



THOMAS COUNTY, NEBRASKA ZONING REGULATIONS.

REVIEWED/REVISED

JUNE 20, 2023

THOMAS COUNTY, NEBRASKA

ZONING REGULATIONS.

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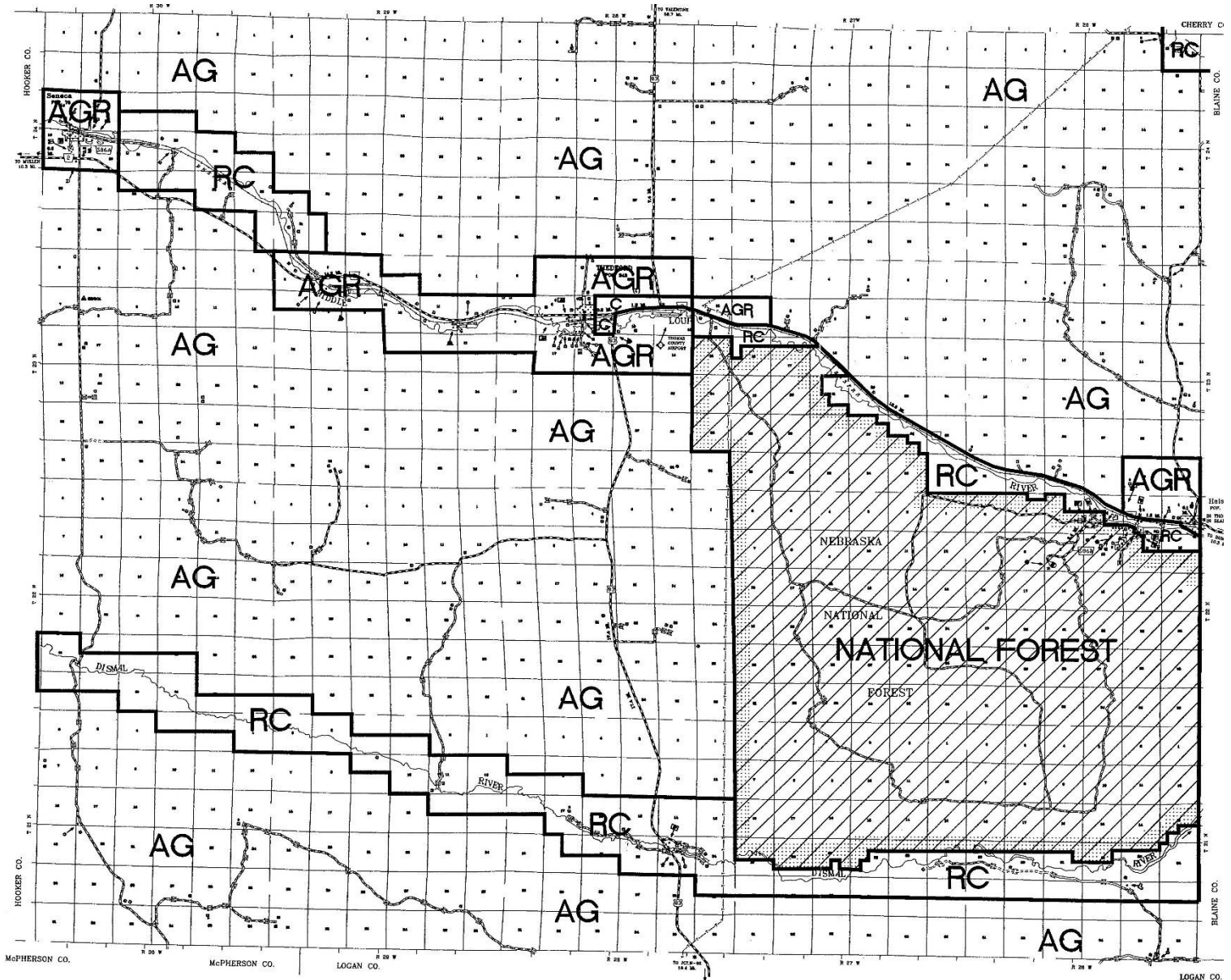
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OFFICIAL ZONING MAP

THOMAS COUNTY, NEBRASKA

2019



LEGEND

AG - AGRICULTURE DISTRICT
RC - RURAL CONSERVATION DISTRICT
AGR - AGRICULTURAL RESIDENTIAL DISTRICT
C - COMMERCIAL DISTRICT
I - INDUSTRIAL DISTRICT

This is to certify that this is the Official Zoning Map referred to in Section 4.3 of Resolution No. _____ of the Thomas County Zoning Regulations. The Official Zoning Map, together with all changes, amendments or additions thereto, shall be maintained in the Office of the City Clerk and available for public inspection during regular office hours.

Chairperson, Board of Commissioners

Date

Thomas County Clerk

Date

ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

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

1.2 JURISDICTION

The provisions of this Resolution shall apply within the planning jurisdiction of Thomas County as established on the maps entitled "The Official Zoning Maps of Thomas County, Nebraska." The planning jurisdiction for Thomas County includes the rural and unincorporated areas of the County.

1.3 COMPREHENSIVE PLAN AND ZONING

The Comprehensive Plan is a document which is developed to provide support to the most common implementation tool, the zoning regulation. Therefore the comprehensive plan is the policy basis for the zoning regulation.

Nebraska revised statute 23-114.03 states as follows:

Zoning regulations shall be adopted or amended by the county board only after the adoption of the county comprehensive development plan by the county board and the receipt of the planning commission's specific recommendations. Such zoning regulations shall be consistent with an adopted comprehensive development plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Nebraska, including, among others, such specific purposes as:

- (1) Developing both urban and nonurban areas;
- (2) Lessening congestion in the streets or roads;
- (3) Reducing the waste of excessive amounts of roads;
- (4) Securing safety from fire and other dangers;
- (5) Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
- (6) Providing adequate light and air;
- (7) Preventing excessive concentration of population and excessive and wasteful

scattering of population or settlement;

- (8) Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
- (9) Protecting the tax base;
- (10) Protecting property against blight and depreciation;
- (11) Securing economy in governmental expenditures;
- (12) Fostering the state's agriculture, recreation, and other industries;
- (13) Encouraging the most appropriate use of land in the county; and
- (14) Preserving, protecting, and enhancing historic buildings, places, and districts.

Therefore, Thomas County has developed and will continue to develop and evolve, as necessary, those policies and rules to ensure these elements and items are protected, more especially items 8, 9, 11, 12, 13 and 14.

1.4 PURPOSE

The seven overarching tenants of planning and zoning are meant to promote the health, safety, morals, convenience, order, prosperity and welfare for all Thomas County inhabitants, current and future. Additionally, planning and zoning can also provide more specific protections for other goals. Zoning helps to manage development in a proper manner to protect property rights and the tax base; lessen congestion on streets and roadways and limit waste incurred thru excessive roadway maintenance. Planning and Zoning should encourage the most appropriate use of land in the county, which in turn protects our most valuable economic resource in agricultural production. Planning and zoning, through land use designations, can aid with ensuring proper water flow, drainage, sanitation and other safety and environmental issues, thereby protecting producers and non-producers alike.

1.5 THE COMPREHENSIVE PLAN AND EASEMENTS

Thomas County will adhere to the planning and zoning process as granted under Nebraska Statute with regard to Conservation and Preservation perpetual easements, as amended.

1.6 PLANNING AND ZONING GOALS AND STRATEGIES

1.6.1 Thomas County will protect agriculture by limiting conservation easements to a specific time frame if the easement does not protect the perpetual use of the land in agriculture.

1.6.2 Thomas County will continue to work to preserve the county tax base.

1.6.3 Thomas County, when reviewing conservation easements, will follow the prescribed limits in Nebraska Statute 76-2,112 through 76-2,117 as it has been signed into law, including amendments as they evolve and any new pertinent laws.

1.6.4 Thomas County will not approve an attempt to transfer a Conservation Easement to any tax-exempt entity unless there is an agreed upon mechanism for payment of real estate taxes or equivalent payment mechanism in-lieu of taxes.

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

Excepting non-conforming lot sizes, structures and usages, as set forth in Sections 2.5, 2.51, 2.52 and 2.53 of these regulations, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall 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.

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 Building and/or 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 the zoning regulation, and

Said lot can meet all yard regulations for the district in which it is located.

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 more, no repairs or restoration shall be made unless a building and/or 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. Any nonconforming use may be extended throughout any portions of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of these Regulations, but no use shall be extended to occupy any land outside such building. Any nonconforming use of land may not be increased in size beyond the area 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 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 eighteen (18) 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 Thomas, Nebraska. The words “County Board” shall mean the Thomas County Board of Commissioners. The words “Planning Commission” shall mean the Planning Commission of Thomas County duly appointed and represented by the governing body of Thomas County.

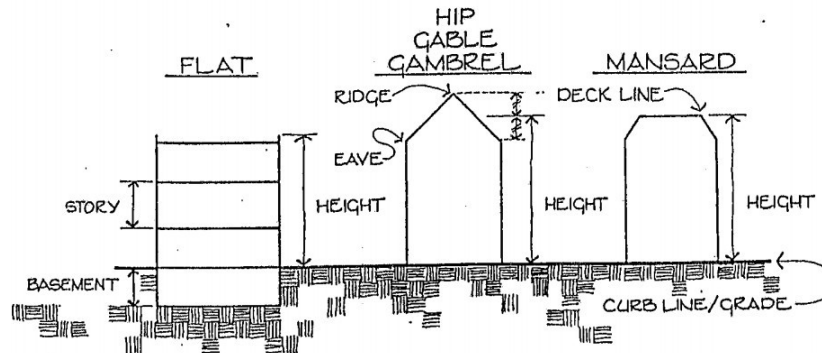
Words or terms not herein defined shall have their ordinary meaning in relation to the context.

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 20 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 ten (10) feet from the front line or from the grade in all other cases.



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

- 3.36 CAMPGROUNDS: 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 spaces 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 COMMERCIAL USE: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

3.38 CONSERVATION AND PRESERVATION EASEMENT
ACT, 76-2,111 as amended: As used in Conservation and
Preservation Easements Act, unless the context otherwise requires:

- (1) Conservation easement shall mean a right, whether or not stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality, or other natural resources, or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code;
- (2) Preservation easement shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code; and
- (3) Holder shall mean anyone acquiring a conservation or preservation easement by purchase, exchange, gift, or devise and having the right to enforce it by its terms, which may be:
 - a. Any governmental body empowered to hold an interest in real property in this state under the laws of this state or the United States having among its purposes the subject matter of the easement;
 - b. In the case of a conservation easement, any charitable corporation or trust whose purposes include retaining or protecting the natural, scenic, or open condition of real property, assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use or protecting air quality, water quality, or other natural resources;

- c. In the case of a preservation easement, any charitable corporation or trust whose purposes include the preservation of the historical, architectural, archaeological, or cultural aspects of real property.

- 3.39 DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.
- 3.40 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.
- 3.41 DWELLING, SINGLE FAMILY: A dwelling having accommodations for and occupied by one family.
- 3.42 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 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.
- 3.44 FLOOD PLAIN: (Thomas County has not been mapped as of December 2001, however, if mapping would be completed in the future, this definition would then apply.) Those lands within the zoning jurisdictions of Thomas 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 Rate Map, under the authority of the 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 Thomas County Assessor.
- 3.45 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 the homes.
- 3.46 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS: Shall mean any building(s) , lot(s), pen(s), pool(s), or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on- going

raising, feeding or management of animals for more than 180 consecutive days, which exceed any combination of 301 animal units from the following:

Animal Units Equal:

1. (1.0 x _number of head) Slaughter and Feeder Cattle
2. (1.2 x _number of head) Cow/Calf Pairs
3. (1.4 x _number of head) Mature Dairy Cattle
4. (0.4 x _number of head) Swine, 55lbs. and over
5. (0.04 x _____number of head) Weaned Pigs, less than 55lbs.
6. (0.1 x _number of head) Sheep
7. (2.0 x _number of head) Horses
8. (0.01 x _____number of head) Chickens
9. (0.02 x _____number of head) Turkeys
10. (0.2 x _number of head) Ducks
11. For Immature Dairy Cattle, or those species not listed, number of animal units shall be calculated as the average weight of animals divided by 1,000 lbs., multiplied by the number of animals.

- 3.47 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.
- 3.48 LOT: A parcel of land occupied or intended for occupation by a use permitted in this resolution and fronting upon a street or road.
- 3.49 LOT, CORNER: A lot abutting two or more streets or roads at their intersection.
- 3.50 LOT DEPTH: The average horizontal distance between the front and rear lot lines.
- 3.51 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.
- 3.52 LOT OF RECORD: A lot of which is part of a sub-division 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 recorded.
- 3.53 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.
- 3.54 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.

- 3.55 **MANUFACTURING (BUSINESS/INDUSTRY):** An established business or industry making or developing a good or product.
- 3.56 **MOBILE HOME:** A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable by designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.
- 3.57 **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 enclosure used or intended for use as part of the equipment of such mobile home park.
- 3.58 **MODULAR HOME:** Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units nor 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.

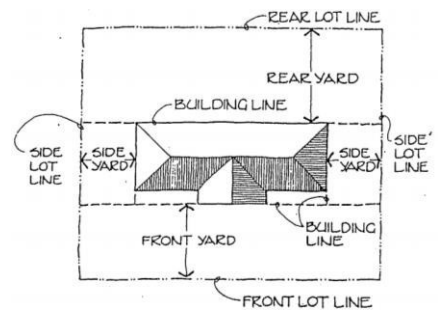
- 3.59 **NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to (date of adoption), and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.
- 3.60 **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.
- 3.61 **NONCORFMING 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.
- 3.62 **PARCEL:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
- 3.63 **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 street or road and permitting ingress and egress of an automobile.
- 3.64 **PUBLIC UTILITY:** An organization that maintains the infrastructure for a public service including, but not limited to water, sewer, electrical and gas infrastructure and wastewater systems.
- 3.65 **PUBLIC SERVICE:** Services that are provided to the general public and rendered in public interest. These services could include, but not limited to transportation, government, education, medical and other services with the intent to protect the health, safety and well-being of the residents of Thomas County, Nebraska.
- 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.
- 3.68 **SALVAGE OR JUNK YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and

other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

- 3.69 SPECIAL USE PERMIT: A written permit issued with authorization of the County. The special permit provides permission under 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.
- 3.70 STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.
- 3.71 STREET, CENTER LINE: A line midway between street lines.
- 3.72 STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.
- 3.73 STRUCTURE: Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.
- 3.74 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.
- 3.75 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.
- 3.76 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.

- 3.77 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.
- 3.78 YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.
- 3.79 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.

- 3.80 YARD, REQUIRED: The required minimum open space between the property line and the building line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in this resolution.



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

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

- 3.82 ZONING ADMINISTRATOR: The persons duly designated by the County governing body to enforce these regulations.
- 3.83 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 ZONING AND 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 Thomas County, as named and described in Article 5 of this Resolution.

1. AG – Agriculture District
2. RC – Rural Conservation District
3. AGR – Agricultural Residential District
4. C – Commercial District
5. I – Industrial District
6. VAD – Village Area Development 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 Thomas County Zoning Maps, dated __ 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 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 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, streets, 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 Municipal corporate limits shall be construed as following such corporate limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the railroad right-of-way;
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.

4.5 THOMAS COUNTY-EASEMENTS; CREATION; APPROVAL BY GOVERNING BODY; WHEN REQUIRED

Thomas County will abide by and enforce this section as stipulated in Revised Statutes Chapter 76-2,112 including future amendments as may be forth coming.

ARTICLE 5

ZONING DISTRICTS

5.1 AG 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 livestock confinement facilities/operations as defined in Section 3.45.
2. Bulk grain and produce storage, excluding commercial warehouses;
3. Irrigation, flood, erosion and sediment control projects;
4. Non-farm Single family, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4;
5. Greenhouses and garden centers; and
6. Bed and breakfast.

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. Personal use solar as described in Section 6.63 “Personal Scale Solar Energy Conversion System Requirements.”
5. Personal use wind as described in Section 6.56 “Setbacks & Design Requirements.”

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the for the following purposes in the “AG” 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 towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance of the following:
 1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
 2. Towers must comply with the regulations of the Federal Aviation Administration (FAA). No permit shall be required for infrastructure changes, such as updating/changing out equipment on existing towers as long as there are no changes to height, structural integrity or footprint.
 3. As a condition of a Special Use Permit for the construction of a tower, Thomas County Emergency Services will 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, access to back-up electrical service, ingress and egress to the tower site, and 24/7 access to the tower for the Thomas County Emergency Services designated maintenance company for equipment repair/replacement, with prior approval of the Tower Owner. These services will be provided at no cost to Thomas County Emergency Services.

Thomas County Emergency Services will be responsible for: equipment cost, installation, and operation of all equipment that Emergency Services installs on the tower and in the fence enclosure, cost of repair/replacement of equipment that Emergency Services installs on the tower, and insurance of all equipment that Emergency Services installs on the tower.

Thomas County Emergency Services equipment will not interfere with the operation of any other carrier’s equipment. Any cost

associated with the operation of the equipment installed by Thomas County Emergency Services will be negotiated prior to the approval of the Special Use Permit.

Thomas County Emergency Services shall indemnify and hold harmless, Tower Owner its officers, employees, and agents, from and against any loss, damage. Liability, claim, and expense including cost of enforcement and reasonable attorneys' 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 Tower Owner, its agents or employees. 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 Thomas County Emergency Services for any reason whatsoever, arising from, or in connection with the installation, operation, maintenance, or removal of Thomas County Emergency Services equipment or any activity related to Thomas 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 Thomas County Emergency Services customer or advertisers for such damages.

Thomas County Emergency Services = Thomas County Emergency Management, Region 26 Emergency Management and Communications, Thedford Volunteer Fire Department, Thomas County Sheriff's Department, Thedford Ambulance Service, Thomas County Road Department, Halsey Volunteer Fire Department, Purdum Volunteer Fire Department, and Dunning Volunteer Fire Department.

5. Churches, places of worship and cemeteries.
6. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
7. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
8. Auction/sale barns and yards;
9. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
10. Salvage or junk yards in accordance with Section 6.3;

11. Mineral extraction, which shall include the following; oil wells, sand and gravel extraction quarries. Property must be returned to developable condition upon completion or closing of facility;
12. Pre-school and child care centers;
13. Private elementary and high schools;
14. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
15. Veterinary facilities;
16. Dog breeding establishments and kennels;
17. Manufacturing, Commercial and/or Industrial operations;
18. Hospitals, penal institutions and sanitariums;
19. Nursing and care homes;
20. Public and private, including non-profit, charitable institutions; and
21. Recreational motel-lodging;
22. Disposal of paunch animal waste.
23. Wind and Solar Energy Conversion Systems in accordance with Sections 6.5 and 6.6 of the Thomas County Zoning Regulations.

5.15 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or nor permissible as special uses shall be prohibited from the AG Agriculture District.

5.16 MINIMUM LOT REQUIREMENTS

All improved area or uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved all weather county road (above minimum maintenance road).

Single Family Dwellings:

Lot size: 3 acres, with the placement of a maximum of four single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road), at a minimum distance of one thousand (1,000) feet between dwellings.

5.17 MINIMUM YARD REQUIREMENTS

1. No structure shall be placed lower than the base flood elevation within this designated district, as identified by the Flood Insurance Rate Map (FIRM), dated __, as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such base flood elevation. (Thomas County has not been mapped as of December 2001)

2. Yard Requirements:

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the road right-of-way line in conformance with Section 8.7 and 8.8.

Rear Yard: No limitations; unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side Yard: No limitations; unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

- 5.18 MAXIMUM HEIGHT:** No limitation, unless regulated by state or federal authorities.

- 5.19 PARKING REQUIREMENTS:** See Article 7.

- 5.110 FENCES, WALLS, HEDGES AND SHELTER BELTS:** See Article 8.7.

5.2 RC RURAL CONSERVATION DISTRICT

5.21 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soils conditions, high water table, or other factors, require the regulation of development in keeping with the conditions imposed by the natural environment.

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

1. Ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4.
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.45.

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 and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8; and
3. Roadside stands for temporary sale of produce.
4. Personal use solar as described in Section 6.63 “Personal Scale Solar Energy Conversion System Requirements.”
5. Personal use wind as described in Section 6.56 “Setbacks & Design Requirements.”

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

1. Non-farm/ranch single family dwelling;
2. Sewage disposal and water systems;
3. Public and private uses including parks, playgrounds, golf courses, recreation uses, riding stables, public utilities, and utility distribution system;

4. Flood, erosion and sediment control projects;
5. Bed and breakfast establishments; and
6. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries. Property must be returned to developable condition upon completion or closing of facility.
7. Expansion of existing livestock confinement facilities/operations in accordance with Section 3.45 (definitions) and Section 6.4.

5.25 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 RC Rural Conservation District.

5.26 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.27 MINIMUM LOT REQUIREMENTS: All improved area or uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved all weather county road (above minimum maintenance road).

Single Family Dwellings:

Lot Size: 3 acres, with the placement of a maximum of two single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road), at a minimum distance of one thousand (1,000) feet between dwellings.

5.28 MINIMUM YARD REQUIREMENTS:

1. No structure shall be placed lower than the base flood elevation within this designated district, as identified by the Flood Insurance Rate Map (FIRM), dated __, as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such base flood elevation. (Thomas County has not been mapped as of December of 2001)
2. Yard requirements are as follows:
 Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the right-of- way line in conformance with Section 8.7 and 8.8.
 Rear Yard: No limitations; unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.
 Side Yard: No limitations; unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.29 MAXIMUM HEIGHT: Thirty-five (35) feet; however, nonresidential uses shall have no height limitations except in conformance with community Airport Zoning Regulations.

5.210 PARKING REQUIREMENTS: See Article 7.

5.211 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Article 8.7.

5.3 AGR AGRICULTURAL RESIDENTIAL DISTRICT

5.31 INTENT: This district is intended to provide for low-density, acreage residential development in selected areas in close proximity to the communities of Thomas County, or in rural areas with reasonable access to major rural roads. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

5.32 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 livestock confinement facilities/operations as defined in Section 3.45.
2. Non-farm single family, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agricultural workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4;
3. Irrigation and flood control projects;
4. Public parks and recreational areas;
5. Community buildings and/or facilities owned and/or occupied by public agencies;
6. Public and/or private schools; and
7. Churches, places of worship, and cemeteries.

5.33 PERMITTED ACCESSORY USES AND STURCTURES: 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. Personal use solar as described in Section 6.63 “Personal Scale Solar Energy Conversion System Requirements.”
5. Personal use wind as described in Section 6.56 “Setbacks & Design Requirements.”

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR 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. Pre-school and child care centers;
4. Broadcast towers and stations, including land mobile communication towers of more than 100 feet when in conformance of the following:
 1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
 2. Towers must comply with the regulations of the Federal Aviation Administration (FAA). No permit shall be required for infrastructure changes, such as updating/changing out equipment on existing towers as long as there are no changes to height, structural integrity or footprint.
 3. As a condition of a Special Use Permit for the construction of a tower, Thomas County Emergency Services will 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, access to back-up electrical service, ingress and egress to the tower site, and 24/7 access to the tower for the Thomas County Emergency Services designated maintenance company for equipment repair/replacement, with prior approval of the Tower Owner. These services will be provided at no cost to Thomas County Emergency Services.

Thomas County Emergency Services will be responsible for: equipment cost, installation, and operation of all equipment that Emergency Services installs on the tower and in the fence enclosure, cost of repair/replacement of equipment that Emergency Services installs on the tower, and insurance of all equipment that Emergency Services installs on the tower. Thomas County Emergency Services equipment will not interfere with the operation of any other carrier's equipment. Any cost associated with the operation of the equipment installed by Thomas County Emergency Services will be negotiated prior to the approval of the Special Use Permit.

Thomas County Emergency Services shall indemnify and hold harmless, Tower Owner its officers, employees, and agents, from and against any loss, damage. Liability, claim, and expense including cost of enforcement and reasonable attorneys' 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 Tower Owner, its' agents or employees. 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 Thomas County Emergency Services for any reason whatsoever, arising from, or in connection with the installation, operation, maintenance, or removal of Thomas County Emergency Services equipment or any activity related to Thomas 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 Thomas County Emergency Services customer or advertisers for such damages.

Thomas County Emergency Services = Thomas County Emergency Management, Region 26 Emergency Management and Communications, Thedford Volunteer Fire Department, Thomas County Sheriff's Department, Thedford Ambulance Service, Thomas County Road Department, Halsey Volunteer Fire Department, Purdum Volunteer Fire Department, and Dunning Volunteer Fire Department.

5. Camp grounds;
6. Commercial kennels;
7. Public and private charitable institutions;
8. Greenhouses and nurseries;
9. Animal clinics, animal hospitals and veterinarian services; and
10. Mobile home parks;
11. Rural subdivisions with individual parcels less than 3 acres in accordance with the Nebraska Department of Environmental Quality – Title 124 and Department of Health and Human Services Regulations and/or with a shared or “community” drinking water and/or sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one (1) acre.
12. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries. Property must be returned to developable condition upon completion or closing of facility;
13. Natural resource extraction, which shall include ground or surface water or other similar natural resources, for transport and use of such natural resource off of the premises on which such natural resource is extracted; the following requirements and restrictions shall apply:
 - a. Property must be returned to developmental condition upon

- completion or closing of facility.
- b. Such use shall conform to the requirements of state law and applicable rules and regulations of the Natural Resource District., the Nebraska Department of Natural Resources, Nebraska Department of Environmental Quality and any other state or federal agency with further jurisdiction over such uses.
- c. Location of ground or surface water extraction must not be located within areas subject or prone to 100 year floodplain levels, or flood hazard areas.
- d. Such use shall not be located in any officially designated well-head protection area of any incorporated municipality within or adjoining the County.
- e. Any other conditions the Thomas Co. Board of Commissioners determines necessary to protect the health, safety and welfare of the residents of the County.

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

5.36 MINIMUM LOT REQUIREMENTS: All improved uses, other than general farming, ranching, pasturing, etc., shall be adjacent to an improved all weather county road (above minimum maintenance road).

1. Single family dwellings:
Lot Size: 3 acres. Dwelling shall be adjacent to an improved all weather county road (above minimum maintenance road), at a minimum distance of five hundred (500) feet between dwellings.

5.37 MINIMUM YARD REQUIREMENTS:

1. No structure shall be place lower than the base flood elevation within this designated district, as identified by the Flood Insurance Rate Map (FIRM), dated __, as Special Flood Hazard Areas **unless** the base or footings to such structure are at least one (1) foot above such base flood elevation. (Thomas County has not been mapped as of December of 2001).

2. Yard requirements:

Front yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the road right-of-way line in conformance of Sections 8.7 and 8.8.

Rear yard: There shall be a minimum rear yard of fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side yard: There shall be a minimum side yard of ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.38 MAXIMUM HEIGHT: Thirty-five (35) feet; however, non-residential structures shall have no height limitations except in conformance with the community Airport Zoning Regulations.

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

5.310 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Article 8.7.

5.4 C COMMERCIAL DISTRICT

5.41 INTENT: The “C” Commercial District is intended for the purpose of providing limited commercial services. Off-street parking is required in order to reduce adverse effects on adjacent properties.

5.42 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

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 implements 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 or services at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices; and
18. Medical clinics.

5.43 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. Personal use solar as described in Section 6.63 “Personal Scale Solar Energy Conversion System Requirements.”
3. Personal use wind as described in Section 6.56 “Setbacks & Design Requirements.”

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the “C” 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;
14. Broadcast towers and stations, including land mobile communication towers of more than 100 feet when in conformance of the following:
 1. Towers shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
 2. Towers must comply with the regulations of the Federal Aviation Administration (FAA). No permit shall be required for infrastructure changes, such as updating/changing out equipment on existing towers as long as there are no changes to height, structural integrity or footprint.
 3. As a condition of a Special Use Permit for the construction of a tower, Thomas County Emergency Services will 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, access to back-up electrical service, ingress and egress to the tower site, and 24/7 access to the tower for the Thomas County Emergency Services designated maintenance company for equipment repair/ replacement, with prior approval of the Tower Owner. These services will be provided at no cost to Thomas County Emergency Services.

Thomas County Emergency Services will be responsible for: equipment cost, installation, and operation of all equipment that Emergency Services installs on the tower and in the fence enclosure, cost of repair/replacement of equipment that Emergency Services installs on the tower, and insurance of all equipment that Emergency Services installs on the tower. Thomas County Emergency Services equipment will not interfere with the operation of any other carrier's equipment. Any cost associated with the operation of the equipment installed by Thomas County Emergency Services will be negotiated prior to the approval of the Special Use Permit.

Thomas County Emergency Services shall indemnify and hold harmless, Tower Owner its officers, employees, and agents, from and against any loss, damage. Liability, claim, and expense including cost of enforcement and reasonable attorneys' 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 Tower Owner, its' agents or employees. 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 Thomas County Emergency Services for any reason whatsoever, arising from, or in connection with the installation,

operation, maintenance, or removal of Thomas County Emergency Services equipment or any activity related to Thomas 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 Thomas County Emergency Services customer or advertisers for such damages.

Thomas County Emergency Services = Thomas County Emergency Management, Region 26 Emergency Management and Communications, Thedford Volunteer Fire Department, Thomas County Sheriff's Department, Thedford Ambulance Service, Thomas County Road Department, Halsey Volunteer Fire Department, Purdum Volunteer Fire Department, and Dunning Volunteer Fire Department.

15. Recycling centers;
16. Single Family Homes;
17. Campgrounds; and
18. Mobile Home Parks.

5.45 SCREENING REQUIREMENTS:

1. Where a site adjoins 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.

5.46 PROHIBITED USES:

1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the "C" Commercial District.

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

1. General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front Yard</u>	<u>Required</u> <u>Side Yard</u>	<u>Required</u> <u>Rear Yard</u>	<u>Height</u>
Permitted uses	7,500	50'	75'*	7' (15' when abutting a residential property)	20'	35'**

*Measured from the road right-of-way line.

**Unless more regulated by the state or federal authorities.

5.48 PARKING REGULATIONS: Parking within the “C” Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

5.49 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Article 8.7.

5.5 I INDUSTRIAL DISTRICT

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

5.52 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Animal hospitals;
2. Automobile 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. 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.

5.53 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures.

5.54 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. Wholesale establishments which handle products of a highly explosive, combustible or volatile nature;
4. Mineral extraction, which shall include the following:
Oil wells, sand and gravel extraction and strip mine operations and quarries;
and
5. Airport.

5.55 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.

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

1. General Requirements:

	<u>Lot</u> <u>(Sq. Ft)</u>	<u>AreaLot</u> <u>Width</u>	<u>Required</u> <u>Front Yard</u>	<u>Required</u> <u>Side Yard</u>	<u>Required</u> <u>Rear Yard</u>	<u>Height</u>
Permitted uses	None	100'	75'	0' (15' when abutting a residential property)	15'	None*

*Measured from the road right-of-way line.

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

5.58 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Article 8.7.

5.6

VAD VILLAGE AREA DEVELOPMENT

5.61 INTENT: This district is intended to accommodate the different uses found in unincorporated communities in Thomas County and under the jurisdiction of the County.

5.62 PERMITTED PRINCIPAL USES AND STRUCTURES: Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the district. Refer to Land Use Table (5.67) to determine specific uses allowed as Permitted Uses.

5.63 PERMITTED SPECIAL USES: The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the VAD District as reviewed by the Planning Commission and approved by the County Board. Refer to Land Use Table (5.67) to determine specific uses allowed under a Special Use.

5.64 ACCESSORY USES: Refer to the definitions of Accessory Uses and Structures, as well as Land Use Table (5.67) and Sections within Article 3.3 for more detail.

5.65 HEIGHT and LOT REQUIREMENTS:

Use	Lot Area (SF or A)	Lot Width (feet)*	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max Height (feet)
Single-family dwelling	10,000	100	20*	20	10	35
Other dwellings with	10,000	100	20*	20	10	35
Other Permitted Uses	10,000	100	20*	20	10	35
Other Conditional Uses w/community waste treatment	10,000	100	20*	20	10	35
Accessory structures	-	-	20*	5	5	-

- On a corner lot, both street frontages shall be treated as a front yard setback.

5.66 Land Use Table

Use Category	Use Type		
	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
Agriculture and Horticulture Uses	Agricultural buildings general agricultural or storage uses	P	
	Agricultural operations	E	
	Application of livestock manure/wastes products	-	
	Application of waste products from municipalities/industrial plants	-	
	Portable agricultural sheds/buildings on skids	E	
	Community Gardens	E	
	Composting of dead livestock from operations WHEN part of an approved waste management plan	-	
	Composting of dead livestock from operations within the County NOT part of an approved waste management plan	-	
	Composting of sludge or other by products from municipalities and/or industrial operations	-	
	Cover crops not including industrial hemp	E	
	Crop production including industrial hemp	E	
	Commercial Greenhouse	P	
	Livestock confinement facilities/operations	-	
	Sale Barn	C	
	Stockpiling of dead livestock from operations within the County, WHEN part of an approved waste management plan	-	
	Stockpiling of sludge or other by-products from municipalities and/or industrial operations	-	
	Truck farming	E	
	Horses and other non-commercial livestock on residential lot	E	
	Equestrian centers/stables	C	
	Wineries	C	
	Distillation of grains for human consumption	-	
Agricultural Sales and Service	Agricultural chemicals, fertilizer, anhydrous ammonia-storage & distribution for commercial use	-	
	Agricultural Feed Mixing and Blending	C	
	Agricultural implement & vehicle sales and service	C	
	Agricultural Cooperative Production/Distribution Facility	C	
	Agricultural research farm	-	
	Agricultural processing	C	
	Seed sales and grain handling operations	E	
	Grain storage/Grain Storage System - personal	-	
	Grain storage/Grain Storage System - commercial	-	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
Residential Living	Live-Work unit	P	Article 2
	Multi-family dwelling	P	Article 2
	Condominiums	P	Article 2
	Mobile Home Dwelling	P	Article 2
	Mobile Home Dwelling – workers quarters	P	Article 2
	Seasonal dwelling or cabins	P	Article 2
	Short-term Rentals	P	
	Single-family attached dwelling	P	
	Specialty dwelling, i.e. earthen and Quonset	P	
	Single-Family dwelling	P	
	Two-family/Duplex	P	
	Multi-family dwellings for workers quarters	P	
	Dormitory style housing	-	
Residential/Commercial Institutions	Adult care homes	C	
	Assisted Living Facilities	C	
	Bed and Breakfast	C	
	Convents	C	
	Emergency Residential Shelters	C	
	Group Care Home	C	
	Group Home	C	
	Hospice	C	
	Life Care Facility	C	
	Monasteries	C	
	Nursing Homes	C	
	Retirement Homes	C	
	Transitional Housing	C	
Community Services/Civic Uses	Cemetery	P	
	Churches, synagogues, temples, etc.	P	
	Publicly owned and operated community centers & buildings	E	
	Privately owned and operated community centers & buildings	P	
	Fire & Rescue facilities	E	
	Fraternal Organization	P	
	Governmental offices	E	
	Hospitals	P	
	Law Enforcement centers	E	
	Libraries	E	
	Philanthropic Organizations	P	

	E = Exempt from a Permit P = Permitted Use/Permit Required C = Conditional Use Permit “-“ = Not Permitted	VAD	Additional Requirements
	Museums	P	
	Planetariums	P	
	Senior Citizen centers	E	
Treatment, Rehabilitation and Incarceration Facilities	Community correction centers	E	
	Drug/alcohol rehabilitation center	E	
	Halfway houses	E	
	Adult Detention Center	E	
	Juvenile Detention Center	E	
	Private Prisons	C	
	Public Prisons	E	
Day-Care, Public and Private Schools	Adult day-care home	C	
	Child Care Home	E	
	Colleges and Universities	C	
	Day care centers	P	
	Preschools	C	
	Public & private schools (K-12)	C	
	Trade, career & technical schools	C	
Public Parks and Open Space	Arboretums	C	
	Athletic fields	C	
	Campground	C	
	Nature centers	C	
	Parks, trails, picnic areas, & playgrounds	C	
	State parks	C	
	Public pools and/or water parks	C	
	Dog Parks (not racing)	C	
Public/Private Utilities and Communication Services	Natural gas exploration & pumping	-	
	Natural gas depots	C	
	Wind Energy Conversion Systems - Commercial/Utility Grade	-	
	Public works facilities	P	
	Wireless telecommunication, facilities & equipment, new tower (over 100 feet)	C	
	Wireless telecommunication, facilities & equipment, new tower (100 feet tall or less)	P	
	Wireless telecommunication facilities & equipment, collocated or maintenance	P	

	E = Exempt from a Permit P = Permitted Use/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
Animal Care	Animal Shelter	C	
	Kennel boarding or training	C	
	Kennel, commercial	C	
	Pet cemetery	C	
	Pet crematorium	C	
	Pet grooming, Pet training	P	
	Animal Hospital	C	
Business and Household Services	Building maintenance & cleaning service	P	
	Copying, printing, mailing, & packaging services	P	
	Lawn, garden & yard maintenance services	P	
	Locksmiths and key duplication	P	
	Pest control services	P	
	Small appliances & household equipment repair	P	
	Well drilling/septic tank cleaning	P	
Financial Services	Banks	P	
	Automatic Teller Machine (ATM)	P	
	Brokerages	P	
	Credit Unions	P	
	Insurance offices	P	
	Financial advisory services	P	
	Specialty loan services	P	
Food and Beverage Services	Bakery, Retail	P	
	Banquet/reception facility	P	
	Brew-on Premises Store	P	
	Brewery	C	
	Craft Brewery (Commercial)	C	
	Catering service	P	
	Donut and pastry shops	P	
	Mobile Food Units	E	
	Restaurants w/o drive-through	P	
	Roadside produce stands	E	
	Tavern or bar	P	
	Drinking establishments	P	
	Coffee houses, coffee shops	P	
	Brew pub	P	
	Micro-brewery (Commercial)	P	
	Coffee kiosks	P	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
General Commercial	Antiques and collectables shop	P	
	Art Galleries	P	
	Artisan production shop	P	
	Artist Studio	P	
	Arts & Crafts stores	P	
	Bicycle sales & service	P	
	Book store	P	
	Bridal sales & services	P	
	Business support services	P	
	Camping equipment sales	P	
	Computer hardware/software sales	P	
	Dance studios & schools	P	
	Electronic/appliance sales/service	P	
	Equipment sales/storage/rental	P	
	Equipment repair services	P	
	Exercise equipment sales	P	
	Fabric and sewing supply stores	P	
	Farmer's Market	E	
	Firearms and ammunition sales	C	
	Florists	P	
	Food store (specialty) incl. bakeries, meat lockers, butchers, delicatessen, not a full-service grocery	P	
	Funeral homes, mortuaries, incl. crematoriums	P	
	Garden center	P	
	Heating/cooling sales and services	P	
	Lawn/garden equipment sales/service	P	
	Musical instrument store	P	
	Pawn shops	P	
	Photographic equipment/supplies	P	
	Pottery store	P	
	Religious book and card stores	P	
	Shoe stores and repair	P	
	Tanning Studio	P	
	Taxidermy Services	P	
	Tobacco store	P	
Special Commercial	Adult Entertainment	C	
	Billiard halls	P	
	Boat Dealers	P	
	Building materials dealers	P	
	Commercial Greenhouses	P	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
	Business Center	P	
	Concrete and cinder block sales	P	
	Convenience store	P	
	Drive-in theater	P	
	Equipment rental and leasing	P	
	Fencing dealers	P	
	Fireworks stands	E	
	Gasoline filling stations, incl. Self-Service	P	
	Liquor stores	C	
	Monument sales	P	
	Motels and hotels	P	
	Nurseries, retail sales	P	
	Pet Shop	P	
	Piercing Studio	P	
	Short-term rentals	P	
	Swimming pool sales	C	
	Tattoo Parlor	P	
	Theaters and auditoriums	P	
Medical Uses, not including Home Occupations	Acupuncture offices	P	
	Chiropractor offices	P	
	Dental offices incl. orthodontics	P	
	Massage Therapy	P	
	Medical Offices	P	
	Optical sales & services	P	
	Rehabilitation facilities inc. out-patient services	P	
Office Uses, not including Home Occupations	Accounting services counseling	P	
	Attorney offices	P	
	Business offices	P	
	Consultant offices	P	
	Investment counseling	P	
	Photographic studios	P	
	Real Estate offices	P	
	Utility/telephone company offices	P	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
Recreational Commercial	Bowling alley	P	
	Commercial stables	P	
	Golf courses, public & private	C	
	Golf driving ranges	C	
	Gun clubs	C	
	Health clubs/spas	C	
	miniature golf courses	C	
	Paintball course	C	
	Racetrack	C	
	Recreational facility, indoor	C	
	Recreational facility, outdoor	C	
	Recreational vehicle (RV) Park	C	
	Riding Academies	C	
	Roller – and ice-skating rink	P	
	Skate Park	P	
	Special Event	P	
	Amusement arcade	C	
Auto Services/Commercial, not including Home Occupations	Auto body repair	C	
	Automotive/machinery repair shop	C	
	Automobile/truck sales, rental & leasing	C	
	Automobile/truck washes, self-services or automatic	C	
	Motor home dealers	C	
	Motorcycle dealers, incl. moped and scooters	C	
	Muffler sales & services	C	
	Recreational vehicle sales/rentals	C	
	Transmission repair shops	C	
	Travel trailer dealers	C	
	Vehicle Storage	C	
	Vehicle Storage, Long-term	C	
	Trailer, RV, & boat storage	C	
Warehousing and Storage	Bulk materials or machinery storage (fully enclosed)	C	
	Fireworks storage	C	
	Mini warehouse/self-storage	C	
	Motor Freight terminals	C	
	Outdoor Storage	C	
	Outdoor Storage Containers	E	
	Storage facilities similar to Portable On-demand storage facilities	C	
	Storage/warehousing of non-hazardous materials (fully enclosed)	-	
	Warehouse and distribution	C	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
	Warehousing (enclosed)	C	
	Warehousing (Open)	C	
	Wholesale business and storage	C	
Contractors, Contractor Yards, Storage and Supply	Building materials sales/storage yards (excl. asphalt/concrete mixing)	C	
	Bulk Materials or machinery storage (fully enclosed)	P	
	Carpenters	P	
	Construction batch plants	C	
	Construction yards incl. offices & equipment storage yards excl. heavy machinery	C	
	Electricians	P	
	Heating & ventilating contractors	P	
	Masons & bricklayers	P	
	Plumbers	P	
	Trade shops (incl. cabinet makers)	P	
Large Contracting/Materials Manufacturing	Asphalt contractors	C	
	Concrete block manufacturing	-	
	Concrete contractors	C	
	Concrete products	-	
	Excavating contractors	C	
	Heavy construction companies	C	
	Highway/street construction co.	C	
	Manufactured housing fabrication	-	
	Prefabricated buildings & components manufacturing	-	
	Wrecking & demolition contractors	C	
Food Processing and Manufacturing	Bakery Products Manufacturing	C	
	Beverage Blending and Bottling (Except Breweries)	C	
	Coffee, Tea and Spice Processing and Packaging	C	
	Creamery and Dairy Operations	C	
	Dairy Products Manufacturing	C	
	Distillation of grains for human consumption	C	
	Egg Processing Plants	C	
	Flour, Feed and Grain Grinding and Milling	C	
	Fruit and Vegetable processing, Canning, preserving, Drying and freezing	C	
	Ice Manufacturing (Incl. Dry Ice)	C	
	Meat Processing	C	
Mining and Excavation			
	Brick, firebrick and clay products manufacturing	-	
	Monument & architectural stone manufacturing	-	
	Soil excavation/mining for commercial purposes	-	
	Soil excavation/mining for a public entity/project	P	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
	Quarry	-	
Metal Processing, Stamping	Culvert manufacturing	C	
	Fabricated metal products	C	
	Welding	C	
	Wire Rope and Cable manufacturing	C	
Waste Handling	Landfill, Construction Material	-	
	Landfill, Solid Waste	-	
	Recycling Center	-	
	Recycling Processing	-	
	Sanitary Transfer Station	-	
Wood Products Manufacturing	Basket & hamper (wood, reed, rattan, etc.) manufacturing	-	
	Millwork manufacturing	-	
	Electronics manufacturing	-	
	Machinery manufacturing	-	
	Musical instruments manufacturing	-	
	Pharmaceutics manufacturing	-	
	Printing and publishing plants	-	
	Tool, die, gauge and machine shops	-	
	Wind turbine manufacturing	-	
General Manufacturing (High Hazard)	Automobile Wrecking Yard	-	
	Bio-Fuels Manufacturing, including Ethanol production	-	
	Grain Elevator and Storage Facilities	C	
	Oils, Shortenings, and Fats (edible) Processing and Storage	-	
	Oils, Vegetables, and Animal (non-edible) Processing and Storage	-	
	Petroleum, Gasoline, or Lubricating Oil Refining, & Wholesale Storage	-	
	Salvage Operations	-	
	Scrap of Salvage Yards	-	
	Waste Recovery Facilities-Commercial, Industrial & Residential	-	
	Wood Preserving Treatment	-	

	E = Exempt from a Permit P = Permitted Uses/Permit Required C = Conditional Use Permit "-" = Not Permitted	VAD	Additional Requirements
Accessory Uses	Barns	P	
	Bins, grain storage	-	
	Carports	P	
	Decks, gazebos, patios (elevated or on-grade)	E	
	Fences	E	
	Freestanding canopy	E	
	Fuel storage, does not apply to convenient stores and gas stations	E	
	Fuel tanks and dispensing, does not apply to convenient stores and gas stations equipment	E	
	Garages, Private	P	
	Garages, Storage	P	
	Grain Storage Systems	-	
	Greenhouses, Non-commercial	P	
	Shortwave and Ham towers and transmitters	C	
	Heliports	C	
	Home Occupations	P	See Article 8
	Home Based Businesses	P	See Article 8
	Outdoor Wood Furnaces	E	
	Portable on-demand storage containers	T	
	Porch, enclosed	P	
	Private Airstrip	-	
	Secondary Dwellings	P	
	Silos	-	
	Solar Panels less 25 kW	P	
	Solar Panels more than 25 kW	C	See Section 6.6
	Storage Sheds	P	
	Storage building using multiple storage containers	-	
	Swimming Pools	P	
	Tennis Courts	P	
	Wind Energy Conversion System	C	See Section 6.5

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL

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

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

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. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon 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 (10) days prior to such hearing. (Ref. 23164 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 the County Board, or 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 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 a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent 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 Governing 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” 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. A remediation fund or bond shall be posted for clean up of facility in the event of abandonment.
3. 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 ensure 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.

4. 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.
5. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
6. Special use permits granted under this section may be subject to annual review by the County Board with written notice of hearing of such review given to permit holder at last known address.

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations as defined by Section 3.45 shall only be allowed by special permit in the AG Agricultural and RC Rural Conservation Districts under the following conditions:

1. Distance requirements:

Any new or expanding livestock facilities/operations, as defined in Section 3.45, shall either be: (1) a minimum distance from any residence, commercial or industrial facility, or church, 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.

Expansion of an existing livestock facility/operation is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger class. See minimum distance requirements in the following table.

1. MINIMUM DISTANCE REQUIREMENTS

	<u>FACILITY A</u>	<u>FACILITY B</u>	<u>FACILITY C</u>	<u>FACILITY D</u>	<u>FACILITY E</u>
Total Animal	1 to 300	301 to 2,500	2,501 to 5,000	5,001 to 10,000	10,000+ Units Allowed
(Section 3.45)					
Minimum Distance Required	0	2 miles	3 miles	4 miles	5 miles

The above setbacks may be reduced or waived by a signed waiver.

2. A management plan for the facility, acceptable to the Nebraska Department of Environmental Quality and the County, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor.
3. Disposal and storage of livestock confinement facility/operation animal waste shall be in conformance with the following:
 - A. Disposal and storage of livestock confinement facility/operation animal waste on land within Thomas County other than on the property upon which the livestock confinement facility/operation is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska, and subject to the approval of the Thomas County Board of Commissioners.
 - B. No livestock waste disposal shall be closer than thirteen hundred and twenty (1,320) feet to a neighbor's residence without a written letter of agreement by from the property owner of the residence.
 - C. There shall be no storage, or disposal, of livestock waste from a livestock confinement facility/operation upon land that is not tillable as "farmable wetlands" designated as wetlands by the United States Department of Agriculture, Farm Services Commission.
 - D. Paunch waste disposal shall only be allowed in the AG Agriculture District in conformance with a Special Use Permit process.
5. Special use permits granted under this section shall be subject to review by the County Board if not in compliance with the Nebraska Department of Environmental Quality regulations.
6. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health, safety and welfare of the residents of Thomas County.

6.5 WIND ENERGY CONVERSION SYSTEMS.

6.51 DEFINITIONS.

- (1.) “Abandon” means failure to have a power purchase agreement in place for 90 days and decommissioning has not commenced, or a turbine has not been actively generating and selling power for 365 days.
- (2.) “Collateral bond” means an indemnity agreement for a fixed amount, payable to the Thomas County, executed by the owner and supported by the deposit with Thomas County of cash, negotiable bonds of the United States (not treasury certificates), state or municipalities, negotiable certificates of deposit or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States or other surety acceptable to the Commission.
- (3.) “Commenced commercial operation” means the signed date on the turbine completion certification for the turbine whose capacity first brings the wind generation facility’s cumulative generating capacity to 25 megawatts or more.
- (4.) “Decommission” or ‘decommissioning” means:
 - (a) the removal of aboveground wind turbine tower(s) after the end of a wind generation facility’s useful life or abandonment;
 - (b) except as provided in rule, the removal of all buildings, cabling, electrical components, roads, or any other associated facilities; and
 - (c) except as provided in rule, reclamation of all surface lands to the previous grade and to comparable productivity in order to prevent adverse hydrological effects.
- (5.) “Commission” means the “Thomas County Planning Commission”
- (6.) “Expansion” means the act of a wind generation facility adding one or more additional wind turbines to its operation after commencing commercial operation.
- (7.) “Facility” means any place, amenity or piece of equipment provided for a particular purpose in support of the wind energy development.
- (8.) “Infrastructure” means the physical structures and facilities (e.g. buildings, roads, towers, power supplies, transformers, etc.) needed for the operation of the enterprise.
- (9.) “Owner” means a person(s) who owns a wind generation facility used for the generation of electricity.
- (10.) “Person” means any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.

- (11.) “Repurposed” means having made a significant investment in an existing wind generation facility to extend the useful life of the facility by more than 5 years.
- (12.) “Surety bond” means an indemnity agreement in a certain sum, payable to Thomas County, executed by the owner which is supported by the performance guarantee of a corporation licensed to do business as a surety in Nebraska.
- (13.) “Wind generation facility” means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind that have a nameplate capacity greater than or equal to 25 megawatts.

6.52 SPECIAL USE PERMIT APPLICATION.

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within the AG district and allowed. Original signatures are required for the applicant and all co-applicants applying for the Special Use Permit for a Wind Energy Unit. If the applicant or co-applicant will be represented by an agent, the original signature authorizing the agent to represent the applicant and/or co-applicant is required. Applicant(s) shall remit an application fee of \$1,000.00 per tower in the proposed WECS.

6.53 PERMIT APPLICATION.

An application must include plans and specifications sufficient to show that the proposed wind energy unit complies with the standards of the Thomas County’s Zoning Ordinance, and cannot be deemed complete unless it includes the following items:

- (1.) Name, address and telephone number of the property owner of record, applicant and the person preparing the map (if different than owner).
- (2.) The approximate generating capacity of the wind energy unit.
- (3.) An estimate of the total on-site electrical demands.
- (4.) The name of the manufacturer and model being used.
- (5.) The name, address, and phone number of the Engineer registered in the State of Nebraska preparing and providing the certified and sealed engineered drawings for the unit.
- (6.) The name, address, and phone number of the individual installing the unit on-site.
- (7.) The total system height of the wind energy unit to be constructed, from the natural grade to the highest point of the blade in the upright position for horizontal axis units, or to the highest point of the structure for vertical axis units.
- (8.) The phone number and name of a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

6.54 SYSTEM DESIGN REQUIREMENTS AND DRAWINGS.

Certified and sealed engineered drawings prepared by a professional Engineer registered in the State of Nebraska are required, and must include the following information;

- (1.) 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, along with signed easements. The description must be accurate and no changes may be made after Conditional Use Permit Application has been approved.
- (2.) 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.
- (3.) Certification by an Engineer competent in disciplines of WECS and approved by Thomas County Planning Commission and Thomas County Board of Commissioners including the following:
 - a. Design specifications of the wind energy unit, including the tower, base, and footings, and unit components.
 - b. For buildings or structurally-mounted units, the certified and sealed engineering plans prepared by a professional Engineer registered in the State of Nebraska must show how the wind energy unit will be installed for the portions of the structure proposed for use in the mounting of the unit, and must state and show that the proposed wind energy unit is compatible with the portions of the mounting structure proposed for use, and does not impose a safety hazard to the main structure or adjacent property or their occupants.
 - c. Drawings that indicate the total finished wind energy unit height from the grade level prior to any modifications, and including any engineered break points on the tower.
 - d. The wind survival speed of the entire unit, including the supporting structure, turbine, rotor blades, covers, and other components.
 - e. Data pertaining to the tower or supporting structure's safety and stability, including any safety results from test facilities.
- (4.) Documentation of land ownership or legal control of property.
- (5.) The latitude and longitude of individual wind turbines.
- (6.) A USGS topographical map, or map with similar data, of property and surrounding area, including any other Wind Energy Conservation System not owned by the applicant, within 10 rotor diameters of the proposed Wind Energy Conversion System.
- (7.) Location of known wetlands, designated scenic areas, and natural areas within 3 miles of USFW areas of the proposed Wind Energy Conversion System.

The designated scenic areas would be as follows:

- a. Sandhills Journey Scenic Byway, Nebraska Highway 2;
 - b. Dismal River Scenic Overlook;
 - c. Charles E Bessey Nursery; and
 - d. Nebraska National Forest Bessey Ranger District.
- (8.) An Acoustical and Infrasound Analysis that certifies that the noise requirements within this regulation can be met.
 - (9.) Applicant shall submit FAA notices of determination of no hazard to air navigation, & FCC permit evidence that the permit has been filed with the appropriate agency.
 - (10.) Evidence that there will be no interference with any commercial and/or public safety communication towers, including but not limited to radio, telephone or television signals.
 - (11.) Decommissioning Plan as required by Special Safety & Design Standards.
 - (12.) Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
 - (13.) Documentation of all easement agreements for all transmission lines, feeder lines and substations required for the operation of the WECS, shall accompany the Conditional Use Permit Application and be filed with the Thomas County Register of Deeds. Voluntary easements for the crossing of any form of neighboring properties shall be required and filed with the Conditional Use Permit Application.
 - (14.) The Commercial/Utility WECS owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line- of-sight to the WECS. The analysis shall identify the locations of shadow flicker that may be caused by the project and expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow Flicker on a building shall not exceed thirty (30) hours per year.
 - (15.) Incident Plan: Any WECS operator and owner shall prepare an incident response plan that ensures that their employees have the necessary equipment and training to effectively handle emergencies such as oil spills, turbine fires, turbine structural damage (or collapse) or equipment, including access to heavy equipment needed for rescue of trapped personnel.

(16.) Roads Applicants shall:

- a. Identify and prepare an itemized report of 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 jurisdiction prior to transportation and construction. Such itemized report will be presented with the Conditional Use Permit Application to the Thomas County Zoning Administrator for approval by the Thomas County Planning Commission and Thomas County Board of Commissioners.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdiction to determine existing road conditions. The survey shall include photographs to document the condition of the public roads. This survey must be presented with the Conditional Use Permit Application to the Thomas County Zoning Administrator for approval by the Thomas County Planning Commission and Thomas County Board of Commissioners.
- c. All MSDS (material safety data sheets) data sheets pertaining to all materials utilized on the WECS project will be presented to the Thomas County Zoning Administrator with the Conditional Use Permit application.

(17.) Aggregate Projects:

- a. Aggregate projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- b. Permits may be issued and recorded separately.
- c. Aggregate projects will be assessed fees as \$1,000 per tower, which is non-refundable.
- d. Setbacks to property lines, not right-of-way, may be less when adjoining property owners are within the same aggregate project.

6.55 SITE PLAN.

Two copies of a site plan submitted for a wind energy unit are required, submitted on a minimum size of 8½" X 14" sheets for units proposed on an industrial / commercial use. The site plan must include the delineation, location, and dimension of the lengths and widths of the following:

- (1.) The Site Plan should be drawn so that "north" is to the top of the Site Plan, with the scale used under the north arrow provided.
- (2.) Provide the legal description, including tax identification/parcel number, and address of the project site.
- (3.) Adjacent existing land uses and zoning designations.

- (4.) The locations of all easements, rights-of-way (names included), building, front, side, and rear zoning lot setback lines, and overhead utility lines on the property.
- (5.) The location of all underground structures including septic tanks and wells.
- (6.) Indicate the dimensions of, and distances between, all existing structures and the nearest existing or proposed property line.
- (7.) Indicate the location, height, and the distance of the Wind Energy Unit to all existing structures as well as the distance to the property lines.
- (8.) Show the direction of the prevailing winds.
- (9.) The type of development on all adjacent properties, including across any streets. Show distance of structure(s) on adjacent properties from the project property lines.
- (10.) The location of water bodies, waterways, wetlands, drainage channels, creeks, and rivers within 10,560 feet (2 miles) of the proposed wind energy unit location onsite.
- (11.) One-line diagram for the electrical interconnection.

6.56 SETBACKS AND DESIGN REQUIREMENTS

(1.) All towers shall adhere to the setbacks as measured from centerline of turbine established in the following table:

	Wind turbine-Non Commercial	WECS Wind Turbine Commercial/Utility WECS and Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	3 miles
Right angle corner property lines	Diameter plus applicable building set back from both property lines	3 miles plus behind a line on the property lines drawn between two points 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. Can be closer if waiver from neighbor.
Road Right-of-Way*	Diameter plus applicable building setback	3 miles plus applicable building setback
Other Right-of-Way	Diameter plus applicable	3 miles plus applicable building setback
Wetlands, USFW Types III, IV, and V	N/A	3 miles

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

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

- (1.) Clearance of rotor blades or airfoils must maintain a minimum of 100 feet of clearance between their lowest point on the ground
- (2.) All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information and on all gates into WECS structures.
- (3.) All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
- (4.) Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
- (5.) Color and finish: All wind turbines and towers that are a part of the commercial/utility WECS shall be white, grey or another non-obtrusive color. Blade 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 impact on neighboring uses and 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 communication and feeder lines installed as part of a WECS shall be buried, where practicable. Feeder lines installed as part of WECS shall not be considered an essential service.
- (9.) Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packing 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. WECS owner shall be responsible to get all waste disposal off participating and nonparticipating at their cost.
- (10.) Discontinuation and Decommissioning: A WECS shall be considered in discontinued use after 6 months without energy production, unless a plan is developed and submitted to the Thomas County Zoning Administrator/Thomas County Planning Commission outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities must be removed to four (4) feet below ground level within 8 months of discontinuation of use. This period may be extended by the Thomas County Zoning Administrator/Thomas County Planning Commission following a written request by an agent of the owner of the WECS.
- (12.) Noise: No Commercial/Utility WECS shall exceed 35 Dba at the nearest structure occupied by humans.
- (13.) Interference: The applicant shall minimize or mitigate interference with electromagnetic communications such as radio, telephone, medical equipment, microwaves or television signals caused by any WECS. The applicant shall notify all communication tower operators within 5 (five) miles of the proposed WECS location upon communication tower operators within five miles of the proposed WECS location upon application to the county for permits.
- (14.) A 10-foot circumference with a 10-inch depth of bentonite rock shall surround each turbine tower base to prevent contamination to the soil and aquifer. The bottom of the tower cement base cannot be within twenty (20) feet of the static water and/or water table.
- (15.) Roads Applicants shall:

- a. Not less than fifteen (15) days after application is approved, Developer shall provide Thomas County with the names of the Highways and county roads they will be using along with a bond issued by a sound financial institution in a form reasonably acceptable to Thomas County in the amount of \$1,000,000.00. The bond shall provide security to Thomas County for Developer's obligations to Thomas County. In order for Thomas County to draw upon the bond, Thomas County shall be obligated to first submit an invoice to the Developer prior to submitting to the financial institute that holds the bond.
 - b. Developer (and Developer's mortgagee, if any) setting forth in detail the time, materials and charges incurred in the repairs necessitating such draw request
 - c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
 - d. Conduct a post-construction survey, in coordination with the appropriate jurisdiction to determine whether road conditions have been restored to preconstruction conditions and approved by the Thomas County Board of Commissioners.
- (16.) Drainage System: The applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation or maintenance of the WECS.
- (17.) Public Inquiries & Complaints:
- a. Should an aggrieved property owner allege that the WECS is not in compliance with the noise requirements of this Regulation, the procedure shall be as follows:
 - (i) Noise Complaint:
 - 1. Notify the Thomas County Zoning Administrator and Thomas County Board of Commissioners in writing regarding concerns on all complaints.
 - 2. If the Complaint is deemed sufficient by the Thomas County Zoning Administrator and Thomas County Board of Commissioners to warrant an investigation, the Thomas County Zoning Administrator will request the owner of the WECS property to deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of these regulations.
 - 3. If the test indicates that the noise level is within Regulation noise requirements, the Thomas County Zoning Administrator will use the deposit to pay for the test.
 - 4. If the WECS Owners(s) is in violation of the Regulation noise requirements, the Owner(s) shall reimburse the Thomas County Zoning Administrator/Thomas County for the noise level test and take immediate action to bring the WECS into compliance which may include ceasing operation of the WECS until Regulation violations are corrected.

- (18.) Soil Testing: Initial report to be assessed by an independent soil lab that is familiar with the Sandhills chosen by Thomas County and paid for by WECS. This report and all subsequent reports must be provided to the Thomas County Zoning Administrator/Thomas County Planning Commission and Thomas County Board of Commissioners. Assessment to occur prior to construction. The independent soil lab will identify soil types and their classifications located at each individual tower site. This information will then be forwarded to a third party Structural and Civil Engineer for review. This Engineer will then provide a report as to whether the soil will withstand the weight and height of a wind turbine-tower plus blades. This engineer will also provide guidelines in which the developer must meet in order to avoid any structural failure.
- (19.) Secondary soil testing will occur after construction biannually. This will consist of bored soil samples acquired by a third party. This testing will identify whether any contaminants can be found that have leaked from the foreign structure into the ground. If contaminants are found, then the wind farm must be completely shut down immediately until the damage is resolved.
- (20.) Water Testing: Initial testing at each sited tower by an independent certified lab familiar with the Sandhills chosen by Thomas County and paid for by WECS. This report and all subsequent reports must be provided to the Thomas County Zoning Administrator/Thomas County Planning Commission and Thomas County Board of Commissioners, and will identify the location of the water table prior to construction. This report will then deem whether a site is suitable for a tower to be constructed. With this report, the consideration of the bottom of the concrete pad depth and width cannot come within twenty (20) feet of the water table. Secondary testing will occur annually by a third party professional Testing service to identify possible contamination. One station per 10 towers in a specified wind farm.
- (21.) Easements: All necessary easements for construction of wind turbine towers, transmission lines, and setbacks of property lines within three (3) miles, must be recorded with the Thomas County Register of Deeds.
- (22.) Tower height: Tower height shall not exceed 300' from grade to hub.

6.57 DECOMMISSIONING PLAN

A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application. (1.)

A decommissioning plan must include:

- a. the manner in which the facility will be decommissioned; and
- b. a decommissioning schedule;
- c. a detailed estimate of the cost of decommissioning a wind generation facility by a professional engineer licensed in the State of Nebraska that shall at a minimum include:
 - (i) dismantling and removal of all towers, turbine generators, transformers, overhead cables and debris of the wind generation facility;
 - (ii) removal of underground cables to a depth forty-eight (48) inches;

- (iii) removal of foundations, buildings, and ancillary equipment to a minimum depth of one hundred twenty (120) inches below grade;
 - (iv) site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil respread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseeding to achieve the same utility of native vegetation of the surrounding area to prevent adverse hydrological effects, unless the Thomas County Board of Commissioners approves a signed request by the applicable landowner, identifying the surface features the landowner prefers to remain in place and a valid reason the landowner prefers those features to remain;
 - (v) repairs and reconstruction from damage to public roads, culverts and natural drainage ways resulting directly from the decommissioning of a wind generation facility;
 - (vi) all access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the county through official action of the county commissioners agrees to keep the road;
 - (vii) the current salvageable value of the facility, as determined by an independent evaluator;
 - (viii) all expenses related to the decommissioning shall be the responsibility of the wind generation facility owner, including any expenses related to releasing any easements.
- d. copy of as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the wind generation facility. The as-built plans must be certified by a professional engineer licensed in the State of Nebraska that the information included on depicted as-built plans is complete and accurate; and

- (2) The Commission may reject a decommissioning plan if:
- a. it finds that the plan does not provide for decommissioning as defined in Rule; and,
 - b. the plan does not adequately describe the cost of decommissioning.

6.58 DECOMMISSIONING BOND.

A decommissioning performance surety bonds is required for all approved special use permits granted for the installation of Commercial Wind Power Farms / Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner / operator of said bond until decommissioning has been satisfactorily completed or transfer to the Thomas County.

6.59 DETERMINATION OF BOND AMOUNT.

- (1) The Thomas County Planning Commission shall require submission of a bond by the owner in the amount of the estimated cost to Thomas County if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Thomas County Planning Commission to ensure compliance with this section.

- (2) The bond amount must be based on:
 - a. the estimated costs submitted by the owner in accordance with this rule and costs estimated by using current machinery production handbooks and publications or other documented costs acceptable to the Thomas County Planning Commission;
 - b. estimated costs to the Thomas County Planning Commission that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform decommissioning and reclamation work;
 - c. estimated costs to the Thomas County Planning Commission that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be affected;
 - d. unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
 - e. such other cost information as may be required by or available to the Thomas County Planning Commission.
- (3) In determining the amount of a bond required in accordance with the rule, the Thomas County Planning Commission shall consider:
 - a. the character and nature of the site where the wind generation facility is located; and
 - b. the current market salvage value of the wind generation facility.

6.510 BOND DEADLINE.

- (1) Except as provided in (3) below, and in accordance with rule, the owner shall submit to the Thomas County Planning Commission a bond payable to the Thomas County Nebraska in a form acceptable by the Thomas County Planning Commission and in a sum determined by the Thomas County Planning Commission, conditioned on the faithful decommissioning of the wind generation facility.
- (2) Except as provided in (3) below:
 - a. if a wind generation facility commenced commercial operation on or before January 1, 2019.
- (3) If a wind generation facility is repurposed, as determined by the Thomas County Planning Commission in consultation with the owner, any existing bond must be maintained or a new bond acquired and submitted.

6.511 PENALTIES FOR FAILURE TO SUBMIT BOND.

- (1) If an owner does not submit an acceptable bond to the Thomas County Planning Commission within the timeframe required by this rule, the Thomas County

Planning Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.

- (2) An owner may appeal the Thomas County Planning Commission's penalty assessment to the board within 20 days after receipt of written notice of the penalty.

6.512 ADJUSTMENT OF BOND AMOUNT.

- (1) Once every 5 years, an owner may request a reduction of the required bond amount upon submission of evidence to the Thomas County Planning Commission proving that decommissioning work, reclamation or other circumstances will reduce the maximum estimated cost to the Thomas County Planning Commission to complete decommissioning and therefore warrant a reduction of the bond amount.
- (2) The Thomas County Planning Commission shall review each decommissioning plan and bond amount every 5 years. The performance bond must be increased, as required by the Thomas County Planning Commission, if the cost to decommission a wind generation facility increases. The Thomas County Planning Commission shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within 90 days of receiving the Thomas County Planning Commission's revised bond amount. If an owner does not submit an acceptable bond to the Thomas County Planning Commission within the timeframe required by this rule, the Thomas County Planning Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.

6.513 SURETY BONDS.

- (1.) Surety bonds are subject to the following requirements:
 - a. Thomas County may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.
 - b. Thomas County may not accept surety bonds from a surety company for any owner in excess of three times the surety's maximum single obligation as provided in (a) above.
 - c. Thomas County may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
 - d. A power of attorney must be attached to the surety bond.
 - e. The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to Thomas County and the owner of:
 - (i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - (ii) cancellation by the owner; and

- (iii) cancellation or pending cancellation by the surety.
- f. Upon a determination by Thomas County that a surety is unable to comply with the terms of the bond, the owner of a wind generation facility must be deemed to be without bond coverage. The owner shall replace the bond coverage within 90 days of notice from Thomas County.
- g. Whenever operations are abandoned concurrent with cancellation of the bond, Thomas County shall forfeit the bond and decommission the site.

6.514 CERTIFICATE OF DEPOSIT.

- (1.) Thomas County may accept as bond an assignment of a certificate of deposit in a denomination not in excess of \$250,000, or the maximum insurable amount as determined by Federal Deposit Insurance Corporation(FDIC), whichever is less. Thomas County may not accept a combination of certificates of deposit for a wind generation facility in excess of that limit.
- (2.) Thomas County may only accept automatically renewable certificates of deposit issued by a bank insured by the FDIC or a credit union insured by the National Credit Union Administration (NCAU).
- (3.) Thomas County shall require the owner to deposit sufficient amounts of certificates of deposit, to assure that Thomas County will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required.
- (4.) Thomas County shall require that each certificate of deposit be made payable to or assigned to Thomas County, both in writing and in the records of the bank or credit union issuing the certificate. Thomas County shall require banks or credit unions issuing these certificates to waive all rights of setoff or liens against these certificates.

6.515 EFFECT OF FORFEITURE.

- (1.) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by Thomas County.
- (2.) Thomas County may forfeit any or all bonds deposited for an entire wind generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire wind generation facility.
- (3.) In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. Thomas County may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

6.6 SOLAR ENERGY CONVERSION SYSTEMS

6.61 PURPOSE.

This ordinance promotes the accommodation of on-site solar energy conversion systems in Thomas County and associated one-mile planning jurisdiction, with the intent to reduce energy consumption, regulate necessary equipment and promote adequate access to sunlight. This ordinance also addresses utility-scale solar energy conversion systems, or “solar farms”, intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems, excluding solar farms, shall be permitted in all zoning districts as a Permitted use. Solar Farms shall be permitted in the “AG” Agriculture District as a Special Permitted use.

6.62 DEFINITIONS.

- (1.) **Battery Back-Up:** A battery system that stores electrical energy from a solar energy conversion system for use in the future.
- (2.) **Combiner or Junction Box:** Combines the electrical flows from multiple strings of solar panels into a single-source output circuit.
- (3.) **Electricity Generation** - The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).
- (4.) **Ground-Mount System** - A solar energy system that is attached to an anchor in the ground and wired to connect to the meter of a home or building.
- (5.) **Kilowatt (kW)** - Equal to 1,000 Watts; a measure of the use of electrical power.
- (6.) **Kilowatt-hour (kWh)** - A unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.
- (7.) **Megawatt (MW)** - Equal to 1,000 Kilowatts; a measure of the use of electrical power.
- (8.) **Megawatt-hour (MWh)** - A unit of energy equivalent to one Megawatt (1 MW) of power expended for one hour of time.
- (9.) **Net Metering:** A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.
- (10.) **Photovoltaic (PV) System:** An energy producing system that utilizes semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight.
- (11.) **Pole-Mount Systems:** A solar energy system that is directly installed on specialized pole-attached systems, anchored to a concrete foundation in the ground, and wired underground to the meter.

- (12.) **PV-Direct Systems:** A Solar Energy Conversion System designed to only provide electricity during sunlight.
- (13.) **Roof-Mount System** - A solar energy system consisting of solar panels installed directly on the roof of a primary or accessory structure.
- (14.) **Solar Access:** The ability to receive sunlight across property lines without obstruction from another's property.
- (15.) **Solar Array:** Multiple solar panels combined together to create one system.
- (16.) **Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation and transfer of electricity.
- (17.) **Solar Energy Conversion System:** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy which is then transferred to a point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation.
- (18.) **Solar Farm:** An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.
- (19.) **Solar Panel/Module:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).
- (20.) **Tilt:** The angle of the solar panels and/or solar collector.
- (21.) **Watts (W)** - A measure of the use of electrical power (power (Watts) = voltage (volts) X current (Amps)).

6.63 PERSONAL SCALE SOLAR ENERGY CONVERSION SYSTEM REQUIREMENTS

- (1.) A solar energy system shall provide power, solely, for the principal use and/or accessory use of the property on which the solar energy system is located.
- (2.) The installation and construction of a *roof-mount solar energy system* shall be subject to the following development and design standards:
 - (a) A roof or building mounted solar energy system may be mounted on a principal or accessory building.
 - (b) Any height limitations of the zoning district within shall not be applicable to solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties.
 - (c) Placement of solar collectors on flat roofs shall be allowed, provided that panels do not extend horizontally past the roofline.

- (3.) The installation and construction of solar energy conversion systems shall be subject to the following development and design standards:
- (a) The height of the solar collector and any mounts shall not exceed 10 feet when oriented at maximum tilt.
 - (b) The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - (c) The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district
 - (d) All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located in proper accordance with local building/electrical code.
 - (e) The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
 - (f) For all roof-mounted systems other than a flat roof, the elevation must show the tilt of the solar collector and the slope of the finished roof surface on which it is mounted.
 - (g) For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.
- (4.) All electrical equipment associated with the operation of solar energy conversion systems shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- (5.) Solar panel placement should be prioritized to minimize or negate any glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system.
- (6.) A solar energy system shall not be constructed until a building/zoning permit has been approved and issued.
- (7.) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

6.64 SOLAR FARMS.

- (1.) The height of the solar collector and any mounts within an established solar farm shall not exceed 20 feet when oriented at maximum tilt.
- (2.) Solar farms with panels located at least one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, shall not require screening.
- (3.) Solar farms with panels located less than one hundred fifty (150) feet from an adjacent public road right-of-way, or adjacent property line, must provide landscaping and/or trees to visually obscure the facility from the public road.
- (4.) Solar Farm Application Requirements.

- (a) A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.
- (b) Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.
- (c) If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal Highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.

(5.) Installation and Design.

- (a) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
- (b) All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.
- (c) Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.

6.65 SAFETY AND INSPECTIONS.

- (1.) The design of the solar energy system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing. A building permit reviewed by the Thomas County staff/Planning Commission shall be obtained for a solar energy system.
- (2.) The solar energy system shall comply with all applicable regulations of the Thomas County, so as to ensure the structural integrity of such solar energy system.
- (3.) Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by Thomas County staff.
- (4.) Any connection to the public utility grid must be approved by the local public utility.
- (5.) If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of Thomas County and any other applicable laws and regulations relating to hazardous waste disposal.

- (6.) Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

6.66 DECOMMISSIONING PLAN.

A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.

(1.) A decommissioning plan must include:

- (a) the manner in which the facility will be decommissioned; and
- (b) a decommissioning schedule;
- (c) a detailed estimate of the cost of decommissioning a solar generation facility by a professional engineer licensed in the state of Nebraska that shall at a minimum include:
 - (i) dismantling and removal of all towers, turbine generators, transformers, overhead cables and debris of the solar generation facility;
 - (ii) removal of underground cables to a depth forty eight (48) inches;
 - (iii) removal of foundations, buildings, and ancillary equipment to a minimum depth of one hundred twenty (120) inches below grade;
 - (iv) site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil re-spread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseeding at achieve the same utility of native vegetation of the surrounding area to prevent adverse hydrological effects, unless the Commission approves a signed request by the applicable landowner, identifying the surface features the landowner prefers to remain in place and a valid reason the landowner prefers those features to remain;
 - (v) repairs and reconstruction from damage to public roads, culverts and natural drainage ways resulting directly from the decommissioning of a solar generation facility;
 - (vi) all access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the county through official action of the county commissioners agrees to keep the road;
 - (vii) the current salvageable value of the facility, as determined by an independent evaluator;
 - (viii) all expenses related to the decommissioning shall be the responsibility of the solar generation facility owner, including any expenses related to releasing any easements.
- (d) copy of as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the solar generation facility. The as-built plans must be certified by a professional engineer licensed in the state of Nebraska that the information included on depicted as-built plans is complete and accurate; and

(2.) The Commission may reject a decommissioning plan if:

- (a) it finds that the plan does not provide for decommissioning as defined in Rule; and,
- (b) the plan does not adequately describe the cost of decommissioning.

6.67 DECOMMISSIONING BOND.

A decommissioning performance surety bonds is required for all approved special use permits granted for the installation of Commercial Solar Farms / Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner / operator of said bond until decommissioning has been satisfactorily completed or transfer to the Thomas County Nebraska Planning Commission.

6.68 DETERMINATION OF BOND AMOUNT

- (1.) The Commission shall require submission of a bond by the owner in the amount of the estimated cost to the Commission if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Commission to ensure compliance with this section.
- (2.) The bond amount must be based on:
 - (a) the estimated costs submitted by the owner in accordance with this rule and costs estimated by using current machinery production handbooks and publications or other documented costs acceptable to the Commission;
 - (b) estimated costs to the Commission that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform decommissioning and reclamation work;
 - (c) estimated costs to the Commission that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be affected;
 - (d) unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
 - (e) such other cost information as may be required by or available to the Commission.
- (3.) In determining the amount of a bond required in accordance with the rule, the Commission shall consider:
 - (a) the character and nature of the site where the solar generation facility is located; and
 - (b) the current market salvage value of the solar generation facility.

6.69 BOND DEADLINE.

- (1.) Except as provided in (3) below, and in accordance with rule, the owner shall submit to the Commission a bond payable to the Thomas County Nebraska in a form acceptable by the Commission and in a sum determined by the Commission, conditioned on the faithful decommissioning of the solar generation facility.
- (2.) Except as provided in (3) below:
 - (a) if a solar generation facility commenced commercial operation on or before January 1, 2019
- (3.) If a solar generation facility is repurposed, as determined by the Commission in consultation with the owner, any existing bond must be maintained or a new bond acquired and submitted.

6.610 PENALTIES FOR FAILURE TO SUBMIT BOND.

- (1.) If an owner does not submit an acceptable bond to the Commission within the timeframe required by this rule, the Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.
- (2.) An owner may appeal the Commission's penalty assessment to the board within 20 days after receipt of written notice of the penalty.

6.611 ADJUSTMENT OF BOND AMOUNT.

- (1.) Once every 5 years, an owner may request a reduction of the required bond amount upon submission of evidence to the Commission proving that decommissioning work, reclamation or other circumstances will reduce the maximum estimated cost to the Commission to complete decommissioning and therefore warrant a reduction of the bond amount.
- (2.) The Commission shall review each decommissioning plan and bond amount every 5 years. The performance bond must be increased, as required by the Commission, if the cost to decommission a solar generation facility increases. The Commission shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within 90 days of receiving the Commission's revised bond amount.

6.612 SURETY BONDS.

- (1.) Surety bonds are subject to the following requirements:
 - (a) The Commission may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.
 - (b) The Commission may not accept surety bonds from a surety company for any owner in excess of three times the surety's maximum single obligation as provided in (a) above.
 - (c) The Commission may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is

listed in the United States Department of the Treasury Circular 570 as revised.

- (d) A power of attorney must be attached to the surety bond.
- (e) The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to the Commission and the owner of:
 - (i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - (ii) cancellation by the owner; and
 - (iii) cancellation or pending cancellation by the surety.
- (f) Upon a determination by the Commission that a surety is unable to comply with the terms of the bond, the owner of a solar generation facility must be deemed to be without bond coverage. The owner shall replace the bond coverage within 90 days of notice from the Commission.
- (g) Whenever operations are abandoned concurrent with cancellation of the bond, the Commission shall forfeit the bond and decommission the site.

6.613 CERTIFICATE OF DEPOSIT.

- (1.) The Commission may accept as bond an assignment of a certificate of deposit in a denomination not in excess of \$250,000, or the maximum insurable amount as determined by Federal Deposit Insurance Corporation(FDIC), whichever is less. The Commission may not accept a combination of certificates of deposit for a solar generation facility in excess of that limit.
- (2.) The Commission may only accept automatically renewable certificates of deposit issued by a bank insured by the FDIC or a credit union insured by the National Credit Union Administration (NCAU).
- (3.) The Commission shall require the owner to deposit sufficient amounts of certificates of deposit, to assure that the Commission will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required by rule IV and rule VIII.
- (4.) The Commission shall require that each certificate of deposit be made payable to or assigned to the Commission, both in writing and in the records of the bank or credit union issuing the certificate. The Commission shall require banks or credit unions issuing these certificates to waive all rights of setoff or liens against these certificates.

6.614 EFFECT OF FORFEITURE.

- (1.) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by the Commission.

- (2.) The Commission may forfeit any or all bonds deposited for an entire solar generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire solar generation facility.
- (3.) In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. The Commission may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

6.615 APPEALS.

- (1.) If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Thomas County Zoning Regulations.

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 Resolution shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by these Regulations 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-street parking. Garages and driveways may be considered as off-street parking spaces.
5. A plan, drawn to scale, indicating how the off-street 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-STREET PARKING REQUIREMENTS

At the time of construction, alteration or enlargement of a structure or building or change in the use of land, off-street 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
2. Mobile Home 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

	<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
5.	Places of public assembly such as auditoriums, theaters, stadiums, community Halls, churches, etc.	1 per every four persons
6.	Bowling Alley	2 for each alley
7.	Retails 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 similar uses	1 for every 2 employees on and the largest working shift

7.3 OFF-STREET 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. 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 way.

8.3 MANUFACTURED HOMES:

All manufactured homes located outside mobile home parks shall have upon it any required seal as set forth in Section 71-1555, et. Seq., Revised Statutes of Nebraska.

8.4 YARD REGULATIONS:

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

Where forty (40) percent or more of the frontage on one side of a street or between two intersecting streets is developed and the buildings on this side of

a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street 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 (40) percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street 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 five (5) feet 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 permissible heights for the various District Regulations shall 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.

8.7 RURAL RIGHT-OF-WAYS: All buildings and sight impairing or “solid” fences, walls and hedges shall have a minimum set back of twenty-five (25) feet measured from rural right-of-ways. Furthermore, all buildings, fences, walls, retaining walls, diversions, walkway structures or planting of trees, shrubbery, or similar uses are prohibited within the right-of-ways of rural roads or state and federal highways.

Planting of shelter belts shall have a minimum set back of thirty (30) feet measured from the rural or highway right-of-way.

ARTICLE 9

COUNTY BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

The County Board of Zoning Administration 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 (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one (1) 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. 23168.03 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 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 building and/or 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 Resolutions 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 Resolutions and amendments thereto, including all amendments adopted through the preceding twelve (12) months; and
 - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding twelve (12) months.
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 BUILDING AND/OR ZONING PERMITS

10.21 GENERAL. No zoning or other structure shall be erected, moved, added to, or structurally altered without a building and/or zoning permit first having been issued by the Zoning Administrator. No building and/or 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 Thomas County and with all orders, and variances lawfully issued by the Board of Adjustment.

10.22 APPLICATION FOR ZONING PERMIT. All applications for a building and/or 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 building and/or 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 building and/or 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 NOT REQUIRED. Building permits are not required for buildings utilized for agricultural purposes on a farmstead of twenty (20) acres or more which produces one thousand (\$1,000) dollars or more of farm products each year.

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

10.31 A verbal decision by the Zoning Administrator except in the cases of building, occupancy 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 Resolutions 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 fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 11

AMMENDMENT

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 street 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 one (1) mile 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 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 (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board.

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.