------------------|--|
| 1. | One 500 square feet | For every 5,000 to 20,000 square feet |
| 2. | One 500 square feet | For every 20,000 square feet or fraction thereof |

ARTICLE 8

ACCESSORY USES

8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Any accessory building shall have a minimum setback as stated for the district the building is located, and all garage entrances must have twenty-five (25) feet from the access street or alley. Attached garages are considered part of principal building.

8.2 HOME OCCUPATIONS

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.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

8.3 MANUFACTURE HOMES: All manufactured homes located outside mobile home parks shall meet the following standards:

- 8.31 The home shall have no less than nine hundred (900) square feet of floor area.

- 8.32 The home shall have no less than an eighteen (18) foot exterior width.
- 8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
- 8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- 8.35 The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- 8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 8.38 The home must meet building code requirements adopted by the County.

8.4 YARD REGULATIONS:

8.41 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases:

Where forty percent (40%) or more of the frontage on one side of a road between two intersecting roads is developed and the buildings on this side of a developed area have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the road than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty percent (40%) or more of the frontage on one side of a road between two intersecting roads is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the road than the nearest building on the block.

8.42 STRUCTURAL PROJECTIONS: The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

8.5 EXCEPTIONS TO HEIGHT REGULATIONS: The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS: If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

ARTICLE 9

COUNTY BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

The County Board of Zoning Adjustment is hereby created and shall be known as the County Board of Zoning Adjustment. The members of said board shall be appointed by the County Board.

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the County Board of Zoning Adjustment.

Said board shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. 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 county clerk and shall be a public record.

9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.03 R.S. Neb.):

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 Planning Commission 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 maps, 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 adoption of the Zoning Resolution, 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 appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
 - a. The strict application of the regulation 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.

9.32 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 reasonable practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

9.33 In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

9.4 PROCEDURES FOR REQUESTING A VARIANCE

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency 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 appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the County, may seek review of such decision by the district court for the County in the manner provided by the laws of the State and particularly by Section 23-168.04.

ARTICLE 10

ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

10.1 ENFORCEMENT

10.11 ZONING ADMINISTRATOR. This resolution shall be enforced and administered by a zoning administrator who shall be appointed by the County Board and who may be provided with the assistance of such other persons as the County Board may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all zoning permits when compliance is made with this resolution.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this resolution.
3. Receive, file and forward to the County Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Resolution including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
 - a. The compiled text of the Zoning Resolution and amendments thereto, including all amendments adopted through the preceding December 31st.; and
 - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December 31st.
6. Whenever the Zoning Administrator shall find that any of the provisions of this resolution have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this resolution to insure compliance with, or to prevent violation of, its provisions.

10.2 ZONING PERMITS

10.21 GENERAL. No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit first having been issued by the Zoning Administrator. No zoning permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this resolution and with all other applicable codes, regulations and laws of Frontier County and with all orders, and variances lawfully issued by the Board of Adjustment.

10.22 APPLICATION FOR ZONING PERMIT. All applications for a zoning permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this resolution.

10.23 APPROVAL OR DISAPPROVAL OF PERMIT. The Zoning Administrator shall examine all applications for zoning permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the zoning permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

10.24 APPEAL FROM APPROVAL OR DISAPPROVAL. An appeal from approval or disapproval of any Application shall be made to the Board of Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

10.25 ZONING PERMITS. Zoning permits are required for all buildings and the use of land, both agricultural and non-agricultural.

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

10.31 A verbal decision by the Zoning Administrator shall be the primary instrument for administering compliance with this resolution.

10.4 SCHEDULE OF FEES

10.41 The schedule of fees shall be established for this Zoning Resolution to cover costs of administration by the County Board.

The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 11 AMENDMENT

11.1 GENERAL

The County Board may from time to time supplement, change or generally revise the boundaries or regulations contained in this resolution amendment. A proposal for such amendment may be initiated by the County Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the County Board is required for each application to be considered by the Planning Commission.

11.2 SUBMISSION TO PLANNING COMMISSION

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this resolution, and will affect specific property, it shall be designated by legal description and general location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered in incorporated areas and two (2) miles in unincorporated areas and an opportunity granted to interested parties to be heard.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (1/2) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the

Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending two (2) miles therefrom, or of those directly opposite thereto extending two (2) miles from the road frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the CountyBoard.

ARTICLE 12

COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by this resolution.

12.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of this resolution has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class III misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

12.3 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this resolution the appropriate authorities of the County may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 13

LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

Should any article, section or provisions of this resolution be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of this resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

13.2 PURPOSE OF CATCH HEADS

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this resolution.

13.3 REPEAL OF CONFLICTING RESOLUTIONS

All other resolutions and regulations in conflict with this resolution are hereby repealed to the extent necessary to give this resolution full force and effect.

13.4 EFFECT DATE

This resolution shall take effect and be in force from and after its passage and publication according to law.

ARTICLE 14

SUPPLEMENTAL REGULATIONS

14. Radio, Television and Wireless Communication Towers. The district regulations hereinafter set forth in this section qualify or supplemental, as the case may be, the district regulations appearing elsewhere in these Regulations. As a special condition of a Special Use Permit Application, for the construction of radio, television and wireless communication towers, lot size may be less than standard in all zoning districts, so long as no lot shall be less than three (3) acres.

14.1 Intent.

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the County, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, sighting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

14.2 Definitions.

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

1. Antenna: A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. Antenna Support Structure: Any building or structure other than a tower which can be used for location of telecommunications facilities.
3. Applicant: Any person that applies for a Special Use Permit.
4. Application: A process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and

representations, in whatever, formal forum, made by an applicant to the County concerning such request.

5. **Conforming Commercial Earth Station:** A satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. **Engineer:** Any engineer qualified and licensed by any state or territory of the United States of America.
7. **Owner:** Any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **Person:** Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **Satellite Dish Antenna:** An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **Stealth:** Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **Telecommunications Facilities:** Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 - a. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned AG-R, HC, or I.
 - b. Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.
12. **Tower:** A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators' equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively. A zoning permit shall be required for said non-commercial amateur radio operators towers and equipment.
13. **Special Use Permit:** A permit issued by the County upon approval by the County Board of an application to develop a tower within the zoning jurisdiction of the County; which permit

shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Special Use Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.

14. Tower Owner: Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Special Use Permit.

14.3 Location of Towers and Construction Standards

1. Towers shall be permitted special uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Special Use Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Special Use Permit to the Zoning Administrator and shall pay a filing fee in accordance with County designated fees.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the County after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

14.4 Application to Develop a Tower

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Special Use Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.

5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the County Board and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. A performance bond in the amount of fifty-thousand dollars (\$50,000) for the expenses of removal and disposal of the tower.

14.5 Special Use Permit: Procedure

After receipt of an application for a Special Use Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Special Use Permit and shall make a recommendation to the County Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the County Board, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the County Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. The Planning Commission and County Board may approve the Special Use Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted special use of land, the Special Use Permit shall be deemed a special use permit for said tract of land.

14.6 Setbacks and Separation or Buffer Requirements

All towers shall be setback on all sides a distance equal to the total height of the tower. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.

Towers of one hundred (100) feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.

14.7 Structural Standards for Towers Adopted

The Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

Illumination and Security Fences

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

14.8 Exterior Finish

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

14.9 Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the County.

14.10 Maintenance, Repair or Modification of Existing Towers

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

14.11 Inspections

The County reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and

accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the County's Zoning Codes and any other construction standards set forth by the County, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the County's Zoning Office, or a duly appointed independent representative of the County.

14.12 Maintenance

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

14.13 Abandonment

1. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
2. If any tower shall cease to be used for a period of one (1) year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower shall have seventy-five (75) days, thereafter to dismantle and remove the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee pursuant to authority of the Nebraska State Statutes and County of Frontier County codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

14.14 Co-location of Frontier County Emergency Management Communications Equipment on any Future Communications Towers Constructed within Frontier County, Nebraska (effective date April 7, 2009)

As a condition of a Special Use Permit for the construction of a communications tower, Frontier County, Nebraska, Emergency Services shall be: granted a slot, as high on the tower as possible, that does not impede the use and operation of the tower owner's equipment; space to place an external cabinet inside the fence enclosure; ingress and egress to the tower site; and 24/7 access to the tower by Frontier County Emergency Services designated maintenance company for equipment repair/ replacement, with prior approval of the tower owner. This occupancy of and/or access to said tower shall be provided at no charge to the Frontier County Emergency Services or Frontier County.

Frontier County Emergency Services shall be responsible for: cost of installation and operation of all equipment that Emergency Services installs on the tower and in the fenced enclosure; insurance on all equipment owned by Frontier County Emergency Services. Frontier County

Emergency Services equipment shall not interfere with the operation of any other carrier's equipment.

Frontier County Emergency Services shall indemnify and hold harmless, the Tower Owner, its officers, employees, and agents from and against any loss and/or damage, liability, claim, and expense including cost of enforcement and reasonable attorney fees, occasioned by, growing out of, or arising in connection with any act or failure by Tower Owner, its agents or employees, except loss, damage, or liability resulting from the negligent acts or omissions of the Tower Owner, its agents or employees. The Tower Owner shall not be held liable for any loss or damage due to personal injury, death, property damage, libel slander, or imperfect or unsatisfactory communications experiences by Frontier County Emergency Services for any reason whatsoever, arising from, or in connection with the installation, operation, maintenance, or removal of Frontier County Emergency Services equipment, or any activity related to Frontier County Emergency Services performance. In no event, shall Tower Owner be liable for any consequential or incidental damages, including but not limited to loss of profit or revenues, cost of capital, cost of substitute facilities or services, downtime cost or claims of Frontier County Emergency Services customers or advertisers for such damages.

ARTICLE 15
Wind Energy Conversion Facilities
Supplement to Current Frontier County Addition to Current Zoning Regulations

In any zoning district, a special use permit may be granted to allow a wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section.

15.1 Small Wind Energy Systems

Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

Definitions

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

1. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

2. *Tower Height* shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

Requirements

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height shall be as imposed by FAA regulations.

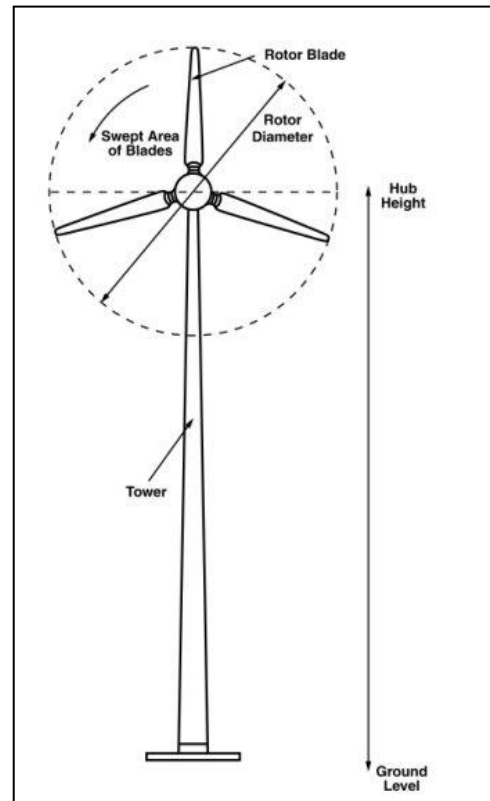


Figure 1

2. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than accessory building setbacks of the appropriate zoning district to the property lines of the installation site.

3. Noise
 - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines
 - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall also be submitted.
 - c. The manufacturer frequently supplies this analysis.
 - d. Wet stamps shall not be required.
6. Compliance with FAA Regulations
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The manufacturer frequently supplies this analysis,
8. Utility Notification
 - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator,
 - b. Off-grid systems shall be exempt from this requirement.

15.2 Commercial/Utility Grade Wind Energy Systems

Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Frontier County.

Definitions

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

1. *Aggregate Project* shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. *Commercial WECS* shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. *Fail Zone* shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
4. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
5. *Meteorological Tower* shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
6. *Public Conservation Lands* shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
7. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades as shown in Figure 1.
8. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
9. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

10. *Total Height* shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
11. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
12. *Tower Height* shall mean the total height of the Wind Energy Conversion System from grade to the hub.
13. *Transmission Line* shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
14. *Wind Energy Conservation System* shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
15. *Wind Turbines* shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

Requirements

Commercial/Utility Grade wind energy systems shall be permitted as a Special Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including; Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification.
7. Documentation of land ownership or legal control of the property.

8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System not owned by the applicant, within 10 rotor distances of the proposed Wind Energy Conversion System.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis
12. FAA permit
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System.
14. Decommissioning Plan
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.

Aggregated Projects

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.
4. Setbacks to property lines, not road rights-of way, may be less when adjoining property owners are within the same aggregate project.

15.3 Setbacks

All towers shall adhere to the setbacks as measured from the hub established in the following table:

| | Wind Turbine – Non Commercial | WECS Wind Turbine – Commercial/Utility WECS | Meteorological Towers |
|---|--|--|---|
| Property Lines (other than right angle corners) | Diameter plus applicable building setback | Diameter plus applicable building setback | 1.1 times the total height |
| Right angle corner property lines | Diameter plus applicable building setback from both property lines | Behind a line on the property lines drawn between two points 150’ from the property line intersection. Generator blades must not exceed the building setback lines on the non-road side, and shall not encroach on the right-of-way on the road side. (See Figure 2) | 1.1 times the total height from both property lines |
| Neighboring Dwelling Units* | Diameter plus applicable building setback | <u>1,000’</u> | 1.1 times the total height plus applicable building setback |
| Road Rights-of-Way** | Diameter plus applicable building setback | Generator blades shall not encroach on the right-of-way. | 1.1 times the total height plus applicable building setback |

| | | | |
|--|---|--|---|
| Other Rights-of-Way | Diameter plus applicable building setback | Generator blades shall not encroach on the right-of-way. | 1.1 times the total height plus applicable building setback |
| Public Conservation Lands including Wildlife Management Areas and State Recreation Areas | Applicable building setback | Diameter plus applicable building setback | 1.1 times the total height plus applicable building setback |
| Wetlands, USFW Types III, IV, and V | NA | 600' | 1.1 times the total height |
| Other structures not on the applicant's site | NA | Diameter | 1.1 times the total height |
| River Bluffs of over 15 feet | | Diameter | |

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

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

15.4 Special Safety and Design Standards

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

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. AH Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.

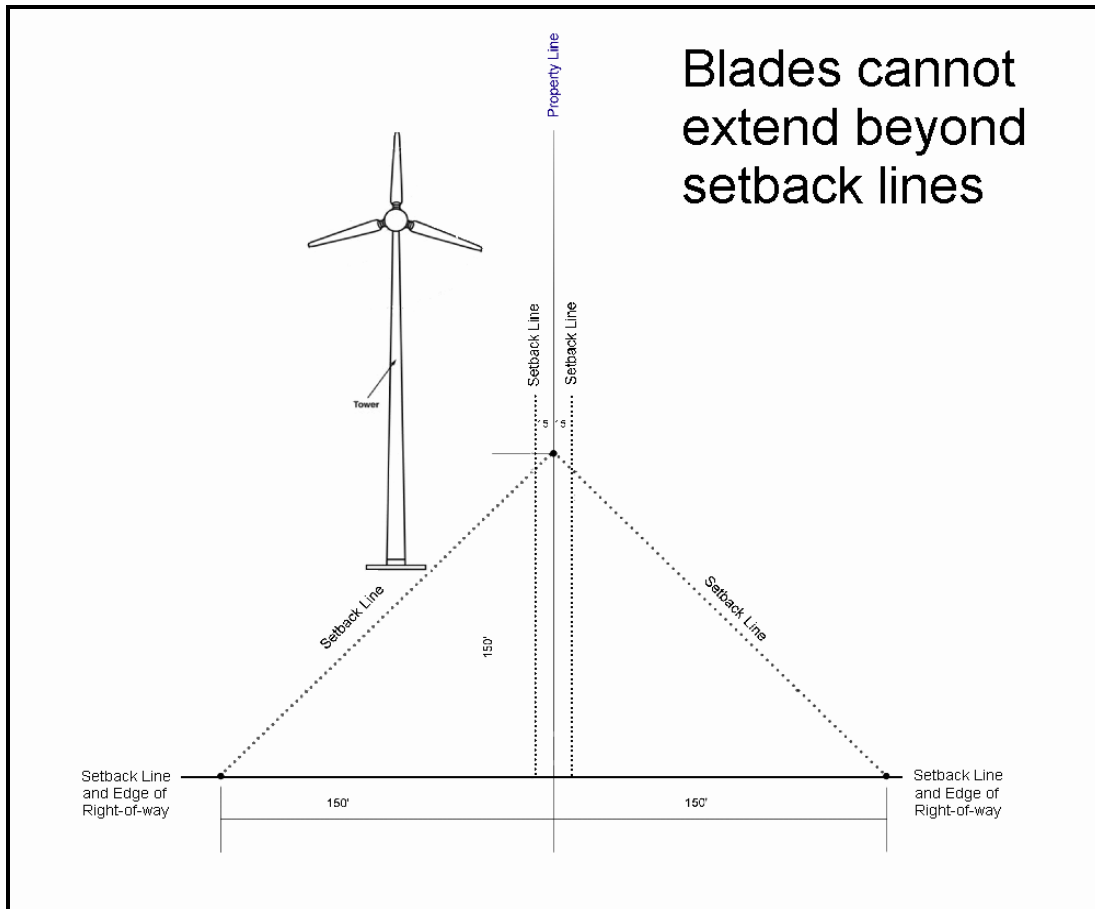


Figure 2

5. Color and finish:

All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate de-icing; Finishes shall be matte or non-reflective.

6. Lighting:

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

7. Other signage:

All other signage shall comply with the sign regulations found in these regulations.

8. Feeder Lines:

All communications and feeder lines installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.

9. Waste Disposal:

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

10. Discontinuation and Decommissioning;

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within 180 days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the WECS.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

11. Noise:

No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure occupied by humans. Exception: a Commercial/Utility WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service.

12. Interference:

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

13. Roads:

Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.

c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

14. Drainage System:

The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

15. Permit Fees

Applicant shall remit an application fee of \$50 for every megawatt of nameplate capacity in the proposed WECS.