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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.

1.3 AUTHORITY

Preparation, adoption and administration of this Resolution is authorized by Neb. Rev. Stat. 23-114, which gives Nebraska counties the power to adopt and implement zoning resolutions.

1.4 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.

1.5 PURPOSE

In pursuance of the authority conferred by Section 23-114.03 – 114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Thomas County and for implementing the Comprehensive Plan of the County.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

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

2.2 ZONING AFFECTS EVERY BUILDING AND USE

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.

2.6 DISCLAIMER OF BUILDING AND OTHER CODES AND COUNTY LIABILITY

This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or other code which would regulate design and construction of any or structure within the jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements of this Resolution are solely for the purpose of assuring compliance with the land usage regulations set forth in this Resolution for the purposes set forth in 1.3 of this Resolution. Thomas County assumes no liability and shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit or other form of land usage approval may have been issued nor shall Thomas County assume any liability for any non-compliance with any Federal, State or other code, regulation or requirement.

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 ABUT: Any situation where a lot or parcel borders directly on another lot or parcel or is separated from an adjoining lot or parcel by only a public or private easement, by a public or private road right-of-way, or by a rail line, utility line or canal.

- 3.32 **ACCESSORY USE/BUILDING:** An accessory building includes garages, sheds or other structures that are used for storage of household goods and vehicles other than those used in the operation of a farm or ranch. Farm and ranching structures used for agricultural equipment, livestock, and/or storage of crops shall not be considered an accessory building or use.
- 3.33 **ADDITION:** Any construction that increases the size of a building or structure.
- 3.34 **ADJACENT:** (see abut)
- 3.35 **AEROBIC DIGESTION PROCESS:** Any process for digestion of waste in which the waste is digested using free oxygen.
- 3.36 **AGRICULTURAL USE:** The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, pasturing of buffalo, elk and other animals, dairying, raising and management of poultry, fish, bees and other animals, truck farming, forestry or orchards and the non-commercial storage and processing of agricultural products produced on the premises, including accessory uses customarily associated with these activities in Thomas County, provided that such use shall not include any confined animal feeding operation, as defined in Section 3.38 of this Resolution, or intensive animal feeding operation, as defined in Section 3.59 of this Resolution. A confined or intensive animal feeding use, as defined in Sections 3.38 and 3.59 respectively, shall not be considered an agricultural use, but shall be considered a commercial use. The confinement of an unrestricted number of ruminant animals in lots or pens normally used for growing crops or vegetation for birthing, weaning or backgrounding purposes for less than 210 days in any calendar year shall not be considered a confined or intensive animal feeding use.
- 3.37 **ANAEROBIC DIGESTION:** Any process for digestion of waste in which the waste is digested where free oxygen is not available.

3.38 ANIMAL UNIT: The relationship of various animals with regard to manure production based upon one thousand pounds of animal(s) regardless of type. For purposes of this Resolution, the following relationship with regard to manure production shall be as follows:

(1.0 x ___ number of head)	Slaughter and Feeder Cattle
(1.2 x ___ number of head)	Cow/Calf Pairs
(1.4 x ___ number of head)	Mature Dairy Cattle
(0.4 x ___ number of head)	Swine, 55lbs. and over
(0.04 x ___ number of head)	Weaned Pigs, less than 55 lbs
(0.1 x ___ number of head)	Sheep
(2.0 x ___ number of head)	Horses
(0.01 x ___ number of head)	Chickens
(0.02 x ___ number of head)	Turkeys
(0.2 x ___ number of head)	Ducks
(1.0 x ___ number of head)	Buffalo
(1.0 x ___ number of head)	Elk

3.39 BASEMENT: A building space wholly or partially underground and having more than one-half of its height, measured from its floor to the top of its average wall height, below the average elevation of the finished grade of the soil around said space.

3.40 BED AND BREAKFAST, BOARDING OR LODGING HOUSE: A building, other than a hotel or motel, where for compensation and by arrangement for definite periods, meals and /or lodging are provided for customers.

3.41 BUILDABLE AREA: The portion of a lot or tract of land remaining after the front, side and rear setbacks, as herein defined, have been provided.

3.42 BUILDING: A structure having a roof or having a roof and walls used, or intended to be used, for sheltering or persons, animals or property. When divided or separated by other than common walls, each portion or section of a building shall be considered a separate building.

- 3.43 **BUILDING HEIGHT:** The vertical distance, measured from the average ground level at the front of a building or structure to the highest point of the building roof, excluding cupolas, gables and chimneys not exceeding 20% of the total roof area, antennas or other similar appurtenances or the highest point of a non-building structure.
- 3.44 **CAMPGROUND:** Any premises where two or more camping units are packed or placed for camping purposes, or any premises used to set apart for supplying camping space for two or more camping units for camping purposes to the public. Campground shall include any buildings, structures, vehicles or enclosures used, or intended to be used, wholly or in part for the accommodation of campers.
- 3.45 **COMMERCIAL USE:** A use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold or provided for profit, including confined and intensive animal feeding uses as defined in this resolution.
- 3.46 **COMPATIBLE USE:** A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other.
- 3.47 **COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the County, recommended by the Planning Commission and the County Board of Commissioners.
- 3.48 **CONDITIONAL USE:** A land use that would not be generally compatible with other permitted land uses in a zoning district, but which if controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote the public health, safety, convenience and general welfare.

- 3:49 DWELLING: Any building or portion thereof, other than a hotel, motel, bed and breakfast, group home other building used for short term occupancy by human beings, which is designated and/or used for living purposes on an on-going basis.
- 3.50 DWELLING, SINGLE FAMILY: A dwelling having accommodations for an occupied by one family.
- 3.51 DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing tow or more dwelling units.
- 3.52 EASEMENT: A right or privilege granted by the owner of a defined parcel of land for the use of such defined parcel of land for a specific purpose or purposes by the public, another person, corporation or other legal entity.
- 3:53 FAMILY: An individual or two or more persons related by blood, marriage or adoption, or a group of not more than five persons, excluding servants, who may not be related, living together in a single family dwelling unit.
- 3:54 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.
- 3:55 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.
- 3:56 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.

- 3:57 INCOMPATIBLE USE:** A land use of one type that is unsuitable for direct association or location near or abutting a land use of a different type because of its inconsistency with the Intent statement of the zoning district in which such uses are located, because of major differences in building types, building mass, building height and use activities, and because such use would diminish the use, value and enjoyment of the other.
- 3:58 INDUSTRIAL USE:** Of, relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.
- 3:59 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. | |
- 3:60 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.
- 3:61 LOT:** A parcel of land occupied or intended for occupation by a use permitted in this resolution and fronting upon a street or road.
- 3:62 LOT, CORNER:** A lot abutting two or more streets or roads at their intersection.

- 3:63 LOT DEPTH: The average horizontal distance between the front and rear lot lines.
- 3:64 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.
- 3:65 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.
- 3:66 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.
- 3:67 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.
- 3:68 MOBILE HOME: A detached single or two-family dwelling unit which was originally designed for long term human habitation, which was constructed and fabricated into a complete unit at a factory, which is capable of being transported to a location for use on its own chassis and wheels, which is identified by model number and serial number by its manufacturer, and which is designed primarily for placement on a non-permanent foundation, but which does not comply with the definition of Section 3.68 MANUFACTURED HOME.
- 3:69 MOBILE HOME LOT: A lot or parcel of land for the placement of one mobile home.

- 3:70 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 skirting's 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.
- 3:71 MOBILE HOME SUBDIVISION:** A parcel of land which has been or is intended to be subdivided into three or more lots for sale to persons to place a mobile home on said lot.
- 3:72 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.
- 3:73 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.
- 3:74 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.
- 3:75 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.

- 3:76 **ODOR:** That characteristic of a substance which makes it offensive to the human sense of smell as determined by the majority of any three or more persons, where such persons shall include the Zoning Administrator, a representative of the use being investigated for odor and one or more neutral persons agreed upon by the Zoning Administrator and the representative of the use being investigated for odor.
- 3:77 **PARCEL:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
- 3:78 **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.
- 3:79 **PRINCIPAL BUILDING:** A building in which the principle use on the lot is situated.
- 3:80 **PRIVATE ROADWAY:** A privately owned, open, unoccupied space other than a public road or privately owned road by use, reserved as the principal means of access to abutting property.
- 3:81 **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.
- 3:82 **RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.
- 3:83 **ROAD / ROADWAY:** A public right-of-way set aside for public travel which affords the principal means of access to abutting property.

- 3:84 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.
- 3:85 SETBACK:** A horizontal distance, as prescribed in the various zoning districts established in this Resolution, from the centerline of the roadway on which the lot has frontage and the side or rear lot line of any lot in which a building may not be constructed. Setbacks are further defined as follows:
- A. SETBACK, FRONT:** An open space extending across the entire width of a lot between the centerline of the road on which the lot has frontage and the nearest point of a building. A corner lot has two front setbacks.
 - B. SETBACK, REAR:** An open space extending across the entire width of the lot between the rear lot line and the nearest point of a building.
 - C. SETBACK, SIDE:** An open space extending along the side lot line from the front setback to the rear setback and lying between the side lot line and the nearest point of a building.
 - D. SETBACK, TRANSITIONAL:** An open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.
- 3:86 SOLID MANURE:** Waste produced by living cattle, dairy cattle, sheep and other ruminants and horses which contains not less than 12% solids by weight and waste produced by living swine, poultry, or other non-ruminant animals which contains not less than 25% solids by weight.
- 3:87 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.

- 3:88 STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.
- 3:89 STREET, CENTER LINE: A line midway between street lines.
- 3:90 STREET LINE: A dividing line between a lot, tract, or parcel of line and the contiguous street. The right-of-way line of a street.
- 3:91 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.
- 3:92 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.
- 3:93 TEMPORARY USE: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of time that does not involve the construction of alteration of any permanent structure.
- 3:94 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.
- 3:95 USE: The purpose or activity for which land and outbuildings thereon is designed, arranged, intended, or for which it is occupied and maintained.
- 3:96 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.

- 3:97** 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.
- 3:98** YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

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

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.

4.4

OFFICIAL ZONING MAP CHANGES

1. 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).

4.5

CHANGES IN CONFORMITY WITH PROCEDURES

1. 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.
2. 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.

4.6

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.

4.7

ANNEXATION RULE: Annexation of land to any incorporated municipality shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any municipality shall remove such land from the jurisdiction of the Resolution.

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.

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 and wind generation systems, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance of the following:
 - a. Towers, including wind generation towers, shall be located a minimum distance of three miles from adjacent dwellings or structures other than those associated with the tower facility.
 - b. Towers must comply with the regulations of the Federal Aviation Administration (FAA).

- c. 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.

- d. Churches, places of worship and cemeteries.
- e. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
- f. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
- g. Auction/sale barns and yards;
- h. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- i. Salvage or junk yards in accordance with Section 6.3;
- j. 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;
- k. Pre-school and child care centers;
- l. Private elementary and high schools;
- m. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
- n. Veterinary facilities;
- o. Dog breeding establishments and kennels;
- p. Manufacturing, Commercial and/or Industrial operations;

- q. Hospitals, penal institutions and sanitariums;
- r. Nursing and care homes;
- s. Public and private, including non-profit, charitable institutions;
- t. Recreational motel-lodging; and
- u. Disposal of paunch animal waster.

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.

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 STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures;
2. Home occupations in conformance with Article 8.2; and
3. Roadside stands for sale of agricultural produce.

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. Radio and television towers and transmitters;
 1. 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. Wind generating systems;
7. Commercial kennels;
8. Public and private charitable institutions;
9. Greenhouses and nurseries;
10. Animal clinics, animal hospitals and veterinarian services; and
11. Mobile home parks;
12. 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.
13. 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;
14. 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 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:

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.

5.40 **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.

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;
3. Radio studios, transmitters and antenna;
 1. 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 it 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.

4. Recycling centers;
5. Single Family Homes;
6. Campgrounds; and
7. **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 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 Area</u> (Sq. Ft.)	<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	None	100'	75'	0', 15'	15'	None*

* Unless more regulated by state or federal authorities.

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.

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL POWERS

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 APPLICATION REQUIREMENT

A written application and site plan for a special use shall be initiated by a property owner or authorized agent of such owner(s) and shall be submitted to the Zoning Administrator on forms prescribed by the Board of Commissioners. Said application shall be signed by the applicant or the applicant's authorized agent and the applicant shall pay any applicable application fee. Such application shall indicate the Section of this Resolution under which the special use is being sought an, at a minimum, shall indicate the following:

- 6.21 A legal description of the property on which the proposed special use is requested, including the specific size and dimension of the area on which the proposed special use would be located if less than the total property owned by the applicant;
- 6.22 The size and locations of all existing and proposed buildings and structures;
- 6.23 A detailed description of the use proposed and the activities involved in such use;
- 6.24 The location(s) of access to public roadway(s);
- 6.25 The type and locations of easements affecting the property;
- 6.26 A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;
- 6.27 The extent and location of parking, loading and refuse disposal and collection facilities;

- 6.28 The locations of residential dwellings and other non-agricultural land uses within the minimum separation distance requirements from the property in question as set forth in this Resolution, when applicable;
- 6.29 An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;
- 6.30 For industrial uses, and confined or intensive animal feeding uses, a description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, radiation or potential air, water or soil pollution or explosion hazards;
- 6.31 Any areas on the property subject to flooding or considered to be a wetland.

6.3 REFERRAL TO PLANNING COMMISSION

Prior to consideration of a special use application, the Board of Commissioners shall refer a special use application to the Thomas County Planning Commission for review, research and recommendation.

6.4 PLANNING COMMISSION PUBLIC NOTICE

Prior to consideration of a special use application by the Planning Commission, shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property located within one (1) mile adjacent to the property affected by such action at least 10 calendar days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

6.5 PUBLIC HEARING, CONSIDERATION AND PROCEDURES

At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public in attendance and shall review the special use permit request in accordance with the requirements set forth below. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth. If the Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall immediately be forwarded in writing, by the Zoning Administrator, to the County Board of Commissioners for its consideration and the Zoning Administrator shall provide the same written statement to the applicant within seven calendar days of the date of action by the Planning Commission.

6.6 COUNTY BOARD OF COMMISSIONERS PUBLIC NOTICE

Prior to consideration of a special use application by the Board of Commissioners, shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property located within one (1) mile adjacent to the property affected by such action at least 10 calendar days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

6.7 PUBLIC HEARING, CONSIDERATION AND PROCEDURES

At public hearing, the Board of Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the special use request in accordance with the requirements set forth in Section 6.8 of this Resolution. The Board of Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in 6.8 of this Resolution. Upon approval of a special use, notice of the approval, including all conditions of the approval shall be mailed to the applicant within seven (7) calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven (7) calendar days of the date of such disapproval.

6.8 REQUIREMENTS GOVERNING REVIEW AND APPROVAL OF SPECIAL USES

In reviewing any special use application, the Planning Commission and Board of Commissioners shall consider all aspects of the proposed use including, at a minimum, those aspects of use listed below to determine the acceptability of the proposed use and its location. At the option of the Planning Commission and/or the Board of Commissioners, the Planning Commission and/or Board of Commissioners may request technical support from any public or private agency or entity in the review of any special use application. Such technical support may take any form including, but not limited to technical data and advice, comments or recommendations. In authorizing and special use, the Board of Commissioners shall attach specific conditions, requirements or limitations regarding each aspect of use listed below to assure continued acceptability of the special use. Such conditions shall be made either by reference to a site plan for the proposed use or by attaching specific written statements. At a minimum, the aspects of acceptability include:

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.

6.9 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 insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.

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.

6.10 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations as defined by Section 3.59 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.

	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 Units Allowed (Section 3.45)	1 to 300	301 to 2,500	2,501 to 5,000	5,001 to 10,000	10,000+
Minimum Distance Required	0	2 mile	3 miles	4 miles	5 miles

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

2. Any new, additional or other kind of previously non-existent structure requires a new application and application of all existing rules except for purposes of zoning an existing livestock operation planning to establish a larger or new facility shall not be considered as a business for purposes of set-back requirements.

3. 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 waster and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor. **Management plan only required when it is ordered by the NDEQ.**
4. 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 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.

6.11

WIND ENERGY

- 6.111 Wind energy conversion systems (WECS): In the “AG” Zoning Districts, a special permit may be granted to allow wind energy conversion systems (WECS) over the district height. A special permit may be granted by the Planning Commission subject to the conditions in Article 8 Section 8.8 and the following conditions:
1. The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare.
 2. The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the finds that such reduction does not adversely affect the operation of either WECS.
 3. The WECS operation shall not cause interference to the radio and television reception on adjoining property.
 4. The applicant shall provide access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.
 5. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility’s then current service regulations application to WECS.
 6. 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.
 7. 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.

6.112 Commercial Wind Energy Conversion System (CWECS): A CWECS may be allowed in the AG District by special permit under the conditions in Article 8 Section 8.8 and the conditions listed below:

1. In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.
2. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond of at least 80% of building cost or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within 8 months of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of **top soil** between the ground level and former tower's cement base.
3. Any proposed turbine which is within **three (3) mile** of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on nonparticipating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than 30 minutes in any one day, nor a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.
4. The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than 3 acres of land outside of the CWECS setbacks and or the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.

5. Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.
6. 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.
7. 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.

6.12 SOLAR ENERGY

See Article 8.9 on page 68 of 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, 1 for every 2 ½ patient beds
or similar uses and 1 for each staff and
employee on the largest shift
5. Places of public assembly such as
auditoriums, theaters, stadiums,
community halls, churches, etc. 1 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 1 for every 2 employees on
and similar uses 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 close 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.

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.

8.8

WIND ENERGY CONVERSION FACILITIES:

- 8.81 **WIND ENERGY INSTALLATION.** In any zoning district a conditional use permit may be granted to allow wind energy conversion system, including such devices as wind charger, windmill or wind turbines; subject to the regulations established in this section. Individual towers within a WECS shall require a conditional use zoning permit issued by the Zoning Administrator.

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

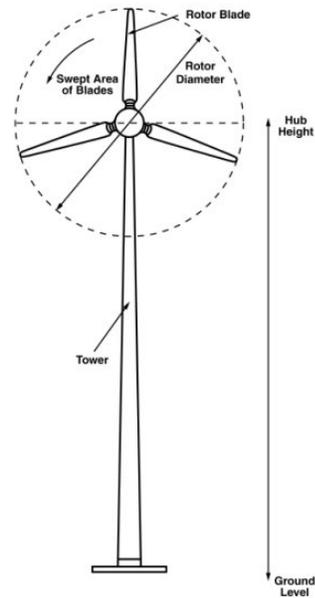
The following are defined for the specific use of this section:

- 1. Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to reduce on-site consumption of utility power.
- 2. Tower Height shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

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

- 1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to **100 feet**.
 - b. For property sizes of one acre or more, there is no limitation on the tower height, except as imposed by FAA regulations.
- 2. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than accessory building setbacks of the appropriate zoning districts to the property lines of the installation site.
- 3. Noise
 - a. Small wind energy systems shall not exceed 35 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - b. The noise level may be exceed during short term events such as utility outages and/or severe wind storms.

4. Approved Wind Turbines
 - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.



5. Compliance with Building and Zoning Codes.
 - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base and footings.
 - b. An engineering analysis of the tower compliance with official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall be submitted.
 - c. The manufacturer frequently supplies this analysis.
 - d. Wet stamps shall not be required.
6. Compliance with FAA Regulations.
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electric Code.
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The Manufacturer frequently supplies this analysis.
8. Utility Notification
 - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - b. Off-grid systems shall be exempt from this requirement.

8.83 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS.
It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Thomas Count.

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

1. Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have one or more entities separately owning one or more of the individual WECS within the larger project.
Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregate project.
2. Commercial WECS shall mean a wind energy conversation system of equal to or greater than 100 kilowatts in total name plate generating capacity.
3. Feeder Line shall mean any power line that carried electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid. In the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
4. Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
5. Dwelling shall mean, any building or portion thereof, other than a building used for short term occupancy by human beings, which is designed and/or used for living purposes on an on-going basis.
6. Public Conservation Lands shall mean land owned in fee title by state or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Area, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands up on which conservation easements have been

- sold to public agencies or non-profit conservation organizations.
7. Rotor Diameter or Diameter shall mean the diameter of the circle described by the moving rotor blades as shown in Figure 1.
 8. Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
 9. Substations shall mean any electrical facility to convert electricity produced by wind turbines to a voltage no greater than 35,000 (35 kV) for interconnection with high voltage transmission lines.
 10. Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
 11. Tower shall mean the vertical structures that support the electrical, rotor blades or meteorological equipment.
 12. Tower Height shall mean the total height of the Wind Energy Conversion System from grade to the hub.
 13. Transmission Line shall mean the electrical power lines that carry voltage of a maximum of at least 69,000 volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
 14. Wind Energy Conversion System shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but no limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
 15. Wind Turbines shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.
 16. Participant shall mean one that received annual monetary compensation from the owner/operator.
 17. Non-participant shall mean one that does not receive annual monetary compensation from the WECS owner/operator.

Commercial/Utility Grade wind energy systems shall be permitted

as a Conditional Use within the AG district and allowed. The following requirements and information shall be met and supplied when available but no later than the date of construction:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines. The description may be approximate and may include a range of estimates for each item.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale. The site layout may include corridors within which the siting of wind turbines is flexible, as well as approximate or preliminary locations of electrical and related accessory structures.
6. Certification by an Engineer competent in disciplines of WECS.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines. These coordinates may be located in proposed corridors within which the siting of wind turbines is flexible.
9. A USGS topographical map, or map with similar data, of the 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.
10. Location of known wetlands, designated scenic areas, and natural areas (including bluffs) within 3 mile and 3 miles of USFW areas of the proposed Wind Energy Conversion System. The designated scenic areas would be as follows:
 - a. Highway 2;
 - b. Dismal Scenic Overlook;
 - c. Bessey Nursery; and
 - d. Halsey Forest.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
12. Application 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.

13. 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.
14. Decommissioning Plan as required by Special Safety & Design Standards, see Number 12 on page 61 of this regulation.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
16. Documentation of all easement agreements for all transmission lines, feeder lines and substations required for the operation of the WECS, shall be filed with Register of Deeds. Voluntary easements for the crossing of any form of neighboring properties shall be required.

Aggregate Projects:

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

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	2 miles
Right angle corner property lines	Diameter plus applicable building set back from both property lines	2 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.
Dwelling *	Diameter plus applicable building setback for owner 1 mile for non-owner dwelling.	3 miles
Road Right-of-Way**	Diameter plus applicable building setback	2 miles plus applicable building setback
Other Right-of-Way	Diameter plus applicable	2 miles plus applicable building setback

Wetlands, USFW Types III, IV, and V and Bluffs over 15 feet	N/A	3 miles
Other structures not on the applicant's project site	N/A	2 miles plus applicable building setback

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

** The setback shall be measured from any future 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. 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.
2. Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point on the ground.
3. 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.
4. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
5. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
6. 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.
7. 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.
8. Other Signage: All other signage shall comply with the sign regulations found in these regulations.
 9. 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.
 10. 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.
 11. Incident Plan: Any WECS operator and owner shall prepare an incident response plan that ensures that local emergency responders 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.
 12. Discontinuation and Decommissioning: A WECS shall be considered a discontinued use after 6 months without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within 8 months of discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the WECS. Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and costs of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning, approved by the Thomas County Board of Commissioners at project owners cost. The plan shall also identify the financial resources that will be available to pay for

Decommissioning and removal of the WECS and accessory facilities. If the owner of said WECS fails to dismantle all above ground components of said WECS within the prescribed time period, such shall be considered a violation and shall be subject to the penalties set forth in Article 12 of this Regulation.

A Bond on each turbine shall be set and issued by a 3rd party sound financial institution in a form reasonably acceptable to the County for decommissioning. The amount will be set after Professional Engineer assesses how much it will cost to remove the turbine and restore the area to it's original state. After the amount is determined there will be a three (3) percent increase every year until the decommissioning starts.

13. Noise: No Commercial/Utility WECS shall exceed 35 dBA at the nearest structure occupied by humans. Exception: a Commercial/Utility WECS may exceed to 50 dBA during periods of severe weather as defined by the US Weather Service.
14. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications such as radio, telephone, microwaves or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon communication tower operators within five miles of the proposed WECS location upon application to the county for permits.
15. A 10-foot circumference with a 10-inch depth of bentonite rock shall surround each turbine tower to prevent contamination. **Base of tower cannot be within twenty (20) feet of water table.**
16. Roads Applicants shall:
 - a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, Substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdiction prior to transportation and construction.
 - b. Conducted 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 facility.
 - c. Not less than fifteen (15) days after application is approved, Developer shall provide the 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 the County in the amount of \$1,000,000.00. The bond shall provide security to the County for Developer's obligations to the County. In order for the County to draw upon the bond, the County shall be obligated to first submit an invoice to the Developer prior to submitting to the financial institute that holds the bond.

- d. Developer (and Developer's mortgagee, if any) setting forth in detail the time, materials and charges incurred in the repairs necessitating such draw request.
 - e. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
 - f. Conduct a post-construction survey, in coordination with the appropriate jurisdiction to determine whether road conditions have been restored to pre-construction conditions.
17. 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.
18. 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:
 - 1) Noise Complaint:
 - i. Notify the Thomas County Zoning Administrator in writing regarding concerns about noise level.
 - ii. If the Complaint is deemed sufficient by the Zoning Administrator to warrant an investigation, the 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.
 - iii. If the test indicates that the noise level is within Regulation noise requirements, the Zoning Administrator will use the deposit to pay for the test.
 - iv. If the WECS Owners(s) is in violation of the Regulation noise requirements, the Owner(s) shall reimburse the Zoning Administrator 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.

19. Permit Fees: Applicant(s) shall remit an application fee of \$1,000.00 per tower in the proposed WECS.
20. Land Reclamation: The bond that is in place for the decommissioning of the turbine will also be used to reclaim the land and vegetation as it was prior to the turbine. Areas that are cleared or disturbed shall be seeded back to grasses, trees and other vegetation native to the area. Where necessary to prevent erosion of construction sites, and areas along roadway and accesses, provisions shall be made to control erosion thus minimizing potential damage to adjoining properties.
21. Soil Testing: Initial report to be assessed by an independent soil lab. 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. 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 contaminates can be found that have leaked from the foreign structure into the ground. If contaminates are found, then the wind farm must be completely shut down immediately until the damage is resolved.
22. Water Testing: Initial testing at each sited tower, 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 50 towers in a specified wind farm.
23. Easements: All necessary easements for construction of wind turbine towers, transmission lines, and setbacks of residents within two (2) miles, must be recorded with the Thomas County Register of Deeds.

24. Tower height: Tower height shall not exceed 300' from ground to hub.
25. Liability bond: Wind energy facilities must have a general liability insurance policy. Proof of such insurance must be provided to the Zoning Administrator before construction begins. The amount shall equal a total of 10% of total valuation of the proposed wind farm.

SOLAR ENERGY

No solar panel shall be constructed within the residential zoning jurisdiction on Thomas County unless a Zoning Certificate therefore is approved and issued by the Planning Administrator and is constructed in conformance with the state building codes and the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

- 8.91 Plot Plan and Fees: The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel. Permit fees are required. The following requirements and information shall be met and supplied when available but no later than the date of construction:
1. The name(s) of project applicant.
 2. The name of the project owner.
 3. The legal description and address of the project.
 4. A description of the project including: Number type, name plate generating capacity, and means of interconnecting with the feeder lines. The description may be approximate and may include a range of estimates for each item.
 5. Site layout, including the location of property lines, solar panels, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale. The site layout may include corridors within which the siting of the solar panels is flexible, as well as approximate or preliminary locations of electrical and related accessory structures.
 6. Certification by an Engineer competent in disciplines of solar panels.
 7. Documentation of land ownership or legal control of the property.
 8. Location of known wetlands, designated scenic areas, and natural areas (including bluffs) within 1 mile, and 1 mile of USFW areas of the proposed Solar panel(s). The designated scenic areas would be as follows:
 - e. Highway 2;
 - f. Dismal Scenic Overlook;
 - g. Bessey Nursery; and
 - h. Halsey Forest.
 9. Decommissioning Plan as required by Special Safety & Design Standards, see Number 12 on page 63 of this regulation.

10. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
11. Applicant(s) shall remit an application fee of \$1,000.00 per panel in the proposed solar panel with a maximum limit of \$10,000.00 per proposed solar farm site. This permit fee shall be paid prior to the issuance of the zoning permit.

Aggregate Projects:

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

All Solar Panels shall adhere to the setbacks as measured from centerline of solar panel established in the following table:

	Solar Panels
Property Lines (other than right angle corners)	1 mile
Right angle corner property lines	1 mile plus behind a line on the property lines drawn between two points from the property line intersection.
Dwelling *	1 mile
Road Right-of-Way**	1 mile plus applicable building setback
Other Right-of-Way	1 mile plus applicable building setback
Wetlands, USFW Types III, IV, and V and Bluffs over 15 ft.	1 mile
Other structures not on the applicant's project site	1 mile plus applicable building setback

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

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

- 1.92 Preexisting Solar Panels: Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid building permit issued by the County, may continue to be utilized so long as it is maintained in operational condition.

- 1.93 All Solar panels shall adhere to the following safety and design standards:
1. Lot and Height Requirements: Solar panels shall conform to the required front side and rear lot setback requirements except as provided herein:
 - a. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
 - b. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard or front yard.
 2. Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable state building codes.
 3. 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. Solar owner shall be responsible to get all waste disposal off participating and nonparticipating at their cost.
 4. Incident Plan: Any Solar operator and owner shall prepare an incident response plan that ensures that local emergency responders 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.
 5. All Solar panels shall have a sign or signs posted on the panel, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
 6. Other Signage: All other signage shall comply with the sign regulations found in these regulations.
 7. Feeder Lines: All communication and feeder lines installed as part of the Solar panel shall be buried, where practicable. Feeder lines installed as part the Solar panel shall not be considered an essential service.

8. Discontinuation and Decommissioning: A Solar panel shall be considered a discontinued use after 6 months without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the Solar panel to service. All Solar panels and accessory facilities shall be removed to four (4) feet below ground level within 8 months of discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the Solar panel. Each Solar panel shall have a Decommissioning plan outlining the anticipated means and costs of removing the Solar panel at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the Solar panel and accessory facilities. If the owner of said Solar panel fails to dismantle all above ground components of said Solar panel within the prescribed time period, such shall be considered a violation and shall be subject to the penalties set forth in Article 12 of this Regulation.

A Bond on each Solar panel shall be set and issued by a 3rd party sound financial institution in a form reasonably acceptable to the County for decommissioning. The amount will be set after Professional Engineer assesses how much it will cost to remove the Solar panel and restore the area to it's original state. After the amount is determined there will be a three (3) percent increase every year until the decommissioning starts.

Production reports must be presented to the Zoning Administrator to prove production.

9. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications such as radio, telephone, microwaves or television signals caused by any Solar panel. The applicant shall notify all communication tower operators within five miles of the proposed Solar panel location upon communication tower operators within five miles of the proposed Solar panel location upon application to the county for permits.
10. A 10-foot circumference with a 10-inch depth of bentonite rock shall surround each Solar panel to prevent contamination.

11. Roads Applicants shall:
 - a. Identify all county, municipal or township roads to be used for the purpose of transporting Solar panel, Substation parts, cement, and/or equipment for construction, operation or maintenance of the Solar panel and obtain applicable weight and size permits from the impacted jurisdiction prior to transportation and construction.
 - b. Conducted 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 facility.
 - c. Not less than fifteen (15) days after application is approved, Developer shall provide the 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 the County in the amount of \$1,000,000.00. The bond shall provide security to the County for Developer's obligations to the County. In order for the County to draw upon the bond, the County shall be obligated to first submit an invoice to Developer (and Developer's mortgagee, if any) setting forth in detail the time, materials and charges incurred in the repairs necessitating such draw request.
 - d. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
 - e. Conduct a post-construction survey, in coordination with the appropriate jurisdiction to determine whether road conditions have been restored to pre-construction conditions.
12. 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 Solar panel.
13. Land Reclamation: The bond that is in place for the decommissioning of the Solar panel will also be used to reclaim the land and vegetation as it was prior to the Solar panel. Areas that are cleared or disturbed shall be seeded back to grasses, trees and other vegetation native to the area. Where necessary to prevent erosion of construction sites, and areas along roadway and accesses, provisions shall be made to control erosion thus minimizing potential damage to adjoining properties.

14. Soil Testing: Initial report to be assessed by an independent soil lab. 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 of a solar panel. This engineer will also provide guidelines in which the developer must meet in order to avoid any structural failure.
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 contaminates can be found that have leaked from the foreign structure into the ground. If contaminates are found, then the solar farm must be completely shut down immediately until the damage is resolved.
15. Water Testing: Initial testing at each sited tower, 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.
16. Easements: All necessary easements for construction of solar panels, transmission lines, and setbacks of residents within one (1) mile, must be recorded with the Thomas County Register of Deeds office.
17. Liability bond: Solar farm must have a general liability insurance policy. Proof of such insurance must be provided to the Thomas County Zoning Administrator before construction begins.

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. 23-168.03 R.S. Neb):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation 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 there cords 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 commendation 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.

