

RED WILLOW COUNTY NEBRASKA

**RESOLUTION
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ADOPTED BY RED WILLOW COUNTY, NEBRASKA

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AIRPORT REGULATIONS AMENDED APRIL 15, 2019

Prepared By



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**RED WILLOW COUNTY, NEBRASKA
ZONING RESOLUTION**

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

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

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

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

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

WHEREAS, the Red Willow County Planning Commission has recommended the division of the unincorporated areas of the County into districts and recommended regulations pertaining to such districts consistent with the adopted Comprehensive Development Plan based on a future land use plan designed to lessen congestion on roads and highways, to secure safety from fire, panic and other dangers,

to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to conserve agricultural land and values, to facilitate sewerage, schools, parks, and other public needs; and

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

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

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

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

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF COMMISSIONERS OF RED WILLOW COUNTY, NEBRASKA.

ARTICLE 1: TITLE, INTENT AND PURPOSE**Section 1.01 Short Title**

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

Section 1.02 Intent and Purpose

This Resolution is a new regulation for Red Willow County and is consistent with the Red Willow County Comprehensive Development Plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Red Willow County, including, among others, such purposes as

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

These regulations have been made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for encouraging the most appropriate use of land throughout the unincorporated portions of Red Willow County, Nebraska.

Section 1.03 Jurisdiction

The provisions of this Resolution shall apply to unincorporated areas of Red Willow County except that portion thereof over which cities or villages have been permitted to extend and are exercising zoning jurisdiction; and furthermore at such time as a city or village adopts an Resolution to exercise zoning or control over an unincorporated area, its regulations shall supersede those of Red Willow County.

Section 1.04 Highest Standard when in Conflict with other Regulations

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

Section 1.05 Comprehensive Development Plan Relationship

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

Section 1.06 Planning Commission Recommendations

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

ARTICLE 2: CONSTRUCTION AND DEFINITIONS**Section 2.01 Construction and General Terminology**

For the purpose of carrying out the intent of this Resolution, words, phrases, and terms shall be deemed to have the meaning ascribed to them. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular; "or" includes "and", and "and" includes "or"; and the masculine gender shall include the feminine.

1. The word "Assessor" shall mean the County Assessor of Red Willow County.
2. The words "Board" shall mean the Board of Commissioners of Red Willow County.
3. The words "Board of Commissioners" shall mean the Board of Commissioners of Red Willow County.
4. The word "Building" includes the word "Structure," but shall not include "Temporary Structures".
5. The word "Commission" shall mean the Planning Commission of Red Willow County.
6. The word "County" shall mean Red Willow County.
7. The words "County Register" shall mean the County Register of Deeds of Red Willow County.
8. The word "Federal" shall mean the Government of the United States of America.
9. The word "Shall" is mandatory; and the word "may" is permissive.
10. The word "State" shall mean the State of Nebraska.
11. The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."
12. The words "Zoning Map" shall mean the Official Zoning Map of Red Willow County.
13. The word "Resolution" shall mean the Zoning Regulation of Red Willow County.
14. The word "Comprehensive Plan" shall mean the Red Willow County Comprehensive Development Plan.

Section 2.02 Abbreviations and Acronyms

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

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

Section 2.03 Definition of Terms**A**

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

ABUT, ABUTTING shall mean any situation where a lot, tract or parcel of land borders directly on another lot, tract or parcel of land or is separated from an adjoining lot, tract or parcel by a public road right-of-way which less than is 66 feet in width.

ACCESS OR ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.

ACCESSORY APARTMENT shall mean a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or in conjunction with an accessory detached garage.

ACCESSORY BUILDING shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

ACCESSORY LIVING QUARTERS shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

ACCESSORY STRUCTURE shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

ACRE shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

ACREAGE shall mean any tract or parcel of land that does not qualify as a farm or development.

ADJACENT shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

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

AEROBIC DIGESTION PROCESS shall mean any process for digestion of waste in which the waste is digested using free oxygen, wherein sufficient oxygen is available to satisfy 50% of the daily chemical/biological oxygen demand inflow.

AGRICULTURAL shall mean all parcels which are primarily used for the production of agricultural or horticultural products, including wasteland lying in or adjacent to and in common ownership or management with land used for the production of agricultural or horticultural products. Land retained or protected for future agricultural or horticultural uses under a conservation easement as provided in the Conservation and Preservation Easement Act shall be defined as agricultural or horticultural land. Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be defined as agricultural or horticultural land.

AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES shall mean any building or structure which is necessary or incidental to the normal conduct of an agricultural use including but not limited to barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks. This shall not include the residence of the operator or the residence of any hired personnel.

AGRICULTURAL OPERATIONS (see "Farming")

AGRICULTURAL USE shall mean the business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, 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, provided that such use shall not include any confined animal feeding operation containing more than 300 animal units at any one time or intensive animal feeding operation containing more than 300 animal units at any one time and further provided that such use shall not include any waste handling facilities. A confined or intensive animal feeding use shall not be considered an agricultural use, but shall, in accordance with Section 54-2402 Neb. Rev. Stat. be considered a commercial use and a regulated livestock production use separated and regulated under such statute from other types of livestock production uses which are not regulated by reason of the number of animal units involved in such use. The seasonal confinement of an unrestricted number of ruminant animals for birthing, weaning or backgrounding purposes for less than 210 days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a confined or intensive animal feeding use, but shall be considered an agricultural use.

AGRONOMIC RATES shall mean the application of plant nutrients, from all sources, to meet, but not exceed, the estimated annual nutrient needs of the crop being produced, based upon past or projected yields, so as to avoid build-up of nutrients including, but not limited to, nitrate, chloride, ammonia and phosphorus. Determination of the agronomic rate shall include the available nutrients in the soil, the nitrogen content of any irrigation water, and the nutrient content of any animal wastes and commercial fertilizer to be applied.

AGRICULTURE shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

AIRPORT: shall mean an area of land or water designed and set aside that is used or intended to be used for the landing and taking off takeoff of aircraft and utilized or to be utilized in the interest of the public or privately-owned users for such purposes; includes any related buildings and facilities. Airport includes public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans. Airport shall also include airports/airstrips/landing strips which are privately owned and utilized

AIRPORT APPROACH ZONE shall mean a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

AIRPORT, EXISTING RUNWAY shall mean an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

AIRPORT HAZARD AREA consists of any area of land or water upon which an airport hazard might be established if not prevented as provided in the act, but such area shall not extend in any direction a distance in excess of three miles from the adjacent boundary of an airport; the limits provided for approach, operation, transition, and turning zones.

AIRPORT, INSTRUMENT RUNWAY shall mean an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this act, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

AIRPORT LAYOUT PLAN shall mean a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

AIRPORT, OPERATION ZONE shall mean an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this act, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

AIRPORT, PROPOSED RUNWAY shall mean an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

AIRPORT, RUNWAY: shall mean a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length;

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

AIRPORT, TURNING ZONE'S OUTER LIMIT shall mean the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

AIRPORT, VISUAL RUNWAY shall mean a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

ALTERATION shall mean any change, addition or modification in construction or occupancy of an existing structure.

AMENDMENT shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

ANAEROBIC DIGESTION shall mean any process for digestion of waste in which the waste is digested where free oxygen is not available.

ANIMAL HOSPITAL shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

ANIMAL HUSBANDRY shall mean the care and raising of animals.

ANIMAL UNIT shall mean the relationship of various animals with regard to manure production based upon 1,000 pounds of animal(s) regardless of type. For purposes of this Resolution, the following this relationship shall be as follows:

- One A.U. = One Cow/Calf combination;
- One A.U. = One Slaughter, Feeder Cattle;
- One A.U. = One-half Horse;
- One A.U. = Seven Tenths Mature Dairy Cattle;
- One A.U. = Two and One Half Swine (55 lbs. or more);
- One A.U. = 25 Weaned Pigs (less than 55 lbs.);

One A.U. = Two Sows with Litters;
One A.U. = 10 Sheep;
One A.U. = 100 Chickens;
One A.U. = 50 Turkeys;
One A.U. = Five Ducks.

ANIMAL WASTE shall mean any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.

ANIMAL WASTE WATER shall mean any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding, or other raw material or intermediate or final matter or product used in or resulting from the production of animals or from products directly or indirectly used in any Waste Handling Facility Use or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning, or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control in a confined or intensive animal feeding use.

ANIMALS, DOMESTIC (see Household Pet)

ANIMALS, FARM shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

ANTENNA shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)

APARTMENT shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)

APARTMENT HOUSE (see Dwelling, Multiple Family)

APPROPRIATE shall mean the sympathetic, or fitting, to the context of the site and the whole community.

APPURTENANCES shall mean the visible, functional objects accessory to and part of buildings.

AQUACULTURE shall mean land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

AQUIFER shall mean a geological unit in which porous and permeable conditions exist and thus are capable of bearing and producing usable amounts of water.

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

AQUIFER, UNCONFINED (OR WATER TABLE) shall mean an aquifer where the top of the aquifer is identified by the water table. Above the water table, known as the zone of aeration, interconnected pore spaces are open to the atmosphere. Also known as a water table.

AQUIFER RECHARGE AREA shall mean an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

AREAS OF CONTRIBUTION shall mean the upland recharge areas and cone of depression from which well water is drawn.

AREAS OF INFLUENCE shall mean the two-dimensional area (as viewed on a map) of water table drawdown created by a pumping well, also see Cone of Depression.

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

ASSESSMENT shall mean the act of listing the description of all real property determining its taxability, determining its taxable value, and placing it on the assessment roll.

ATTACHED PERMANENTLY shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

AUTOMOBILE WRECKING YARD shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

B

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

BAR shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)

BASEMENT shall mean a building space wholly or partially underground and have 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

BED AND BREAKFAST INN OR LODGING HOUSE shall mean a building, other than a hotel or motel, where for compensation and by arrangement for definite periods, meals or lodging are provided for customers.

BEDROOM shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

BERM shall mean a raised form of earth to provide screening or to improve the aesthetic character.

BEST INTERESTS OF THE COUNTY shall mean interests of the county at large and not interest of the immediate neighborhood.

BEST POSSIBLE MANAGEMENT PRACTICES shall mean livestock management techniques and practices as set forth by various agencies, including the NDEQ that encourage and protect the environment and public.

BILLBOARD (see Sign, Billboard)

BIODIVERSITY shall mean the variety of plant and animal species within an ecosystem or geographic area.

BIOREGION shall mean a distinct collection of plant and animal ecosystems in a geographic area that functions in certain ways and has particular needs for survival. Temperature and precipitation primarily determine most bioregions, with elevation, soils, watersheds, and microclimates as contributing factors.

BOARD OF ADJUSTMENT shall mean that board that has been created by the county and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

BORROW PIT shall mean any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental site grading or building construction.

BROADCASTING TOWER shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers.

BUFFER shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)

BUFFER ZONE shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.

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

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

BUILDING HEIGHT shall mean 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 chimneys, antennas or other similar appurtenances.

BUILDING, PRINCIPAL shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Use, Principal.)

BUILDING SETBACK LINE shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.

C

CAMPGROUND shall mean any premises where two or more camping units are parked 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.

CAMPING UNIT shall mean any vehicle, trailer, tent or other movable shelter used for camping purposes.

CAR WASH shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.

CAR WASH, INDUSTRIAL shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.

CENTERLINE shall have the same meaning as "Street or Road Center Line".

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

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

CHANNEL shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.

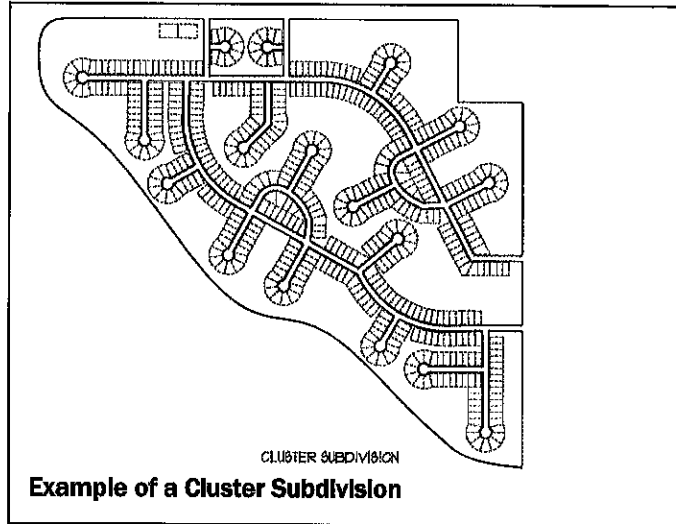
CHILD CARE shall mean the provision of care as follows:

1. To four or more children under age 13 at any time of families other than that of the provider;
2. For on the average of less than 12 hours per day;
3. For compensation, either indirect or direct;
4. On a regular basis; and
5. By a person other than their parents/guardians.

CHILD CARE CENTER shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

CHURCH shall mean a permanently located building commonly used for religious worship fully enclosed with walls (including windows and doors) and having a roof and conforming to applicable legal requirements.

CLUB shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.



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

COMMERCIAL ANIMAL FEEDING OPERATION (See Livestock Feeding Operation)

COMMERCIAL USES shall mean a use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold for profit.

COMMISSION shall mean the Red Willow County Planning Commission.

COMMON AREA OR PROPERTY shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites.

COMMON OPEN SPACE shall mean an area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

COMMUNITY CENTER shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

COMMUNITY SANITARY SEWER SYSTEM shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

COMMUNITY WATER SUPPLY SYSTEM shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.

COMPATIBLE USES shall mean a land use of one type that is suitable for direct association, location near or abutting a land 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 activities, and because neither use will diminish the value and enjoyment of the other.

COMPOSTING (AEROBIC) shall mean the natural process of decomposing of vegetative refuse, manure and other naturally degradable materials using free oxygen.

COMPOSTING (ANAEROBIC) shall mean the natural process of decomposing of vegetative refuse, manure and other naturally degradable materials in large piles where free oxygen is not available.

COMPREHENSIVE DEVELOPMENT PLAN shall mean the Comprehensive Development Plan of Red Willow County, Nebraska, as adopted by the County Board of Commissioners, setting forth policies for the present and foreseeable future community welfare as a whole, and meeting the purposes and requirements set forth in Section 23-174.05, Nebraska R.R.S. 1943, as the same may, from time-to-time, be amended.

CONDITIONAL USE shall mean a written zoning permit issued by the Zoning Administrator upon authorization of a conditional use under the terms of this Resolution by the County Board of Commissioners. Such zoning permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioners.

CONDITIONAL USE PERMIT shall mean a permit issued by the Planning Commission and County Board that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 5 and any additional conditions placed upon, or required by said permit.

CONE OF DEPRESSION shall mean the three-dimensional area of water table created by a pumping well. The pumping well creates an artificial discharge area by drawing down (lowering) the water table around the well.

CONFINEMENT shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

CONFLICTING LAND USE shall mean the use of property that transfers over neighboring property lines, negative economic or environmental effects. Including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

CONGREGATE HOUSING shall mean a residential facility for people 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities. Said facilities might include meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room unit in the residential facility. (Also, see Housing for the Elderly.)

CONSERVATION AREAS shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

CONSERVATION EASEMENT shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded

condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

CONTIGUOUS shall mean the same as "Abut".

COUNTRY CLUB shall mean buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs include, but are not limited to: swimming, tennis, and golf course country clubs.

COUNTY shall mean Red Willow County, Nebraska.

COUNTY BOARD shall mean the County Board of Commissioners of Red Willow County, Nebraska.

CURVE LOT (see Lot, Curve).

D

DAIRY FARM shall mean any place or premises upon which milk is produced for sale or other distribution.

DANCE HALL (see Ballroom)

DENSITY shall mean the number of dwelling units per gross acre of land.

DEVELOPED AREA shall mean an area of land, consisting of one or more parcels or lots, which front(s) on one side of a road/street between two intersecting streets/roads where such intersecting streets/roads are less than 1,000 feet apart or in the absence of any intersecting street, a distance of 150 feet on either or both sides of the boundaries of the lot on which building development is proposed, whereon at least 51% of such parcels or lots on either or both sides are developed with buildings.

DEVELOPER shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

DEVELOPMENT shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

DEVELOPMENT AREA shall mean an area of land that may or may not have been subdivided that contains three or more homes per nine acres.

DEVELOPMENT CONCEPT PLAN (See Site Plan)

DEVELOPMENT REVIEW shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.

DOWNZONING shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

DRAINAGE WAY shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks. In the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.

DRAWDOWN shall mean a lowering of the groundwater level caused by pumping.

DRIVEWAY shall mean any vehicular access to an off-street parking or loading facility.

DUMP shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

DUPLEX shall mean the same as "Dwelling, Two Family".

DWELLING shall mean any building or portion thereof other than a hotel, motel, bed and breakfast, group home or other building used for short term occupancy by human beings, which is designed and / or used for living purposes on an on-going basis.

DWELLING, MANUFACTURED HOME shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

DWELLING, MOBILE HOME shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially in a complete condition and mounted on wheels, skids or roller, jacks, blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

DWELLING, MODULAR (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Nebraska R.R.S. 1943, as the same may, from time-to-time, be amended, those that do not meet the above criteria shall be considered a mobile home.

DWELLING, MULTIPLE shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

DWELLING, SEASONAL shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

DWELLING, SINGLE FAMILY shall mean a building having accommodations for or occupied exclusively by one family.

DWELLING, SINGLE-FAMILY (ATTACHED) shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an unpierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.

DWELLING, TWO FAMILY shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.

DWELLING UNIT shall mean one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

EASEMENT shall mean a right or privilege granted by the owner of a defined parcel of land for the use of such parcel of land for a specific purpose or purposes by the public, another person, corporation or other legal entity.

ECOSYSTEM shall mean the diversity of plant and animal species in a geographic area and how they interact.

EDUCATIONAL INSTITUTION shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either:

1. Offer general academic instruction equivalent to the standards established by the State Board of Education; or
2. Confer degrees as a college or university or undergraduate or graduate standing; or
3. Conduct research; or
4. Give religious instruction.

Private schools, academies, or institutes, incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

EFFECTIVE DATE shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

ELECTRIC DISTRIBUTION SUBSTATION shall mean an electric substation with a primary voltage of less than 161 KV, with distribution circuits served.

ELECTRIC FACILITY shall mean an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in section 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

ELECTRIC TRANSMISSION SUBSTATION shall mean an electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served.

ENCROACHMENT shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

ENLARGEMENT shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

ERECTED shall mean constructed upon or moved onto a site.

EXEMPT shall mean parcels that receive a property tax exemption pursuant to section 77-202 (1) (a) (b) (c) (d). See, Property Tax Exemption Regulations, Chapter 40.

EXISTING AND LAWFUL shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process of being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.

EXPRESSWAY shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

EXTRATERRITORIAL JURISDICTION shall mean the area beyond the corporate limits, in which a city or village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

F

FACULTATIVE DIGESTION shall mean any process for digestion of waste in which the waste is digested using anaerobic digestion at lower elevations in a lagoon and aerobic digestion at the upper levels and surface of the lagoon which is accomplished through limiting the amount of volatile solids to not more than four pounds per day per 1,000 cubic feet of water in said lagoon and said lagoon is operated to maintain this volatile solids limitation.

FAMILY shall mean 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 dwelling unit.

FAMILY CHILD CARE HOME I shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

FAMILY CHILD CARE HOME II shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving 12 or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

FARM shall mean a crop production, livestock production or other similar enterprise containing 20 acres or more of land from which \$1,000 or more of crop or meat products are produced each year.

FARM BUILDING shall mean any non-residential building located on a farm, which is utilized for agricultural purposes, provided that when the use or consequences of the agricultural use conducted in a farm building exits from the building onto, across or under the land, whether underneath the building or adjoining thereto or onto or into some other structure, such use, if not an agricultural use, shall not be considered part of such building, shall not be considered an agricultural use, and shall be subject to the requirements and limitations of this Resolution. Waste handling facilities, which may be associated with a use in a farm building, shall be considered a non-agricultural use and shall be subject to the requirements and limitations of this Resolution.

FARMING shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

FARMSTEAD shall mean in contrast to a farmstead dwelling, a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.

FEED LOT shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.

FLOOR shall mean a level or story of a building.

FLOOR AREA shall be the sum of the gross horizontal areas of the one or several floors of all buildings or portions thereof, on the lot or tract.

FRONTAGE shall mean that portion of a parcel of property that abuts a dedicated public road, street or highway.

G

GAME AND PARKS PAYMENTS IN LIEU OF TAX shall mean the annual payment made in place of or as a substitute for a property tax for land acquired by the Game and Parks Commission for wildlife management purposes. The payments shall be the same as what the real property taxes would have been if the land was privately owned and based upon the land use at the time of acquisition by the Commission. See, In Lieu of Tax Regulations, Chapter 41.

GARAGE, PRIVATE shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.

GARBAGE shall mean any waste food material of an animal or vegetable nature, including waste that may be used for the fattening of livestock.

GRADE shall mean the following:

1. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be grade.
2. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in (1) above) of all walls facing each street.
3. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be grade.

Any wall approximately parallel to and not more than five feet from a street line is considered as facing a street.

GRANNY FLAT see Accessory Apartment

GREENHOUSE shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

GROUNDWATER shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

GROUND WATER HEAT PUMP WELL shall mean a well constructed for the purpose of utilizing the geothermal properties of the earth.

1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground. For below ground discharge refer to NDEQ Title 122.
2. Closed Loop Heat Pump well shall mean a well constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
 - a. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
 - b. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.

GROUNDWATER RECHARGE shall mean the filling of groundwater aquifers by rain and melting snow percolating into the ground and saturating the pores between rock and soil particles.

GROUP CARE HOME shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.

GROUP HOME FOR THE HANDICAPPED shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or

3. Being regarded as having such impairment.

GROUP HOUSING shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

GUEST HOUSE shall mean an attached or detached building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

GUEST RANCH shall mean a use incorporating two or more guest rooms, other than a boardinghouse, hotel or motel, and including outdoor recreational facilities, such as, but not limited to, horseback riding, swimming, tennis courts, shuffleboard courts, barbeque and picnic facilities intended primarily for use by the guests of the guest ranch. Bars and restaurants that cater primarily to those other than guests of the guest ranch are not permitted.

GUEST ROOM shall mean a room which is designed to be occupied by one or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

H

HABITAT COMPLEX shall mean a geographic region that includes protected areas and private land managed cooperatively to achieve both social and ecological objectives.

HALF-STORY shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.

HALFWAY HOUSE shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

HAZARDOUS WASTE shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

HEALTH CARE FACILITIES shall mean a facility licensed or approved by the state or an appropriate agency, if required, used in any of the following:

1. Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital;
2. Convalescent or nursing home;
3. A facility for outpatient physical, occupational, or vocational therapy or rehabilitation;
4. Public health clinics and facilities; and
5. Ambulatory surgical care center which does not allow for overnight stay by patients.
6. Except as herein provided, health care facilities do not include doctors, or dentists professional offices and private clinics.

HEALTH CLUB shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

HEALTH RECREATION FACILITY shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

HIGHWAY, MAJOR INTER-REGIONAL shall mean a "U.S." or "State" designated highway with 100 feet right-of-way or more on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through vehicular traffic.

HIGHWAY SETBACK LINE shall mean the future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from this future right-of-way line.

HISTORIC SITE shall mean one or more parcels, structures, or buildings that is either: Included on a city listing of historic properties covered by the city's historic property overlay zoning district, included on the state register of historic properties, designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or an architectural historian and the report accepted by the County. The historic survey and report includes: dating the property from a specified period, associating the property with significant events or outstanding past people or groups, determining the distinguishing architectural characteristics or style of the buildings, and demonstrating the role of the building in the community's heritage.

HISTORIC STRUCTURE shall mean any structure that is:

1. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. Certified or determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered district.
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior in states without approved programs.

HOLDING POND shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes.

HOME OCCUPATION, GENERAL shall mean a business, occupation, trade or profession conducted for gain and carried on within a residential dwelling by the resident thereof.

HOMEOWNERS ASSOCIATION shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

HOSPITAL shall mean an institution providing health and emergency services of medical or surgical nature to human patients and injured persons and are licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice.

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

HOUSEHOLD PET shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

HOUSING FOR THE ELDERLY shall mean a building or group of buildings containing dwellings in which each dwelling unit is occupied by at least one person of 55 years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)

HOUSING FOR THE PHYSICALLY HANDICAPPED shall mean a building containing a dwelling or a group of dwellings in which each occupied dwelling unit is occupied by at least one physically handicapped person with a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises.

IMMEDIATE FAMILY MEMBER shall mean father, mother, grandfather, grandmother, son, daughter, son-in-law, daughter-in-law, child, or children legally adopted.

IMPACT EASEMENT shall mean an easement or deed restriction, recorded in the office of the Red Willow County Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding use, or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed by the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

INCIDENTAL USE shall mean a use that is subordinate to the main use of a premise.

INCOMPATIBLE USE shall mean 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 differences in use activities, and because such use would diminish the value and enjoyment of the other.

INDIVIDUAL SEPTIC SYSTEM shall mean a wastewater treatment system for a dwelling that has a septic tank and absorption system that complies with all requirements of the State of Nebraska.

INDUSTRIAL USES shall mean a use, other than an agricultural or commercial use, in which products or goods are manufactured from raw materials by hand or by machines

INDUSTRIAL WASTE shall mean any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

INDUSTRIAL WASTE DISPOSAL shall mean the discarding of any Industrial Waste in either a legal or illegal manner.

INDUSTRY shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INOPERABLE MOTOR VEHICLE shall mean any motor vehicle that:

1. Does not have a current state license plate; or,
2. May or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways.
3. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

INTENSITY shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

INTENT AND PURPOSE shall mean that the Commission and Board by the adoption of this Regulation have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.

JUICE BAR (See Adult Establishment.)

JUNK shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

JUNK YARD shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. (For motor vehicles, see "Automobile Wrecking Yard")

K

KENNEL, BOARDING AND TRAINING shall mean any lot or premises on which four or more dogs or cats or any combination thereof, at least four months of age, are boarded, bred, or trained for a fee.

KENNEL, COMMERCIAL shall mean an establishment where five or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age are groomed, bred, boarded, trained, or sold as a business.

KENNEL, PRIVATE shall mean any premises used for the keeping of four or less dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets.

L

LAGOON shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the NDEQ and the Nebraska DHHS. All lagoons shall have the proper permits approved prior to starting construction.

LANDFILL shall mean a waste disposal site employing an engineered method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting and applying cover material over all exposed waste designed in accordance with the requirements of the NDEQ and licensed by said Department.

LANDSCAPING shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

LIFE CARE FACILITY shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also, see Housing for the Elderly.)

LIQUID MANURE shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.

LIQUID MANURE STORAGE PITS shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.

LIVESTOCK (See Animals, Farm)

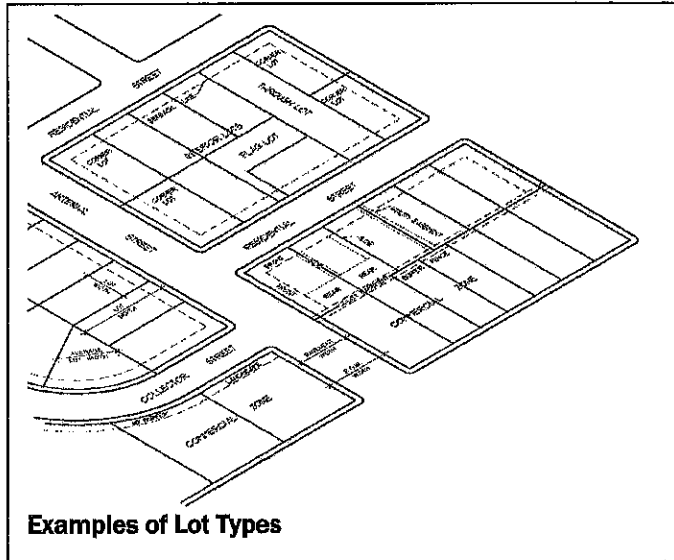
LIVESTOCK FEEDING OPERATION shall mean any farming operation in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 1,000 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other and utilize a common area of system for the disposal of livestock wastes; otherwise the separation distances shall apply as per Table 8.06.01. For purposes of this

Resolution, LFOs shall be classified and regulated with regard the number of animal units in confinement and the potential for ground or surface water contamination or other environmental degradation, the potential for odor production and other negative impacts on or other incompatibilities with abutting and neighboring properties as follows:

- Class I - A LFO with a onetime capacity of more than 300 animal units, but less than 1,001 animal units.
- Class II - A LFO with a one-time capacity of 1,001 to 5,000 animal units.
- Class III - A LFO with a one-time capacity of 5,001 to 20,000 animal units.
- Class IV - A LFO with a one-time capacity of 20,001 or more animal units.

LIVESTOCK WASTES shall mean animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

LOADING SPACE shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.



LOCAL STREET OR LOCAL HIGHWAY shall mean a street or road primarily for service to abutting property.

LOT shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the Register of Deeds and abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

LOT AREA shall mean the total area, on a horizontal plane, within the lot lines of a lot. However, on rural tracts, parcels and lots that are not platted, the right-of-way may be included in the total lot area calculation.

LOT, CORNER shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

LOT, CURVE shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.

LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT, DOUBLE FRONTAGE shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

LOT, FLAG shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor, see diagram above.

LOT, FRONTAGE shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

LOT, INTERIOR shall mean a lot other than a corner lot.

LOT LINE shall mean the property line bounding a lot.

LOT LINE, FRONT shall mean the property line abutting a street.

LOT LINE, REAR shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

LOT, NONCONFORMING shall mean a lot having less area or dimension than required in the district it is located and lawfully created prior to the zoning thereof and whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.

LOT, THROUGH shall mean a lot having frontage on two dedicated streets, not including a corner lot.

LOT OF RECORD shall mean a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.

LOT WIDTH shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

M

MAINTENANCE GUARANTEE shall mean any security, other than cash, that may be accepted by the County to insure that required improvements will be maintained. (Also, see Performance Guarantee.)

MANUFACTURED HOME PARK shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

MANUFACTURED HOME SUBDIVISION shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

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

MAP, OFFICIAL ZONING DISTRICT: a map delineating the boundaries of zoning districts, which, along with the zoning text, is officially adopted by the Red Willow County Board of Commissioners' zoning regulations for Red Willow County, Nebraska.

MASSAGE PARLOR: (See Adult Uses)

MOBILE HOME PARK: any parcel of land area, under single ownership and control, upon which sites for parking of two or more mobile homes connected to utilities and used by persons for living or sleeping purposes are provided by lease, rent or free of charge.

MOBILE HOME SUBDIVISION: A parcel of land, which has been or is intended to be subdivided into two or more lots, for sale to persons to place a mobile home on said lot.

MOTOR VEHICLE: every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

N

NEBRASKA REVISED REISSUED STATUTES, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar)

NONCOMMUNITY WATER SUPPLY SYSTEM shall mean any public water supply system that is not a community water supply system.

NON-CONFORMING STRUCTURE shall mean a lawfully erected structure in existence as of the effective date of this Resolution, which does not comply with the lot coverage, height, setback requirements or other standards applicable to new structures in the zoning district in which said structure is located.

NON-CONFORMING USE shall mean A lawfully established use of land in existence as of the effective date of this Resolution, which does not comply with the regulations of this Resolution.

NON-FARM BUILDINGS shall mean any building used for residential purposes, any building containing a use which is not an agricultural use, any building located on a farm, which is contains a use other than an agricultural use, any building located on a parcel of land which does not qualify as a farm and any building associated with a waste handling facility use.

NUISANCE shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

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

NURSERY SCHOOL (see Preschool)

NURSING HOME shall mean a facility used or occupied by persons recovering from illness or suffering from Infirmities of old age requiring skilled nursing care and related medical services and licensed by the appropriate state or federal agency or agencies.

O

ODOR shall mean 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 people. Such people shall include the Zoning

Administrator, a representative of the use being investigated for odor impact, and one or more other neutral persons as agreed upon by the Zoning Administrator and the owner of the use being investigated for odor impact.

OFFICIAL MAP (See Map, Official Zoning District)

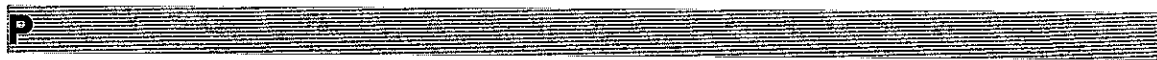
OPEN LOTS shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

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

OUTDOOR ADVERTISING shall include the definitions of "Advertising Structure" and "Sign".

OVERLAY DISTRICT shall mean a district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change.

OWNER shall mean one or more persons, including corporations, who have title to the property, building or structure in question.



PARCEL shall mean a lot or a contiguous group of lots in single ownership or under single control that may be considered as a unit for purposes of development.

PARK shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING SPACE, OFF-STREET shall mean an area, open or closed, which is sufficient in size to permit the parking of one or more vehicles, together with a driveway connecting said parking area to a street or road to permit ingress and egress by said vehicle.

PERFORMANCE GUARANTEE shall mean a financial guarantee to ensure that all improvements, facilities, or work required by these Regulations will be completed in compliance with these regulations as well as with approved plans and specifications of a development (Also, see Maintenance Guarantee.)

PERMANENT FOUNDATION shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

PERMANENTLY ATTACHED shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

PERMEABILITY shall mean the ability of a material to transmit water. Permeability determines its ability to yield water.

PERMITTED USE shall mean any land use allowed without condition within a zoning district.

PERSON shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

PLANNING COMMISSION shall mean the Planning Commission of Red Willow County, Nebraska.

PLAT shall mean a map showing the location, boundaries, and legal description of individual properties.

POLICY shall mean a statement or document of the county, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

POLITICAL SUBDIVISION shall mean any municipality, city, village, or county.

POROSITY shall mean the ratio of the volume or pore space to the volume of solids in a material. Porosity determines the capacity of the material to hold water – the more pores, the more water.

POULTRY, COMMERCIAL FEEDING shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.

PREMISES shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

PRESCHOOL shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

PREVAILING WINDS shall mean the prevailing seasonal winds for Red Willow County are from the north, northwest in the winter months and south and southeast in the summer months. Wind directions with regard to regulations in this Resolution shall be further defined as follows, determined using magnetic north as determined through use of a compass:

North - from forty-five degrees west of north to forty-five degrees east of north

South - from forty-five degrees west of south to forty-five degrees east of south

East - from forty-five degrees east of north to forty-five degrees east of south

West - from forty-five degrees west of north to forty-five degrees west of south

PRIMARY DWELLING shall mean any single-family dwelling on a tract or lot.

PRINCIPAL BUILDING shall mean a building in which the principal use on the lot is situated.

PRIVATE AIRPORT / AIRSTRIP shall mean a privately owned parcel of land used for take-off and landing of small aircraft.

PRIVATE CLUB shall mean a non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. A private club may include the serving of food and meals on said premises while providing adequate dining room space and kitchen facilities. A private club may include the sale of alcoholic beverages to members and their guests provided the activity is secondary and incidental to the promotion of some common objective by the organization; and, said sale of alcoholic beverages is in complete compliance with all municipal, state and federal laws.

PRIVATE ROADWAY shall mean A privately owned, open, unoccupied space, other than a public road, reserved as the principal means of access to abutting property.

PRIVATE WELL shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.

PROHIBITED USE shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

PROMOTIONAL DEVICE shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping, shall be considered as a promotional device.

PROTECTED AREA shall mean an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity and natural and associated cultural resources, and managed through legal or other effective means.

PUBLIC UTILITY shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

PUBLIC USE AREA shall mean an area of land or water, whether publicly or privately owned, which is designed for or used by 10 or more unrelated persons on at least a quarterly basis for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas, public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not include any rights-of-way for roadways or privately owned land used for hunting and/or fishing.

PUBLIC WATER SUPPLY shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least twenty-five individuals. This definition shall include:

1. Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
2. Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
3. Systems shall be in compliance with all regulations of the State of Nebraska.

Q

QUARTER SECTION shall mean that portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four sides, has two intersecting sides that coincide with two intersecting section lines and contains approximately one-fourth of the land area contained within the square section.

R

RACETRACK shall mean a measured course where machines, usually automobiles, are entered in competition against one another or against time.

RAILROAD shall mean the land use including the right-of-way (R.O.W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

REAL PROPERTY shall mean all land, buildings, fixtures, improvements, certain mobile homes, cabin trailers and similar property, mineral interests, and all privileges pertaining to real property.

RECHARGE AREAS shall mean the places where rain and snow melt percolate into the ground, refilling the groundwater aquifers.

RECHARGE RATE shall mean the time that is required to add to, or replenish water in an aquifer or water table.

RECREATIONAL shall mean all parcels of real property predominately used or intended to be used for diversion, entertainment, and relaxation on an occasional basis. Some of the uses would include fishing, hunting, camping, boating, hiking, picnicking, and the access or view that simply allows relaxation, diversion and entertainment.

RECREATIONAL VEHICLE (RV) shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

RECREATIONAL VEHICLE (RV) PARK shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

RECYCLING CENTER shall mean a facility other than a junkyard in which recoverable resources such as paper, glass, metal cans, and plastics, are collected, bundled, stored, flattened, crushed, or reduced in some manner within a completely enclosed building, in preparation for shipment to others for reuse.

RECYCLING COLLECTION POINT shall mean a drop-off point for temporary storage of recoverable resources such as paper, glass, cans, and plastics, and where no processing of such items takes place.

RECYCLING PLANT shall mean a facility other than a junkyard where recoverable resources such as paper products, glass, metal cans and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be reused for production.

RESEARCH LABORATORY OR CENTER shall mean a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, and not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RESIDENCE shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.

RESIDENTIAL USE shall mean A land use wherein one or more persons resides in a building containing one room or combination of rooms which are used for living, cooking, sleeping purposes.

REVERSE SPOT ZONING shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.

REZONING shall mean an amendment to or change in the zoning regulations either to the text or map or both.

REZONING, PIECEMEAL shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

RIGHT-OF-WAY shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

ROAD shall mean the same as "Street".

ROAD CENTERLINE shall mean a line extending down the center of a road or street right-of-way, as established by official survey or other means.

ROAD, IMPROVED shall mean a street, county road, and/or State/Federal Highway that are graded, surfaced and maintained on a regular basis with an approved granular material or hard-surfacing material.

ROAD, PUBLIC shall mean all public right-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)

ROAD, UNIMPROVED shall mean a road officially declared or designated as minimum maintenance. Said road will not generally be graded, crowned or contain a surfacing material of either a granular or hard-surfaced nature.

ROADSIDE STAND shall mean a temporary structure or vehicle used solely for the sale of farm products produced on the premises or adjoining premises.

ROOM shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

S

SALVAGE YARD shall mean a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales establishments.

SATELLITE DISH ANTENNA shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.

SCHOOL, DAY shall mean a preschool or nursery school for children.

SCHOOL, DAY, PRE-, OR NURSERY shall mean a school or center for children under school age, whether licensed as a daycare center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.

SCHOOL, ELEMENTARY, JUNIOR HIGH, or HIGH shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

SCHOOL, PRIVATE shall mean an institution conducting regular academic instruction at kindergarten, elementary or secondary levels operated by a non-governmental organization in conformance with the Section 79-1701 through 79-1707, Nebraska R. R. S., 1943.

SCHOOL, TRADE shall mean an institution offering extensive instruction in the technical, commercial, or trade skills and operated by a non-governmental organization.

SCREENING shall mean a method by which a view of one site from another adjacent site is shielded, concealed, or hidden during all seasons of the year and may include fences, walls, hedges, beams, or other features. (Also, see Buffer.)

SECONDARY DWELLING shall mean an independent single-family dwelling located on the same lot or tract as an existing single-family dwelling.

SECTION OF LAND shall mean a division or parcel of land on the government survey, comprising one square mile of land encompassing 640 acres more or less. Each "township" (six square miles) is divided by straight lines into 36 sections and these are again divided by straight lines into half-and quarter sections.

SELF-SERVICE STORAGE FACILITY shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

SEPARATE OWNERSHIP shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

SERVICE STATIONS shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

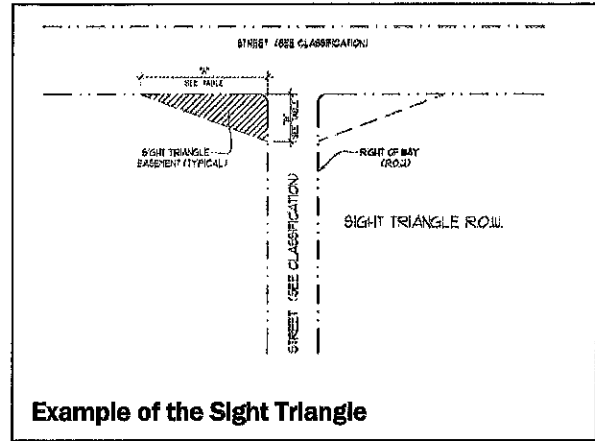
SETBACK (YARD) shall mean a horizontal distance, as prescribed in the various zoning districts established in this Resolution, measured from the centerline of the roadway on which a lot has frontage

and the side or rear lot line of any lot in which a building may not be constructed. Setbacks are further defined as follows:

1. **SETBACK LINE, FRONT YARD** shall mean 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.
2. **SETBACK, REAR** shall mean an open space extending across the entire width of the lot between the rear lot line and the nearest point of a building.
3. **SETBACK, SIDE** shall mean 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.
4. **SETBACK, TRANSITIONAL** shall mean an open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.
5. **SETBACK LINE, HIGHWAY** shall mean the same as "Highway Setback Line".

SIGHT TRIANGLE shall mean an area at a street or road intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.

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



SIGN, ADVERTISING shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

SIGN, ARCHITECTURAL CANOPY shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

SIGN AREA shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

SIGN, AUDIBLE shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and/or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and/or sounds to attract attention.

SIGN, AWNING, CANOPY OR MARQUEE shall mean a sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.

SIGN, BILLBOARD shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

SIGN, BUILDING shall mean any sign supported by, painted on or otherwise attached to any building or structure.

SIGN, DESTINATION shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

SIGN, ELECTRONIC MESSAGE BOARD shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

SIGN, FLASHING shall mean a sign designed to give an electrical light flash intermittently or a revolving beacon light.

SIGN, FREESTANDING shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

SIGN, GROUND (LOW PROFILE) shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.

SIGN, ILLUMINATED shall mean a sign illuminated in any manner by an artificial light source.

SIGN, ON-PREMISE shall mean a sign, display, or device advertising activities conducted on the property on which such sign is located.

SIGN, OPEN shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

SIGN, PORTABLE shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

SIGN, PROJECTING shall mean a projecting sign attached to a building.

SIGN, ROOF shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the building.

SIGN, SETBACK shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN, SUBDIVISION shall mean a sign erected on a subdivision identification lot which identifies the platted subdivision where the sign is located.

SIGN, SURFACE shall mean the entire area of a sign.

SIGN, TEMPORARY shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

SIGN, VIDEO shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

SIGN, WALL shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than 18 inches from the face of the building wall.

SIGN, WINDOW shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

SIMILAR USE shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

SITE PLAN shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

SITE, SEPTIC shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

SLUDGE shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

SOLID MANURE shall mean 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 animals which contains not less 25% solids by weight.

SOLID WASTE shall mean any garbage, refuse, discarded material including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, residential or other use, but excluding any animal waste, animal waste water or any waste from a waste handling facility.

SPOT ZONING shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.

STABLE, PRIVATE shall mean a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, RIDING shall mean a structure in which horses or ponies, used elusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.

STATE shall mean the State of Nebraska.

STOCKPILING shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.

STORAGE shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.

STORY shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

STORY, ONE-HALF shall mean the same as "Half-Story".

STREET shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.

STREET, ARTERIAL shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a city, village, or county with controlled access to abutting property.

STREET, COLLECTOR shall mean a street or highway that is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

STREET, CURVILINEAR shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.

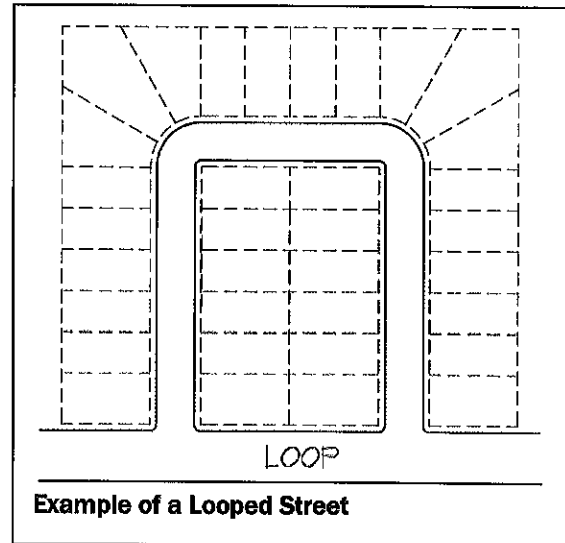
STREET, FRONTAGE ACCESS shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.

STREET, LOCAL shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.

STREET, LOOPED shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.

STREETS, MAJOR shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.

STREET, PRIVATE shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."



STREET, SIDE shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

STREET CENTERLINE shall mean the centerline of a street right-of-way as established by official surveys.

STREET LINE shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

STRUCTURE shall mean anything constructed or built, any edifice or building of any kind, any lagoon used for waste water treatment, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

STRUCTURE, ADVERTISING shall mean the same as "advertising structure".

STRUCTURAL, ALTERATION shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

SUBDIVISION shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

SUBSTANTIAL IMPROVEMENT shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either,

1. Before the improvement or repair is started, or
2. If the structure has been damaged, and is being restored before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or life safety codes or regulations.

SURFACE WATER CLASS A – PRIMARY CONTACT RECREATION shall mean surface waters which are used, or have a high potential to be used, for primary contact recreational activities. Primary contact recreation

includes activities where the body may come into prolonged or intimate contact with the water, such that water may be accidentally ingested and sensitive body organs (e.g. eyes, ears, nose, etc.) may be exposed. Although the water may be accidentally ingested, it is not intended as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.

SURFACE WATERS shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

T

TAVERN (See Bar.)

TEMPORARY STRUCTURE shall mean a structure without a permanent foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TEMPORARY USE shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

TOWER shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)

TRANSFER STATION shall mean a fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

TRAILER, AUTOMOBILE shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

TRANSIENT shall mean a person who is receiving accommodations for a price, with or without meals, for a period of not more than 180 continuous days in any one year.

TRANSITIONAL USE shall mean a permitted use or structure that, by nature or level and scale or activity, acts as a transition or buffer between two or more incompatible uses.

TRANSMISSIVITY shall mean the ability of an aquifer to yield a certain output of groundwater over a set period of time.

U

UPZONING shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.

URBAN AREA shall mean a municipality not exercising its zoning powers and unincorporated village within the county.

USE shall mean the activity for which land and buildings is actually arranged, occupied or maintained.

USE, BEST shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes the public health, safety and general welfare.

USE, HIGHEST shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

USE, PRINCIPAL shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal)

USED MATERIALS YARD shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yard" or "Automobile Wrecking Yards".

UTILITY EASEMENT shall mean the same as "Easement".

V

VARIANCE shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

VEHICLE shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

VEHICLE, MOTOR (See Motor Vehicle)

VISUAL OBSTRUCTION shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

W

WAREHOUSE shall mean a building used primarily for the storage of goods and materials.

WAREHOUSE AND DISTRIBUTION shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

WASTE HANDLING FACILITY shall mean any facility including:

1. any and all structures, combination of structures, under-floor pits, holding ponds, waste or manure catch basins, lots or pens where animal waste is accumulated, diversion terraces, liquid manure storage pits, lagoons, manure or other waste composting sites or other facility used to hold, store, process, digest, control or otherwise dispose of dead animals, animal waste, animal waste water or other waste materials, other than solid generated by any industrial use, any municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use whether on the same or different premises as the use generating said waste; and
2. any above ground pipelines for transporting of wastes other than solid wastes, any irrigation or other device, equipment, or mechanism used to transport and/or land apply or otherwise dispose of such wastes, whether on the same or different premises than the industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use; and
3. any land on which animal waste, animal waste water or other waste, excluding solid waste generated by any industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use; and
4. any facilities, apparatus, or mechanism used to ventilate, exhaust, process, or treat gases, odor, dust, smoke or other waste product emanating from any building or structure associated with any, industrial use, municipal waste treatment facility or other use, including any confined or intensive animal feeding use.

Waste handling facilities shall be categorized with regard to the types of such facilities and the methods of operation of such facilities as they relate to the potential for odor production, environmental degradation and compatibility with abutting and neighboring land uses as follows:

Category A (aerobic): A waste handling facility use in which:

1. all waste is collected, processed or digested utilizing aerobic digestion facilities and processes, including aerobic lagoons, and/or aerobic composting and in which there is surface application of solid manure or injection of liquid manure, liquid waste or waste water into the soil on crop or other land, and
2. dust, hazardous gases, odor or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and
3. Odors and dust, gases, or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category ANC (covered anaerobic): A waste handling facility in which:

1. all waste is collected and digested utilizing anaerobic digestion facilities and processes including anaerobic lagoons and holding basins, pits or above ground tanks, which are covered and the gases generated by the digestion of said waste are collected and treated to avoid explosion, fire hazards and the generation of odor, and in which there is surface application of solid manure or injection of liquid (non-solid) manure into the soil on crop or other land, and
2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and
3. odors and dust, gases, odor or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category FAC (facultative): A waste handling facility in which:

1. All or part of the waste produced is collected and digested utilizing anaerobic digestion lagoon(s) and processes designed to allow an introduction of not more than four pounds of volatile solids per day per 1,000 cubic feet of lagoon capacity and such lagoon(s) shall be operated and maintained to insure such capacity is available at all times and operated to minimize removal of top-water to reduce odor production, and there is surface application of solid manure or injection of liquid (non-solid) manure into the soil on crop or other land or there is application of liquid (non-solid) manure and waste on the surface of crop or other land, and
2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are not collected and processed to minimize air contamination, but simply exhausted into the air, and
3. odors and dust, gases, odor or other air contaminants emitted from any open-sided buildings or open pens are not controlled in a reasonable manner and do not minimize blowing of dust and odor onto abutting and neighboring properties.

Category AN (anaerobic): A waste handling facility in which:

1. all or part of the waste produced is collected and digested utilizing anaerobic digestion facilities and processes, including uncovered anaerobic holding ponds or pits, anaerobic lagoons, sludge or settling basins, anaerobic stockpiling of waste as a solid and there is surface application of solid manure or injection of liquid (non-solid) manure into the soil on crop or other land or there is application of liquid (non-solid) manure and waste on the surface of crop or other land, and
2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are not collected and processed to minimize air contamination, but simply exhausted into the air, and
3. odors and dust, gases, odor or other air contaminants emitted from any open-sided buildings or open pens are not controlled in a reasonable manner and do not minimize blowing of dust and odor onto abutting and neighboring properties.

WASTE, INDUSTRIAL shall mean any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

WASTEWATER LAGOON (See Lagoon)

WATER DISTRICT, RURAL shall mean a water district, as defined by the State of Nebraska, which has been constructed for the expressed purpose of supplying potable water to densely populated areas

and/or rural residents. A rural system shall include independent wellfields, pressurization systems, and storage.

WATER MINING shall mean the extraction of ground water or the pumping of surface water, as a natural resource, for use by individuals other than the property owner's dwelling and/or agricultural production.

WATER SYSTEM, REGIONAL shall mean a water system which has been constructed for the expressed purpose of supplying potable water to densely populated areas. A regional system shall be an extension of an existing municipal system and shall not be dependent upon individual wellfields or other water source other than those serving the municipality.

WATER TABLE shall mean the upper limit of the portion of the soil that is completely saturated with water. The seasonal high-water table is the highest level to which the soil is saturated.

WATERS OF THE STATE shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

WETLAND shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

WHOLESALE ESTABLISHMENT shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

WHOLESALE TRADE shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

WILDLIFE CORRIDOR shall mean an area of land along which wildlife migrate or travel for feeding and to reach spawning or nesting grounds. Corridors are used to link core wildlife areas.

X

XERISCAPING shall mean landscaping characterized by the use of vegetation that is drought-tolerant or a low water use in character.

Y

YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.

YARD, REAR shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

YARD, SIDE shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

Z

ZONE OF AERATION shall mean the underground, above the zone of saturation, where both air and moisture are found in the spaces between soil and rock particles.

ZONE OF SATURATION shall mean the area underground where every pore space between rock and soil particles is saturated with water.

ZONING ADMINISTRATOR shall mean the person or persons authorized and empowered by the county to administer and enforce the requirements of this chapter.

ZONING DISTRICT shall mean the same as "District".

ZONING DISTRICT, CHANGE OF shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the County

ARTICLE 3: GENERAL REGULATIONS**Section 3.01 Nonconforming, General Intent**

It is the intent of this resolution to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this resolution to be incompatible with permitted uses in the districts involved. It is further the intent of this resolution that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

Section 3.02 Nonconforming Lots of Record

1. In any district where buildings and structures are permitted, notwithstanding limitations imposed by other provisions of this Resolution, use and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Resolution. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district; provided:
 - a. The yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located;
 - b. Such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and
 - c. Has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous Resolution would have prohibited creation of such lot
2. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

Section 3.03 Nonconforming Structures

- 3.03.01 Authority to continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 3.03.02 Enlargement, Repair, Alterations:** Any such structure described in Section 3.03.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
- 3.03.03 Damage or Destruction:** In the event that any structure described in Section 3.03.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value:
1. Such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located, unless otherwise provided herein; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 3.02, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
 2. Complete reconstruction of a nonconforming structure may be allowed through a Zoning Permit if the structure is damaged or destroyed by natural means and not through intentional destruction or actions of the property owner or tenant. Reconstructed structures shall not be allowed to increase the level of nonconformity with regard to setbacks or lot coverage.
- 3.03.04 Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 3.04 Nonconforming Uses

3.04.01 Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this resolution, lawful use of land exists that is made no longer permissible under the terms of this resolution as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this resolution;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this resolution.
3. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this resolution for the district in which such land is located.

3.04.02 Nonconforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this resolution, that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this resolution in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this resolution but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this resolution;
4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 3.05 Repairs and Maintenance

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic area of the building as it existed at the time of passage of amendment of this Resolution shall not be increased.
2. Nothing in this resolution shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 3.06 Uses Under Conditional Use Permit not Nonconforming Uses

Any use for which a Conditional Use Permit has been issued as provided in this Resolution shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

Section 3.07 Interpretation

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, moral, prosperity, and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any

easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

Section 3.08 Scope of Regulations

No building, structure, or land in the unincorporated areas, excluding the portion of unincorporated areas over which cities and village are granted and are exercising zoning jurisdiction in Red Willow County shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with the provisions of this Resolution herein specified for the district in which it is located and except after receiving a zoning permit from the Red Willow County Zoning Administrator and:

1. Every building hereafter erected shall be located on a lot of record.
2. Only one principal building will be permitted on one lot of record, except in a Clustered/Mixed Use Development.
3. After a county road has been classified as a minimum maintenance road or is an unimproved road, no permits for residential dwellings, mobile home, or manufactured home shall be issued for construction on any property adjoining such classified road.

Section 3.09 Zoning Standards

No building, structure, or part thereof shall hereafter be erected or altered, unless a variance is granted:

1. To reduce any required yard setbacks
2. To exceed the height or bulk
3. To occupy a greater percentage of lot area
4. To erect or place any building, or structure, or part thereof into any zoning district to be used or occupied
5. To relocate or transport any building, structure, or part thereof into any zoning district to be used or occupied
6. To accommodate or house a greater number of families
7. No part of a yard or other open space required in connection with any building, occupancy, or use for the purpose of complying with these regulations shall be included in the calculations to determine the size of area necessary to accommodate the off-street parking and loading space requirements.

Section 3.10 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the County at least one time 10 days prior to such hearing.

Section 3.11 Right-of-Way Splits and Minimum Lot Requirements

In circumstances where a parcel of ground owned by one individual or party was split into two or more parcels by action taken by NDOR or Red Willow County and one or more of the resulting lots has been made a non-conforming tract(s) for development, the required minimum lot size may be less than required and may be approved administratively. However, in all circumstances, the minimum setback requirements shall be observed. In addition, said tract(s) was conforming prior to said action.

Section 3.12 Lot

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
2. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the County Board.
 - a. Institutional buildings
 - b. Public or semi-public buildings
 - c. Multiple-family dwellings
 - d. Commercial or industrial buildings
 - e. Home for the aged
 - f. Agricultural buildings

Section 3.13 Reductions in Lot Area Prohibited

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Regulation are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 3.14 Yard Requirements

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
4. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening.

Section 3.15 Drainage

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the County or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 3.16 Permitted Obstructions In Required Yards

The following shall not be considered obstructions when located in the required yards:

3.16.01 All Yards:

1. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley;
2. Chimneys projecting 24 inches or less into the yard;
3. Recreational and laundry-drying equipment;
4. Approved freestanding signs;
5. Arbors and trellises;
6. Flag poles;
7. Window unit air conditioners projecting not more than 18 inches into the required yard; and
8. Fences or walls subject to applicable height restrictions are permitted in all yards.
9. Egress windows and bulkhead enclosure.

3.16.02 Front Yards:

1. Bay windows projecting three feet or less into the yard are permitted.
2. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area;
3. Awnings and canopies provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area.

3.16.03 Rear and Side Yards:

1. Open off-street parking spaces,
2. Balconies or outside elements of central air conditioning systems.
3. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch;

3.16.04 Double Frontage Lots:

The required front yard shall be provided on each street.

3.16.05 Building Groupings:

For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

Section 3.17 Accessory Building and Uses

1. No accessory building shall be constructed upon a lot for more than 18 months prior to beginning construction of the principal building. No accessory building shall be used for more than 12 months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
2. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
3. No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
4. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
5. Regulation of accessory uses shall be as follows:
 - a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 - b. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.

Section 3.18 Permitted Modifications of Height Regulations

1. The height limitations of this Regulation shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television towers less than 100 feet in height
Conveyors	Cooling Towers
Grain Elevators and Silos	Elevator Bulkheads
Smoke Stacks	Air-Pollution Prevention Devices
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	
2. When permitted in district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 3.19 Well Fields

No development of any kind shall be located closer than 1,000 feet to any wellhead location as defined on the adopted zoning map.

Section 3.20 Amenities, Fire

Open or lattice-enclosed fire escapes fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard, may be permitted by the Zoning Administrator for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct lights and ventilation.

Section 3.21 Side Yards

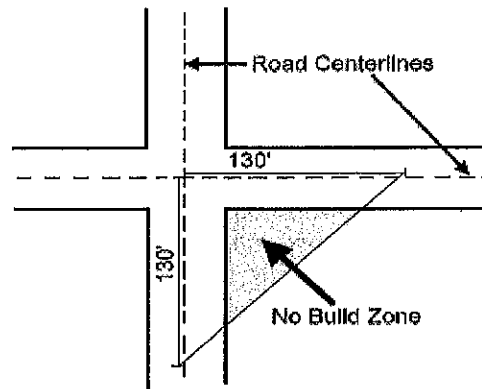
No side yards are required where dwelling units are erected above commercial and industrial structures.

Section 3.22 Corner Lots

On a corner lot in any district, nothing shall be erected, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half and 10 feet above the grades of the centerline of the intersecting street or road, from the point of intersection 120 feet in each direction measured along the centerline of the streets or roads.

Section 3.23 Sight Triangle at County Road and Highway Intersections

All permanent and temporary structures constructed at the intersection of County Roads or State or Federal Highways shall be required to provide a no build area at the intersection. The no build area shall be formed by measuring 130 feet in each direction beginning at the intersection of said roadways and extending in the appropriate direction.



Section 3.24 Building Setback

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest architectural projection of the existing or proposed structure, or
2. Where the centerline of a road is identified, said setback shall be from the centerline of the road to a point horizontally located at the required minimum distance.
3. All new non-farm residences shall locate no less than the corresponding distances provided in Section 4.03.07 from an Existing Agricultural Operation or LFO with more than 100 animal units located in any affected adjacent Zoning District.

Section 3.25 Temporary Structures

Temporary structures incidental to construction work, but only for the period of such work, are permitted in all districts; however, basements and cellars shall not be occupied for residential purposes until the entire building is completed.

Section 3.26 Caretaker's Quarters

Caretaker's quarters are permitted in all districts, providing the use is incidental to the principal use.

Section 3.27 Grain Bins

1. Grain Bins may be permitted in any required yard except that no grain bin shall be allowed within the sight triangle, see Section 3.23, at the intersection of any two roads or highways.

Section 3.28 Public Utility Facilities Lot Size Requirements

Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

1. Electric and telephone substations and distribution systems, including transformer stations.
2. Gas regulator stations.
3. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas, or water.
4. Broadcasting and microwave transmitting or relay stations and towers, except as may be required to meet setback requirements.
5. Water tower or standpipes.
6. Pumping stations.

This shall not apply to telecommunication towers/facilities or Wind Energy Conversion Systems

Section 3.29 Fees

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted by the County Board of Commissioners by separate Resolution.

Section 3.30 Prohibited Uses

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Resolution is amended to include a given use.

ARTICLE 4: DISTRICTS AND INTERPRETATION OF DISTRICT BOUNDARIES**Section 4.01 Boundaries**

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

1. Boundaries indicated as approximately following the centerlines or right-of-way of streets, highways or alleys shall be construed to follow such center or right-of-way lines unless otherwise noted.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following city/village limits shall be construed as following city/village limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstance not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

Section 4.02 Districts

For the purpose of this Chapter, the County is hereby divided into the following districts:

(AG-G)	Agricultural General District
(AG-T)	Transitional Agricultural District
(AG-SWP)	Surface Water Protection Agricultural District
(AH)	Airport Hazard District (overlay)
(FH)	Flood Hazard District (overlay)
(WP)	Wellhead Protection District (overlay)
(VAD)	Village Area Development
(PAA)	Private Airport/Airstrip Approach District

Section 4.03 Provision for Official Zoning Map

1. The county is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.36 of Resolution No. 1138 Book 18 Page 339 of the County of Red Willow County, Nebraska", together with the date of the adoption of this Resolution. If, in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Board of Commissioners.
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Board of Commissioners may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted August 6, 2012 (Resolution No. 1138 Book 18 Page 339) of the County of Red Willow County, Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 4.04 Changes on Official Zoning Map

If, in accordance with the provisions of this Resolution, changes are made in the zoning district boundaries or other explanatory matter portrayed on the Official Zoning Map, such changes shall be promptly entered on said Official Zoning Map after amendment of same has been approved by the County Board together with an entry on the Official Zoning Map as follows: "On (date) , by official action of the County Board of Commissioners, the following change(s) was / were made in the Official Zoning Map: (brief description of the change) ", which entry shall be signed by the Chairperson of the County Board of Commissioners and attested by the County Clerk. No changes to this Resolution, which involve matter portrayed on the Official Zoning Map, shall become effective until after such change and entry on such Official Zoning Map have been made.

Section 4.05 Official Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the County Board of Commissioners may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. Each new Official Zoning Map shall be identified by the signature of the chairperson of the County Board of Commissioners and attested by the County Clerk under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on (date of adoption of original map) as part of Resolution No. (number of original adoption resolution) of the Red Willow County, Nebraska Board of County Commissioners." Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof shall be preserved together with all available records pertaining to its adoption and amendment.

Section 4.06 Annexation Rule

Annexation of land to any incorporated municipality within or adjoining Red Willow County, Nebraska shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any such municipality shall remove such land from the jurisdiction of this Resolution.

Section 4.07 AG - G General Agricultural District**4.07.01 INTENT:**

The intent of this district is to promote and facilitate agricultural crop production, livestock production. The intent is also to encourage soil and water conservation, to prevent contamination of the existing environment within the County and to preserve and protect land best suited for agricultural uses by preventing or regulating the introduction, encroachment and location of potentially incompatible non-farm residential uses, commercial uses, industrial uses and other non-agricultural uses. The regulation of uses, including confined and intensive animal feeding uses, which could result in contamination of the air, soils and water, or which could negatively impact the use, value and enjoyment of property, or which could be inconsistent with the purposes of this Resolution, as herein set forth, or which could negatively impact the culture and way of life in Red Willow County.

4.07.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.
2. Oil wells and related piping and storage facilities.
3. Forestry, tree farms and plant nurseries.
4. Day care and child care uses, when conducted within a residential dwelling unit by the occupant(s) of such dwelling unit.

4.07.03 PERMITTED PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and/or certificate of zoning compliance:

1. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following restrictions:
 - A. Such dwellings, if not on the same lot with and not of the same ownership as any existing LFO or associated waste handling facility shall be separated from such use by the minimum distance specified in Table 8.06.01 of this Resolution for the class of the LFO and the category of waste handling facility, provided:
 - 1) If one or more impact easement(s) shall have been granted to the owner of the LFO and associated waste handling facility use, any dwelling unit or other use associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified.
 - 2) Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the LFO or associated waste handling facility, to the nearest wall of such dwelling or other use.
 - 3) Any site where there is surface application of composted animal waste or solid manure or injection of liquid animal waste into the soil, shall not be subject to any minimum separation distance.
 - B. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Red Willow County Board as a minimum maintenance road or other unimproved roadway, provided:
 - C. The total number of dwellings on any parcel of land under separate ownership as of the effective date of this Resolution shall not exceed more than one additional dwelling over the number of dwelling(s) existing on said parcel as of the effective date of this Resolution.
 - D. Residential dwellings existing on the same premises and under the same ownership as a LFO and associated waste handling facility as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such LFO and associated waste handling facility and shall not be subdivided or otherwise sold off as a separate parcel unless:
 - 1) The LFO and associated waste handling facility has been discontinued or an impact easement is effective at the time of such subdivision and sale.
 - 2) Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 8.06.01 of this Resolution.

2. Agricultural uses including any farm buildings but excluding any dwelling unit(s) whether or not associated with an agricultural use except if the property falls under an airport/landing strip protection zone.
3. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities except if the property falls under an airport/landing strip protection zone.
4. Any waste handling facility associated with any LFO in existence as of the effective date of this Resolution, may be expanded in the number of animal units served and/or land area occupied by such use, provided they meet the requirements of Section 8.06 of this Resolution.
5. Waste handling facilities, which qualify as either Category A (aerobic), Category ANC (covered anaerobic) or Category FAC (facultative) associated with a Class I livestock feeding operation when in compliance with Section 8.06 of this Resolution.
6. Land application of sludge from municipal waste treatment facilities shall be permitted, provided:
 - A. The municipality generating said sludge shall provide written evidence that the sludge do not contain contaminants at levels higher than the maximum contaminant levels established by the EPA and
 - B. Further provided that the municipality generating such sludge provides written evidence to the County that said sludge is being applied at agronomic rates.
7. Public service facilities, including public, parochial, private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
8. Churches, cemeteries and related uses.
9. Truck farms
10. Co-location of a new cellular system on an existing tower; provided:
 - A. The tower is a legally conforming structure,
 - B. The system owner applies to the Red Willow County Zoning Administrator for a permit,
 - C. The application is accompanied by:
 - 1) A letter from the tower owner that there is an agreement in place to cover the co-location,
 - 2) An engineer's certificate stating that the existing tower is structurally capable of handling the new system,
 - 3) An engineer's certificate stating that there will not be any interference to neighboring property owners including the existing systems on the tower.
11. Fish hatcheries, game farms and commercial hunting and fishing where such hunting and fishing does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.
12. Day care and child care uses conducted in an accessory building outside of a residential dwelling unit or in a dwelling unit but operated by persons other than the occupant(s) of such dwelling unit.

4.07.04 **CONDITIONAL USES:**

The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the AG-G District as recommended by the Planning Commission and County Board and approved by the County Board.

1. Waste Handling Facilities (various systems) for Class II, III and IV LFO provided they meet the criteria found in Section 8.06 of this Resolution. This shall include the following items:
 - A. Expansion of waste handling facilities associated with a LFO in existence as of the effective date of this Resolution,
 - B. Development of new Category AN (anaerobic) waste handling facilities serving a Class I LFO,
 - C. Surface application of liquid waste from a waste handling facility serving a Class I LFO which is listed as a permitted use in Section 4.07.03, Subsection 3.
2. Application of animal manure or other waste from sources outside the boundaries of the County on land within the County, except:

- A. Surface application of solid manure at agronomic rates, or
- B. The injection of liquid animal waste into the soil at agronomic rates.
- C. Any authorization of surface application of liquid animal waste shall require that the site(s) for such application be approved and that such sites shall comply with the minimum separation distances to neighboring uses, within or adjoining the County, as set forth in Table 8.06.01 of this Resolution.
3. General welding and agricultural equipment repair businesses
4. Automobile repair and body shop businesses
5. Commercial Wind energy conversion systems, provided the following minimum requirements are followed:
 - A. The minimum requirements of Section 8.04 shall be met.
 - B. All proposed Commercial Wind Energy Conversion Systems shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the sides of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5, 280 feet on a 40:1 slope (also accounting for the change in grade between the two uses.)
 - C. All proposed Commercial Wind Energy Conversion Systems shall be separated from all private airports/runways a distance equal to 15 rotor diameters from the sides of said private runway.
 - D. A Commercial Wind Energy Conversion System may construct closer to an existing private airport; provided that such Commercial Wind Conversion System receive an impact easement from said private airport owner. Said easement shall be recorded in the public real estate record, and the easement shall describe the benefitted and burdened parcels and shall run with the land.
6. Livestock auction barns and yards.
7. Crop dusting businesses and related aircraft landing strips and airports.
8. Private airports, provided such airports are not located within the Airport Approach Overlay District extending around the McCook/Ben Nelson Regional Airport and runway(s) or the designated Approach Overlay of any other established public airport, and including, but not limited to, the following conditions:
 - A. Such airports shall request a "No Objection, No objection with provisions, or Objectionable Determination" from the Federal Aviation Administration, prior to applying to the county and shall abide by all conditions set by the FAA in that determination. Any conditions or objections noted in the document may form the basis for denial of the Conditional Use.
 - B. Such airports shall not be so located as to prohibit federal funding for the location, expansion or improvements of public airports.
 - C. All runways shall be set back from any residence, church, school, or places of public assembly, excluding the owners, provided that the residence, church, school or place of public assembly be set back a minimum horizontal distance of 2,000 feet beyond the end or side of the required runway length, except for the residence and buildings of the runway owner.
 - D. An aircraft that is approaching or departing from the runways of a private airport shall meet all FAA flyover minimums.
 - E. A private airport may construct closer to an existing building or structure, provided that such private airport receive an impact easement from the property owner of the existing building or structure. Said easement shall be recorded in the public real estate record, and shall describe the benefitted and burdened parcels and shall run with the land.
 - F. Said landing strip is not within the Airport Approach zones of any public airport.
 - G. Said strip will not interfere with the operation of an existing or planned WECS, Telecommunication Tower or electrical transmission system.
 - H. Said strip will store any hazardous chemicals for use in a commercial crop dusting operation.
 - I. Said strip will not use any County, State or Federal roadway or highway for any activity including landing, take-offs or taxiing.
9. Radio, Television, microwave and other types of erected towers, subject to applicable airport, airstrip and heliport zoning restrictions set forth in this Resolution, including the following:

- A. The minimum requirements of Section 8.01.
- B. All radio, TV and wireless Communication towers shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the sides of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5,280 feet on a 40:1 slope, (also accounting for the change in grade between the two uses).
- 10. Commercial fuel and fertilizer bulk plants
 - A. Said uses are separated from any existing dwelling unit, church, school or cemetery by a distance of not less than one-half mile.
- 11. Recycling facilities and solid waste transfer stations
 - A. Said uses are separated from any existing dwelling unit, church, school or cemetery by a distance of not less than one-half mile.
- 12. Salvage (junk) yards, in accordance with the following minimum conditions
 - A. Said uses are separated from any existing dwelling unit, church, school or cemetery by a distance of not less than one-half mile.
- 13. Secondary dwellings, as defined in this Resolution, and dwelling units located closer than 1,000 feet to an existing dwelling, other than the primary dwelling, provided:
 - A. All secondary dwelling units shall not count against the overall density of the ¼ section, unless separated into an individual tract or parcel.
 - B. Separation into an individual tract shall require the dwelling unit to meet all applicable lot, lot area, setback, and density requirements, unless the dwelling continues to share the same well and sanitary sewer system.
 - C. No secondary dwelling shall be allowed to separate if it cannot meet the minimum/maximum requirements of this Resolution.
- 14. Publicly owned and operated recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, and rental cabins.
- 15. Privately owned and operated recreational uses and commercial recreational enterprises (generally operated for use by fee paying customers), including but not limited to parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, bed and breakfast operations and motels.
- 16. Mineral extraction and sand and gravel extraction facilities and operations, subject to Section 8.02 of these Regulations.
- 17. Nursing home facilities and group homes.
- 18. Adult Entertainment Establishments provided the following requirements are met:
 - A. No Adult Entertainment Establishment shall be located no more than a ¼ mile from a State or Federal designated highway.
 - B. Orientation of the building and entrance shall be perpendicular to the State or Federal highway.
 - C. All signage shall be discreet and shall not be comprised of neon or other lighted system including digital and LED signs,
 - D. The conditions and provision found in Section 8.09 of this Resolution.
- 19. Conservation Areas including the creation of grassland preserve as well as the protection and preservation of native prairies and wetlands for the purposes of habitat and/or tourism, provided the following minimum conditions are met:
 - A. Said Conservation Area shall be a part of a larger farming or ranching operation;
 - B. Said Conservation Area if legally protected shall be done solely with Conservation Easements;
 - C. Said Conservation Easements, if not controlled by the property owner, shall be placed in control of an organization which pays property taxes on their lands;
 - D. Said property shall remain in a taxable status and shall not be taken off the tax roles of Red Willow County;
 - E. Said area shall be located and accessed by a paved roadway or highway;
 - F. All roads onto the property from said paved roadway or highway shall be private and shall be maintained by the property owner or the controlling party;
 - G. All structures constructed as part of the Conservation Area shall be owned and operated by a taxable entity;
 - H. Any lodging within a Conservation Area shall be required to meet all state and federal building codes and life safety codes;

- I. All hunting areas shall be located away from adjacent property owners.
- J. All Conservation Easements shall be approved by the County Board as per §§76-2,111 through 76-2,115.

4.07.05 TEMPORARY USES:

The following temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit

- 1. Temporary greenhouses.
- 2. Fireworks stands provided the criteria are met as established by the County through separate Resolutions.
- 3. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
- 4. Temporary structure for festivals or commercial events.

4.07.06 PERMITTED ACCESSORY USES AND STRUCTURES:

The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

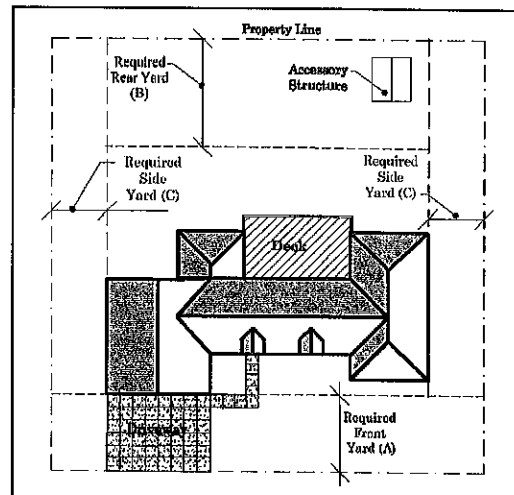
- 1. Buildings and uses customarily incidental to the permitted and conditional uses.
- 2. Roadside stands offering the sale of agriculture products produced on the premises.
- 3. Fences
- 4. Home occupation, pursuant to Section 8.07.
- 5. Parking pursuant to Article 6.
- 6. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.
- 7. Signs pursuant to Article 7.
- 8. Decks, gazeboes, elevated patios either attached or detached.
- 9. Family Child Care Home I
- 10. Mobile homes and single-family dwelling units on a farm or ranch provided they are used for relatives or farm workers associated with the farm operation.
- 11. Small wind Energy Systems pursuant to Section 8.03.
- 12. Solar panels

4.07.07 MINIMUM LOT AREA REQUIREMENTS:

The following shall be the minimum lot area requirements for uses located within this district:

Uses/Structures	Min. Lot Area (acre)	Min. Lot Width (feet)	Minimum Frontage (feet)	Minimum Setbacks			Max. Height (feet)	Max. Lot Coverage (%)
				Front Yard (feet) (A)	Rear Yard (feet) (B)	Side Yard (feet) (C)		
Single-family Dwellings	5 ¹	275	150	83 ²	20	10	40	-
Other Permitted Uses	5 ¹	275	150	83 ²	20	10	40	-
Conditional Use	5 ¹	275	150	83 ²	20	10	40	-
Accessory Uses	-	-	-	83 ²	10	10	40	-
Agricultural Buildings	5	100	100	83 ²	10	10	60	

- 1. A larger lot area may be required by the standards and regulations of the Nebraska Department of Health and the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems.
- 2. Front yard setback shall be 83 feet from the centerline of a County Road, or shall 50 feet when abutting any other platted street, road or highway.
- 3. A building or structure may construct closer to an existing private airport, provided that they receive an Impact easement from said property owner. Said easement shall be recorded in the public real estate record, and the easement shall describe the benefitted and burdened parcels and shall run with the land.
- 4. No building or structure, EXCEPT the residence and buildings of the owner of a private airport shall be constructed closer than what a 40:1 slope will allow from the end of the private runway



and what a slope of 7:1 will allow from the sides of a private runway, unless the parties have an impact easement. Said easement shall be recorded in the public real estate record, shall describe the benefitted and burdened parcels and shall run with the land.

5. The maximum height requirements for the end of a private runway shall include an area 600 feet wide, centered upon said private runway and shall extend out from each end for a total of 5, 280 feet.

Section 4.08 AG - T Transitional Agricultural District**4.08.01 INTENT:**

The intent of this district is to preserve land for and encourage residential, commercial and industrial developments in a compatible relationship to each other around the incorporated municipalities within the County and provide protection of these urban areas from encroachment of incompatible confined or intensive animal feeding and other land uses while allowing agricultural uses which will not negatively impact non-agricultural uses in the zoning district or the incorporated municipalities, around which this zoning district is applied.

4.08.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.
2. Oil wells and related piping and storage facilities.
3. Forestry, tree farms and plant nurseries.
4. Child and day care use conducted within a permitted dwelling unit

4.08.03 PERMITTED PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and/or certificate of zoning compliance:

1. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following conditions.
 - A. Such dwellings shall be separated from any existing LFO or any waste handling facility by the appropriate distances found in Table 8.06.01 MINIMUM SEPARATION DISTANCES FOR LFO USES based upon the size of the use and the type of waste handling facility.
 - 1) If said dwelling is located on the same property and is of the same ownership as any existing LFO or any waste handling facility then the separation distances in Table 8.06.1 do not apply.
 - 2) If one or more Impact easements have been granted to the owner of the LFO then the dwelling associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified.
 - 3) Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding or waste handling use, to such dwelling.
 - 4) Application of waste which in solid form to the surface of the land, the application of composted waste or the injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified.
2. Agricultural uses including any farm buildings but excluding any dwelling unit(s) whether or not associated with an agricultural use except if the property falls under an airport/landing strip protection zone.
3. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities except if the property falls under an airport/landing strip protection zone.
4. Public service facilities, including public, parochial, private non-religious, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
5. Churches, cemeteries and related uses.
6. Truck farms
7. Co-location of a new cellular system on an existing tower; provided:
 - A. The tower is a legally conforming structure,
 - B. The system owner applies to the Red Willow County Zoning Administrator for a permit,
 - C. The application is accompanied by:
 - 1) A letter from the tower owner that there is an agreement in place to cover the co-location,
 - 2) An engineer's certificate stating that the existing tower is structurally capable of handling the new system,

- 3) An engineer's certificate stating that there will not be any interference to neighboring property owners including the existing systems on the tower.
8. Fish hatcheries, game farms and commercial hunting and fishing provided the use shall not include the development of lodges or other buildings. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.
9. Child care and day care uses, involving buildings other than a residential dwelling unit.

4.08.04 **CONDITIONAL USES:**

The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the AG-T District as recommended by the Planning Commission and County Board and approved by the County Board.

1. Expansion of Class I LFO and any associated waste handling facility uses, whether conforming or non-conforming with the requirements of this Resolution, provided
 - A. Such expansion shall not result in any LFO becoming a Class II or larger use.
 - B. An LFO in existence as of the effective date of this Resolution shall require a declaration of the current capacity of the existing use.
 - C. The determination of the number of animal units in such use shall be based upon the number of animal units set forth in a permit issued by the NDEQ,
 - (1) In the event such permit is not required, determination shall be by written declaration of the owner of the use regarding the one-time capacity of such use
 - (2) Said declaration shall be made to the Zoning Administrator, using forms provided
 - (3) Said declaration shall be made within 180 days of the effective date of this Resolution.
 - (4) In the event of any dispute over the number of animal units, determination shall be by on-site inspection and the counting of the actual animals to determine the animal unit capacity; Said on-site inspection shall be made by the Zoning Administrator or other duly appointed official at the time of such dispute.
 - (5) In authorizing an expansion, the Planning Commission, in making its recommendation and the County Board, in deciding on any such conditional use, shall consider all factors regarding such conditional use as set forth in Section 8.06 of this Resolution.
2. Two-family and multi-family dwellings provided the following:
 - A. Such higher density residential uses are located near the incorporated municipalities in the County or
 - B. In an area where the development of higher density uses can be adequately served by roadways, water, sewer, as well as law enforcement, fire protection and other public services.
3. Publicly owned and operated recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, and rental cabins.
4. Commercial Wind energy conversion systems provided the following minimum requirements are followed:
 - A. The minimum requirements of Section 8.04 shall be met.
 - B. All proposed Commercial Wind Energy Conversion Systems shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the sides of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5, 280 feet on a 40:1 slope (also accounting for the change in grade between the two uses.)
 - C. All proposed Commercial Wind Energy Conversion Systems shall be separated from all private airports/runways a distance equal to 15 rotor diameters from the sides of said private runway.
 - D. A Commercial Wind Energy Conversion System may construct closer to an existing private airport; provided that such Commercial Wind Conversion System receive an impact easement from said private airport owner. Said easement shall be recorded in the public real estate record, and the easement shall describe the benefitted and burdened parcels and shall run with the land.

5. Privately owned and operated recreational uses and commercial recreational enterprises (generally operated for use by fee paying customers), including but not limited to parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, bed and breakfast operations and motels.
6. Mineral extraction and sand and gravel extraction facilities and operations, subject to Section 8.02 of these Regulations.
7. Nursing home facilities and group homes.
8. Private airports provided such airports are not located within the Airport Approach Overlay District extending around the McCook/Ben Nelson Regional Airport and runway(s) or the designated Approach Overlay of any other established public airport, and including, but not limited to, the following conditions:
 - A. Such airports shall request a "No Objection with provisions, or Objectionable Determination" from the Federal Aviation Administration, prior to applying to the county and shall abide by all conditions set by the FAA in that determination. Any conditions or objections noted in the document may form the basis for denial of the Conditional Use.
 - B. Such airports shall not be so located as to prohibit federal funding for the location, expansion or improvements of public airports.
 - C. All runways shall be set back from any residence, church, school, or places of public assembly, excluding the owners, provided that the residence, church, school or place of public assembly be set back a minimum horizontal distance of 2,000 feet beyond the end or side of the required runway length, except for the residence and buildings of the runway owner.
 - D. An aircraft that is approaching or departing from the runways of a private airport shall meet all FAA flyover minimums.
 - E. A private airport may construct closer to an existing building or structure, provided that such private airport receives an impact easement from the property owner of the existing building or structure. Said easement shall be recorded in the public real estate record and shall describe the benefitted and burdened parcels and shall run with the land.
 - F. Said landing strip is not within the Airport Approach zones of any public airport.
 - G. Said strip will not interfere with the operation of an existing or planned WECS, Telecommunication Tower or electrical transmission system.
 - H. Said strip will store any hazardous chemicals for use in a commercial crop dusting operation.
 - I. Said strip will not use any County, State or Federal roadway or highway for any activity including landing, take-offs or taxiing.
9. Waste handling facility uses, not associated with an LFO.
10. Radio, Television, microwave and other types of erected towers, subject to applicable airport, airstrip and heliport zoning restrictions set forth in this Resolution, including the following:
 - A. The minimum requirements of Section 8.01.
 - B. All radio, TV and wireless Communication towers shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the sides of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5,280 feet on a 40:1 slope, (also accounting for the change in grade between the two uses).

4.08.05 PERMITTED ACCESSORY USES AND STRUCTURES:

The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures.
2. Home occupations, in accordance with Section 8.07 of this Resolution.
3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

4.08.06 MINIMUM LOT AREA REQUIREMENTS:

The following shall be the minimum lot area requirements for uses located within this district:

Uses/Structures	Min. Lot Area (acre)	Min. Lot Width (feet)	Minimum Frontage (feet)	Minimum Lot Depth (feet)	Minimum Setbacks			Max. Height (feet)	Max. Lot Coverage (%)
					Front Yard (feet) (A)	Rear Yard (feet) (B)	Side Yard (feet) (C)		
Permitted Uses	3 ¹	85	66	-	58 ²	20	10	35	100
Conditional Use	3 ¹	85	66	-	58 ²	20	10	35	100
Accessory Uses	-	-	-	-	-	10	10	35	10
Agricultural Buildings	3	85	66	-	58 ²	10	10	60	-

1. A larger lot area may be required by the standards and regulations of the Nebraska Department of Health and the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems. Further provided that where a semi-public or public sewer collection and treatment system is provided, the minimum lot size shall be 10,000 square feet.
2. Front Setback - 25 feet from an established right-of-way line for lots fronting on a Federal or State Highway, otherwise the front setback shall be one-half the width of the right-of-way plus 25 feet.
3. A building or structure may construct closer to an existing private airport, provided that they receive an Impact easement from said property owner. Said easement shall be recorded in the public real estate record, and the easement shall describe the benefitted and burdened parcels and shall run with the land.
4. No building or structure, EXCEPT the residence and buildings of the owner of a private airport shall be constructed closer than what a 40:1 slope will allow from the end of the private runway and what a slope of 7:1 will allow from the sides of a private runway, unless the parties have an Impact easement. Said easement shall be recorded in the public real estate record, shall describe the benefitted and burdened parcels and shall run with the land.
5. The maximum height requirements for the end of a private runway shall include an area 600 feet wide, centered upon said private runway and shall extend out from each end for a total of 5,280 feet.

4.08.07 Other Provisions

1. All Conditional Use Permits shall be reviewed with regard to traffic generation, noise, odors, dust, vibrations and potential air, soil or water pollution or explosion or other hazards.

Section 4.09 AA Airport/Airstrip Approach District**4.09.01 INTENT:**

The intent of this district is that it is to be appended and to overlay any of the primary zoning districts as described in this Resolution to protect the safe use of public and private airports and their Airport Hazard Area, in the County, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports, as designated on the Official Zoning Map of Red Willow County, Nebraska.

Airport Hazard Area Description

In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted a comprehensive plan and zoning regulations and has an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

4.09.02 AIRPORT ZONES

The following are intended for use with this specific overlay zoning district.

Airport Hazard Area consists of Operation Zones, Approach Zones, Turning Zones, and Transition Zones.

Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. The zones' dimensions are:

1. Instrument Runways:
 - A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 1,000 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 5,820 feet wide.
 - B. Height Limit: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for 50 feet horizontally (50:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.
2. Visual Runways:
 - A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 500 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide.
 - B. Height: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 40 feet horizontally (40:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.

Operation Zones are longitudinally centered on each existing or proposed runway:

1. Length: For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.
2. Width: For existing and proposed instrument runways, the operation zones are 1,000 feet wide. For all other existing and proposed runways, the operation zones are 500 feet wide.
3. Height: The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

Transition Zones extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.

Turning Zones extend three miles from the existing or planned airport property line, excluding the operation zones, approach zones, or transition zones. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

- 4.09.03 HEIGHT RESTRICTIONS:**
 No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in subsection 4.09.02 above.
- 4.09.04 AIRPORT ZONING MAP AND LOCATION**
 The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Airport Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Airport Zoning Map shall at all times be on file in the office of the Zoning Administrator and County Clerk.
- 4.09.05 PERMIT REQUIREMENTS, EXCEPTIONS, APPLICATION FORMS, AND FEES**
1. Anyone wishing to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character; or to plant or replant any tree or other object of natural growth which, when mature, would not violate the requirements of Section 4.09.03 above, within the Airport Hazard Area must first obtain a permit from Zoning Administrator.
 2. Exception:
 Within the Turning Zones, no permit shall be required for any construction, reconstruction, repair, or planting of anything which, when completed, or, in the case of natural growth, when mature, does not exceed seventy-five 75 feet above the nearest existing or proposed runway end.
 3. Application Form:
 Application for a permit as required under these regulations shall be made on a form to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the end of the nearest runway or landing strip and height of the proposed structure or planting. (Mean Sea Level Elevation)
 4. Permit Fee:
 The fee for each permit issued shall be established by the County Board as a separate Resolution to the Zoning Resolution, and all fees so paid shall be deposited into the airport's revenue fund.
- 4.09.06 NON-CONFORMING STRUCTURES**
 Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth; and no such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of 12 months or more; shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.
- 4.09.07 MARKING OF NON-CONFORMING STRUCTURES**
 Whenever the Zoning Administrator determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and/or the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Zoning Administrator. The owner(s) and lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object. The Zoning Administrator shall specify the required marking and lighting, consistent with Chapter 3 of these regulations entitled "Marking and Lighting of Structures". The cost of marking or lighting shall not be assessed against the owner or lessor of said premises.

4.09.08 ADMINISTRATIVE AGENCY; ENFORCEMENT

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

4.09.09 ZONING BOARD OF ADJUSTMENT

The Red Willow County Board of Adjustment shall be the board of adjustment with respect to these regulations. Said board shall have and exercise the powers conferred by Neb. Rev. Stat. §3-320 et. seq. (Reissue 2007) and such other powers and duties as are conferred and imposed by law.

4.09.10 PERMITTED PRINCIPAL USES AND STRUCTURES:

Any use or structure permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 4.09.03 above.

4.09.11 CONDITIONAL USES:

Any conditional use permitted in the primary zoning district where this district is overlain where such conditional use has been duly authorized by the County Board in accordance with the requirements and procedures specified in this Resolution, provided all buildings, structures and other obstacles comply with the height restrictions set forth in Section 4.09.03 above.

4.09.12 ACCESSORY STRUCTURES:

Any accessory use or structure permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 4.09.03 above.

Section 4.10 FP-Flood Plain Regulations**4.10.01 Statutory Authorization**

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare.

4.10.02 Findings of Fact**1. Flood Losses Resulting from Periodic Inundation**

The flood hazard areas of Red Willow County, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

2. General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

4.10.03 Statement of Purpose

It is the purpose of this Resolution to promote the public health, safety, and general welfare and to minimize those losses described in Section 4.10.02 (1) by applying the provisions of this Resolution to:

1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

4.10.04 Local Administrator Responsibilities

The County Board of Commissioners shall appoint the local administrator and they shall have the responsibilities of enforcing this section and is authorized and directed to enforce all of the provisions of this section and all other Resolutions of the Red Willow County now in force or hereafter adopted, related to floodplain enforcement.

4.10.05 Local Administrator Additional Responsibilities

The Floodplain Administrator shall be appointed to these additional responsibilities by resolution of the Governing Body and his/her appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Floodplain Administrator, the Governing Body of the County shall designate an acting administrator.

4.10.06 Designation of Current FHBM/FIRM

The Governing Body of Red Willow County hereby designates the current Flood Hazard Boundary Map/Flood Insurance Rate Map dated February 4, 2009, as the official map to be used in determining those areas of special flood hazard.

4.10.07 Permits Required

Permits Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this Resolution.

1. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
2. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such

application shall:

- a. Identify and describe the development to be covered by the floodplain development permit for which application is made.
- b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
- c. Indicate the use or occupancy for which the proposed development is intended.
- d. Be accompanied by plans and specifications for proposed construction.
- e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- f. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
- g. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (- 1') penalty is assessed at the time of rating the structure for the policy premium.)

4.10.08 Development Permit Applications Review

The Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law.

4.10.09 All Applications Review

The Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 4.10.23 of this Resolution) will:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:
 - a. That until a floodway has been designated - No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one foot at any location.
 - b. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
 - c. Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local administrator.
 - d. Require for all new construction and substantial improvements - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one

square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Require the use of construction materials that are resistant to flood damage.
3. Require the use of construction methods and practices that will minimize flood damage.
4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
 - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
 - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. Any additions to manufactured homes shall be similarly anchored.
7. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 4.10.09 (6).
8. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the county's official map that are not subject to the provisions of Section 4.10.09(7). be elevated so that either:
 - a. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 4.10.09(6)
9. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the county's official map either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this Resolution. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

4.10.10 Subdivision Applications

The Governing Body of Red Willow County shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five acres or 50 lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

4.10.11 Water and Sewage Systems

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

4.10.12 Storage of Material and Equipment

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

4.10.13 Flood-carrying Capacity Within any Watercourse

The Governing Body of the County will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Department of Natural Resources) prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

4.10.14 Variance Procedures

1. The Board of Adjustment as established by Red Willow County shall hear and decide appeals and requests for variances from the requirements of this Resolution.
2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this Resolution.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Resolution, and;
 - a. the danger that materials may be swept onto other lands to the injury of others;
 - b. the danger to life and property due to flooding or erosion damage;
 - c. the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. the importance of the services provided by the proposed facility to the community;
 - e. the necessity to the facility of a waterfront location, where applicable;
 - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. the compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. the safety of access to the property in times of flood for ordinary and emergency vehicles.

- j. the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
 - k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Conditions for Variances
- a. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (b-e below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - d. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Resolutions.
 - e. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Resolution.

4.10.15 Non-conforming Use

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the resolution, but which is not in conformity with the provisions of this resolution may be continued subject to the following conditions:
 - a. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this resolution. The local Public Power Districts and any Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
 - b. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- 2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Resolution. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

4.10.16 Penalties for Violation

Violation of the provisions of this Resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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

4.10.17 Abrogation and Greater Restrictions

It is not intended by this Resolution to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this Resolution imposes greater restrictions, the provision of this Resolution shall prevail. All other Resolutions inconsistent with this Resolution are hereby repealed to the extent of the inconsistency only.

4.10.18 Interpretation

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

4.10.19 Warning and Disclaimer of Liability

The degree of flood protection required by this Resolution is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Resolution does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Resolution shall not create liability on the part of Red Willow County or any officer or employee thereof for any flood damages that may result from reliance on this Resolution or any administrative decision lawfully made thereunder.

4.10.20 Appeal

Where a request for a permit to develop or a variance is denied by the Floodplain Administrator the applicant may apply for such permit or variance directly to the Board of Adjustment.

4.10.21 Conflicting Resolutions

The provisions contained in Section 4.10 of this Resolution shall take precedence over conflicting Resolutions or parts of Resolutions. The Governing Body of Red Willow County may, from time to time, amend this Section and/or Resolution to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Section are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

4.10.22 Definitions

Unless specifically defined below, words or phrases used in this Section of this Resolution shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Resolution it's most reasonable application.

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

"Expansion of Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

"Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Historic Structure" means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Resolution.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New Construction" For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"100-Year Flood" means the condition of flooding having a one percent chance of annual occurrence.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure is above ground.

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Flood Elevation" means the water surface elevation of the 100-year flood.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

"Start of Construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief to a person from the terms of a floodplain management Resolution.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

Section 4.11 WP Wellhead Protection Overlay District**4.11.01 Intent**

The intent of this district is to assist municipalities that maintain and operate public water wells in the county serving municipalities within or adjoining the county. In addition, the district assists rural water districts maintaining and operating semi-public water wells in the county that serve rural areas and municipalities within Red Willow County, as well as neighboring counties. In order to provide protection for such wells, the regulation of land uses having the potential for contamination of the groundwater source(s) is necessary near and adjacent to said wells.

4.11.02 Prerequisite Requirements for Application of this District

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

1. Delineation of the Wellhead Protection Area based upon a 20 year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
4. Formulation of emergency/contingency/long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,
5. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area,
7. Willingness to execute an inter-local agreement with Red Willow County for the administration and enforcement of the regulations of this Wellhead Protection District, willingness to accept the regulations set forth in this District, willingness to pay any administrative fees to the County which the parties involved agree, willingness to provide legal counsel to address any legal question or legal challenge to the Wellhead Protection District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.

4.11.03 Limitation on Application of This District

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

4.11.04 Prohibited Uses and Structures

1. All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use is prohibited. These shall include both new and expanding uses. Furthermore the following uses and/or structures shall be specifically prohibited:
2. All classes of open lot or environmentally controlled housing facilities.
3. All waste handling facilities.
4. All commercial or industrial uses that utilize or generate any materials determined by the United States Department of Environmental Protection, as hazardous materials, which

store petroleum products or anhydrous ammonia or other fertilizers in excess of 50 gallons, shall be prohibited.

5. Domestic, irrigation and any other water wells closer than 1,000 feet to the water wells being protected in this Wellhead Protection Agricultural District.
 - a. Sanitary Landfills
 - b. Storage of Hazardous Waste

Section 4.12 VAD – Village Area Development**4.12.01 Intent**

This district is intended to provide residential living with the influence economic vitality. Land uses should be evaluated on how they affect the neighborhood not just a zoning district.

4.12.02 Principal Uses

The following principal uses are permitted in the VAD District.

1. Bed and Breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - A. The bed and breakfast residence shall be on property with a conforming single family dwelling.
 - B. Guest rooms may be within the principal residential building or an accessory building.
 - C. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - D. Two off-street parking spaces shall be provided for each dwelling unit plus one off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - E. One identification sign on not more than eight square feet of sign area shall be permitted.
2. Fire Stations
3. Law enforcement facilities
4. Places of Religious Assembly
5. Public Parks and Playgrounds
6. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums
7. Publicly owned country clubs, swimming pools, golf driving ranges, or other outdoor recreational areas such as campgrounds and youth camps.
8. Public and parochial school; colleges
9. Single family dwellings
10. Underground Public Utility right-of-way
11. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).

4.12.03 Conditional Uses

The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the VAD District as recommended by the Planning Commission and County Board of Commissioners and approved by the County Board of Commissioners.

1. Auto and Auto-Body Repair
2. Bait and tackle sales, sporting goods stores, outfitters
3. Bowling, Restaurants, Bars and Taverns
4. Bulk grain storage.
5. Cemeteries
6. Child Care Centers
7. Family amusement facilities
8. Fueling station
9. Multi-family dwellings, including townhouses, duplexes and condominiums
10. Privately owned parks, playgrounds, country clubs, swimming pools, golf driving ranges, miniature golf, golf courses, motorized cart tracks, or other outdoor recreational areas such as campgrounds, RV parking, and youth camps.
11. Private Storage Buildings on a traditionally residential lot or lots.
12. Professional offices
13. Radio, cellular and television towers and transmitters pursuant to Section 8.01 of this Resolution.
14. Recreation oriented rentals: RVs, boats and canoes, etc.
15. Recycling centers
16. Retail stores

- 17. Self-Service Storage Facility
- 18. Transfer stations

4.12.04 Accessory Uses

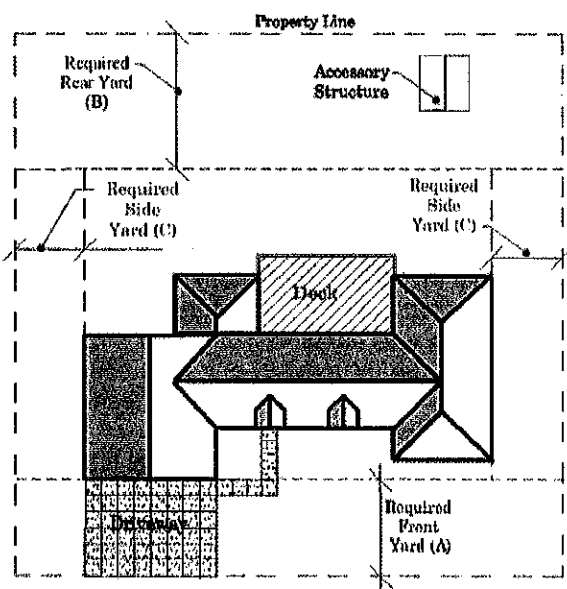
1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses including decks and gazebos.
2. Private swimming pools (above or below ground), tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Home occupation as provided for in Section 8.07.
5. Signs as provided for in Article 7.
6. Parking as provided for in Article 6.
7. Private Greenhouse structures.
8. Small Wind Energy Systems as provided for in Section 8.03.
9. Solar Energy systems

4.12.05 Height and Lot Requirements

The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width (feet)	A Front Yard (feet)	B Rear Yard (feet)	C Side Yard (feet)	Max. Height (feet)	Max. Coverage (%)
Single-family Dwelling w/ on-site waste treatment	1 acres	100	20*	20	10	35	30
Single-family Dwelling w/ community waste treatment	10,000 sf	100	20*	20	10	35	50
Other dwellings - not in floodplain and w/ on-site treatment	1 acres	100	20*	20	10	35	50
Multiple family residential w/ on-site waste treatment	1 acres	100	20*	20	10	35	50
Multiple family residential w/ community waste treatment	10,000 sf	100	20*	20	10	35	50
Other Permitted Uses w/ on-site waste treatment	1 acres	100	20*	20	10	35	50
Other Permitted Use w/ community waste treatment	10,000 sf	100	20*	20	10	35	50
Conditional Uses w/ on-site waste treatment	1 acres	100	20*	20	10	35	50
Conditional Use w/ community waste treatment	10,000 sf	100	20*	20	10	35	50
Accessory Buildings	-	-	20*	5	5	-	10

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



Section 4.13 AG-SWP – Surface Water Agricultural Protection District**4.13.01 INTENT:**

The intent of this district is to protect the environmentally sensitive lands along the major waterways in the County, to preserve the scenic quality of the Republican River and Beaver Creek corridors and other surface water areas in the County by restricting the types of uses which can be developed near these water resources in the future, and to allow the development of non-agricultural land uses which are compatible with maintaining the water scenic quality of these areas and which are compatible with the agricultural uses permitted in the corridor areas.

4.13.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES:

The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Agricultural uses including any farm buildings excluding any dwelling unit(s) whether or not associated with an agricultural use and excluding any waste handling facility use.
2. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities.
3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.
4. Forestry, tree farms and plant nurseries.
5. Day care and child care uses, when conducted within a residential dwelling unit by the occupant(s) of said dwelling unit.
6. Signs, including permanent on-site and outdoor advertising signs, provided the number of such permanent on-site signs shall not exceed three (3) per premises and that permanent outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. Temporary signs, including but not limited to crop seed signs, yard sale, real estate for sale or lease signs, political campaign signs, shall be exempt from regulation. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).

4.13.03 PERMITTED PRINCIPAL USES AND STRUCTURES:

The following principal uses are permitted in the AG-SWP District.

1. Any waste handling facility associated with any confined or intensive animal feeding use in existence as of the effective date of this Resolution, may be expanded in the number of animal units served and / or land area occupied by such use, provided that such expansion shall comply with all of the following limitations:
 - A. If the waste handling facility, associated with a confined or intensive animal feeding use, complies with the minimum separation distances from neighboring uses, as set forth in Table 8.06.01 of this Resolution, such use may be expanded in any direction except in any area subject to flooding on a one hundred (100) year basis and provided that such expansion complies with all requirements of Paragraph B, Parts 3) through 8) immediately below and such expansion shall not result in separation distances to any church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth in said Table 8.06.01 for the class of animal feeding use and category of the waste handling facility for which the use would qualify after such expansion, unless the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement.
 - B. If the waste handling facility associated with an animal feeding use is located closer than the minimum separation distances from neighboring uses, as set forth in Table 8.06.01 of this Resolution for the class of animal feeding use and category of waste handling facility, such use may be expanded, provided any expansion complies with all of the following restrictions:
 - 1) Such waste handling facility may not be expanded in any area subject to flooding on a one hundred (100) year basis and may not be expanded closer to any church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use and associated waste

- handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 8.06.01, unless the owner of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement.
- 2) Expansion in any other direction shall be permitted, provided that such expansion shall not result in separation distance to any other church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth said Table 8.06.01 for the class of animal feeding use and category of the waste handling facility for which the use would qualify after such expansion, unless the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement.
 - 3) Any physical expansion of the waste handling facility shall be immediately contiguous with the existing waste handling facilities.
 - 4) Such expansion may occur over time, but such expansion(s) shall not result in a waste handling facility which would serve a one-time animal unit capacity which is more than fifty (50) percent greater than the one-time animal unit capacity which existed as of the effective date of this Resolution or such expansion shall not result in a waste handling facility which would serve a one-time animal unit capacity exceeding the animal unit limitation of the Class of such use which existed as of the effective date of this Resolution, whichever is less, Expansion beyond these limits may only be authorized as a conditional use in accordance with the procedures and requirements of this Resolution.
 - 5) Each zoning permit application for such expansion shall include a summary of a search for and results of said search for any abandoned wells. In the event any abandoned wells are found in any area of such expansion or any area where animal waste is to be applied to the land, such wells shall be properly closed and sealed in accordance with standards of the applicable Natural Resource District.
 - 6) No minimum separation distance shall be applicable to any site where any composted animal waste or solid manure is applied to the surface of the land or any site where liquid or slurry animal waste is injected into the soil.
 - 7) Additional animals shall not be added to the use until any new permit required by the Nebraska Department of Environmental Quality or its successor agency shall have been issued and such use shall be operated in a manner consistent with the requirements of any such permit and the requirements of this Resolution.
 - 8) Exceptions to the minimum separation requirements, as set forth in said Table 8.06.01, may be authorized by conditional use where special types of animal feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.
 - 9) For purposes of this regulation, a dwelling unit not of the same ownership and not on the same premises as the animal feeding use and associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.
2. Notwithstanding other waste handling facility regulations of this Resolution, land application of sludges from municipal waste treatment facilities shall be permitted, provided that the municipality generating said sludges shall provide written evidence that the sludges do not contain contaminants at levels higher than the maximum contaminant levels established by the Environmental Protection Agency and further provided that the municipal generating such sludges provides written evidence to the County that said sludges are being applied at agronomic rates.
 3. Public service facilities, including public, parochial, private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
 4. Churches, cemeteries and related uses.

5. Fish hatcheries, game farms and commercial hunting and fishing where such hunting and fishing does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.
6. Radio, Television, microwave and other types of erected towers, subject to applicable airport, airstrip and heliport zoning restrictions set forth in this Resolution, including the following:
 - A. The minimum requirements of Section 8.01.
 - B. All radio, TV and wireless Communication towers shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the sides of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5,280 feet on a 40:1 slope, (also accounting for the change in grade between the two uses).
7. Day care and child care uses conducted in an accessory building outside of a residential dwelling unit, or in a dwelling unit, but not operated by occupant(s) of said dwelling unit.
8. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following restrictions:
 - A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined or intensive animal feeding use or associated waste handling facility shall be separated from such use by the minimum distance specified in Table 8.06.01 of this Resolution for the class of the animal feeding use and the category of waste handling facility, provided that if one or more impact easement(s) shall have been granted to the owner of the animal feeding use and associated waste handling facility use, any dwelling unit or other use associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding use or associated waste handling facility, to the nearest wall of such dwelling or other use. Any site where there is surface application of composted animal waste or solid manure or injection of liquid animal waste into the soil shall not be subject to any minimum separation distance.
 - B. Exceptions to the minimum distance separation requirements as set forth in Subsection A immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use and any associated waste handling facility.
 - C. Such dwelling shall be located on a lot with an area of not less than five (5) acres and such lot shall have a minimum lot width provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system indicate that a larger lot is appropriate.
 - D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Red Willow County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Red Willow County shall not construct or improve such roadway or any drainage structures thereon and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road even if such roadway is improved to County road standards by the owner(s) of such roadway.
 - E. The total number of dwellings on any parcel of land under separate ownership as of the effective date of this Resolution shall not exceed more than one (1) additional dwelling over the number of dwellings existing on said parcel as of the effective date of this Resolution, unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.
 - F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use and associated waste handling facility

as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such confined or intensive animal feeding use and associated waste handling facility and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive animal feeding use and associated waste handling facility has been discontinued or an impact easement is effective at the time of such subdivision. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 8.06.01 of this Resolution.

9. Agricultural Buildings, 132 feet in height or taller provided the minimum requirements are met.
 - A. All proposed agricultural buildings shall meet the minimum setbacks as noted in this Resolution from County Road and Highway intersections.
 - B. All proposed agricultural buildings shall be separated from all private airports/runways a distance equal to a 7:1 slope (accounting for the change in grade between the two uses) from the edge of said private runway, and shall include an area 600 feet wide centered upon each runway and shall extend out from each end for a distance of 5, 280 feet on a 40:1 slope, (also accounting for the change in grade between the two uses.)

4.13.04 CONDITIONAL USES:

The following uses are subject to any conditions listed in this Resolution and are subject to other conditions relating to the placement of said use on a specific tract of ground in the AG-SWP District as recommended by the Planning Commission and County Board of Commissioners and approved by the County Board of Commissioners.

1. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses, including bed and breakfast operations and motels.
2. Public service facilities not allowable as permitted principal uses in Section 4.13.03 of this Resolution.
3. Mineral extraction and sand and gravel extraction facilities and operations.
4. Nursing home facilities, and group homes
5. Commercial and Industrial uses, determined by the Board of Commissioners to be compatible with adjoining land uses.
6. Residential subdivisions in excess of the number of dwelling limitation set forth in Section 4.13.03, Subsection 8, Paragraph E of this Resolution.
7. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent of this zoning district.

4.13.05 PERMITTED ACCESSORY USES AND STRUCTURES:

The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building, shall require the issuance of a zoning permit and/or certificate of zoning compliance.
2. Home occupations, in accordance with Section 8.07 of this Resolution. When established in accordance with Section 8.07 of this Resolution, issuance of a zoning permit or certificate of zoning compliance shall not be required.
3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

4.13.06 PROHIBITED USES AND STRUCTURES:

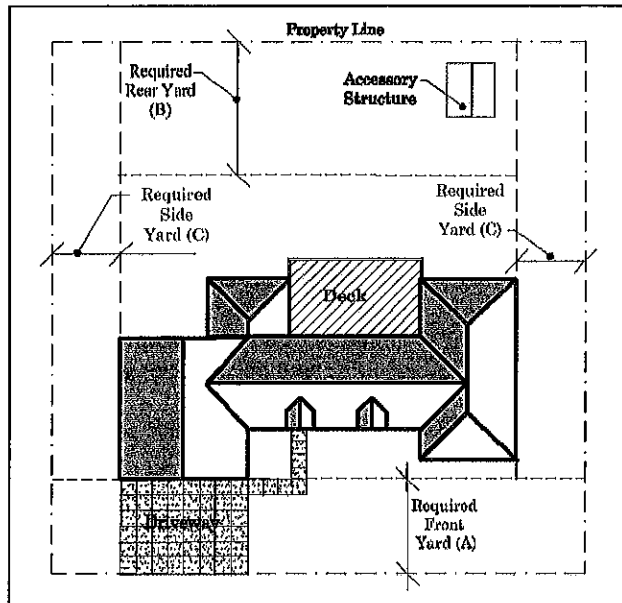
All other uses and structures which are not specifically allowed in this District as permitted uses and consistent with the Intent statement of this zoning district. This prohibition shall specifically include all new waste handling facility uses associated with any new confined or intensive animal feeding.

4.13.07 MINIMUM LOT AREA REQUIREMENTS:

The following shall be the minimum lot area requirements for uses located within this district:

Uses/Structures	Min. Lot Area (acre)	Min. Lot Width (feet)	Minimum Frontage (feet)	Minimum Setbacks			Max. Height (feet)	Max. Lot Coverage (%)
				Front Yard (feet) (A)	Rear Yard (feet) (B)	Side Yard (feet) (C)		
Single-family Dwellings	5 ¹	275	150	83 ²	20	10	40	-
Other Permitted Uses	5 ¹	275	150	83 ²	20	10	40	-
Conditional Use	5 ¹	275	150	83 ²	20	10	40	-
Accessory Uses	-	-	-	83 ²	10	10	40	-

1. A larger lot area may be required by the standards and regulations of the Nebraska Department of Health and the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems.
2. Front yard setback shall be 83 feet from the centerline of a County Road, or shall 50 feet when abutting any other platted street, road or highway.



ARTICLE 5: CONDITIONAL USES PERMITS, PROCEDURES, AND STANDARDS

Section 5.01 General Provisions

The County Board of Commissioners may, by conditional use permit after a Public Hearing and recommendation from the Planning Commission (with specific findings of fact), authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this resolution. The County Board may grant or deny a conditional use permit in accordance with the intent and purpose of this resolution. In granting a conditional use permit, the County Board will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the County. The application shall be accompanied by any necessary drawing(s) or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

Any approval or denial of a conditional use permit shall be accompanied by specific findings of fact.

Section 5.02 Public Hearing

Before issuance of any conditional use permit, the County Board will consider the application together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in Red Willow County, one time at least 10 days prior to such hearing.

Any notification and signing of property shall be per State Statutes and by specific procedures established by Red Willow County.

Section 5.03 Decisions

A majority vote of the County Board shall be necessary to grant a conditional use permit. In the case of no action on the permit by the applicant, unless a longer period was specifically granted, the conditional use permit shall become invalid after a period of 12 months from the date of such order.

Section 5.04 Standards

No conditional use permit shall be granted unless the Planning Commission and County Board has found:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located, unless specifically authorized by the Board.
2. The use shall have adequate water, sewer, and drainage facilities.
3. The use shall be in harmony with the character of the area and the most appropriate use of the land.
4. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the county.
5. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
7. That adequate utilities, access roads, and drainage facilities have been or are being provided.
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
10. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

11. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
12. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
13. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
14. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

Section 5.05 Conditions

In addition to the Standards listed in Section 5.04, the Planning Commission may recommend, and the County Board may adopt such other conditions as may be necessary or desirable to address specific concerns regarding the proposed use on a specific piece of property, including the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The County Board may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this resolution.

Section 5.06 Protests

In case of protest against such conditional use permit, signed by the owners of 20 percent or more of either of the area of the lots included in such proposed change, or of those immediately adjacent, such conditional use permit shall not become effective except by the favorable vote of 4/5 of all the members of the County Board.

ARTICLE 6: OFF-STREET PARKING

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

Section 6.01 Off-Street Automobile Storage

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
2. In all districts, if vehicle storage space or standing space required in section 6.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and County Board, the Planning Commission and County Board may permit such space to be provided on other off-street property, provided such property lies within the same zoning district and lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
3. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
4. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
5. Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
6. Requirements for types of buildings and uses not specifically listed herein shall be determined by the County Board, after receiving a report and recommendation from the Planning Commission, based upon comparable uses listed.
7. Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side yard or rear yard.

Section 6.02 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Adult Entertainment Establishments Bowling Alleys	1 space per 2 persons of licensed capacity 5 spaces per alley plus 1 space per employee	None required 1 space per establishment None required
Churches, Synagogues, and Temples	1 space per 2 seats in main worship area Where Individual seats are not provided, each 20 inches of bench or similar facility shall constitute 1 seating space	None required
Clubs, including fraternal organizations	1 space per 200 s.f. of floor space	1 space per establishment 2 spaces per structure
College/University Commercial Uses	1 spaces per every 2 students of occupancy plus 1 per employee.	2 spaces per structure
Agricultural Sales / Service Automotive Rental / Sales Automotive Servicing Bars, Taverns, Nightclubs	1 space per 500 s.f. of gross floor area 1 space per 500 s.f. of gross floor area 3 spaces per repair stall 2 spaces per 5 seating places plus 1 space per 2 employees	1 per establishment 1 per establishment None required 2 spaces per establishment None required
Body Repair Equipment Rental / Sales Campground	4 spaces per repair stall 1 space per 500 s.f. of gross floor area 1 space per camping unit	1 Space None required
Commercial Recreation Communication Services Construction Sales / Service Food Sales (limited) Food Sales (general) General Retail Sales establishments Laundry Services Restaurants w/ drive-thru	1 space per 4 persons of licensed capacity 1 space per 500 s.f. of gross floor area 1 space per 500 s.f. of gross floor area 1 space per 300 s.f. of gross floor area 1 space per 200 s.f. of gross floor area 1 space per 200 s.f. of gross floor area 1 space per 200 s.f. of gross floor area 2 spaces per 5 seating places plus 1 space per 2 employees	1 per establishment 1 per establishment 1 per establishment 1 per establishment 2 per establishment 1 per establishment None required 2 spaces per establishment
Restaurants (General)	2 spaces per 5 seating places plus 1 space per 2 employees	2 spaces per establishment 1 space per structure None required
Convalescent and Nursing Home Services Daycare	1 space per 3 beds plus 1 per employee on the largest shift 1 space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	1 space per structure None required
Educational Uses, Primary Facilities Educational Uses, Secondary Facilities Funeral Homes and Chapels	20% of the student capacity 40% of the student capacity 8 spaces per reposeing room	2 spaces per structure 2 spaces per structure 2 spaces per establishment
Group Care Facility Group Home Guidance Services Hospitals	1 space per 3 beds; plus, 1 space per employee 1 space per 3 beds; plus, 1 space per employee 1 space per 300 s.f. of gross floor area 1 space per 2 licensed beds; plus, .75 times the maximum number of employees during the largest shift, 1 space per rental unit plus 1 space per employee	1 space per structure 1 space per structure None required 3 spaces per structure
Hotels and Motels	1 space per rental unit plus 1 space per employee	1 space per establishment
Housing (Congregate)	1 space per dwelling unit plus 1 space per employee on the largest shift	1 per structure
Assisted-Living Facilities	1 space per dwelling unit plus 1 space per employee on the largest shift	1 per structure
Duplex Dormitoris, Sororties, and Fraternities Multi-family/Apartments	2 spaces per dwelling unit 1 space per 2 beds plus 1 space per 2 employees 1 space per sleeping unit - spaces to be sited in the general proximity of where the sleeping units are located, plus, 1 additional space per apartment (for 1- and 2-sleeping units), and 1 1/2 spaces per apartment (for 3-sleeping units) to accommodate guest parking, .75 times the maximum number of employees during the largest shift	None required None required None required
Industrial Uses	.75 times the maximum number of employees during the largest shift	2 spaces per establishment 1 per structure None required
Libraries Boarding Houses/Bed and Breakfasts	1 space 500 s.f. of gross floor area 2 per 3 guest beds and 1 for the managing resident	1 per structure None required
Medical Clinics	5 spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	2 per dwelling unit	None required
Offices and Office Buildings	1 space per 200 s.f. of gross floor area	None required
Residential (Single-family, attached and detached)	NA	None required
Roadside Stands	4 spaces per establishment	None required
Service Oriented Establishments	1 space per 200 s.f. of gross floor area	1 per establishment
Theaters, Auditoriums, and Places of Assembly	1 space per 2 seats, or 1 space per 2 people in designed capacity, whichever is greater. 3 spaces per staff doctor	1 space per establishment None required
Veterinary Establishments	3 spaces per staff doctor	None required
Wholesaling / Distribution Operations	1 space per employees on the largest shift	1 spaces per establishment

Section 6.03 Off-Street Parking: Shared Parking Requirements

Notwithstanding the provisions of Section 6.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center of the development pattern is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and County Board.

Section 6.04 Off-Street Parking: Parking for Individuals with Disabilities

1. In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then handicapped accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different lot, if accessibility is at least equivalent, in terms of distance from an accessible entrance.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

2. Access aisles adjacent to accessible spaces shall be 60 inches wide minimum. However, one in every eight accessible spaces (1:8), but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 6.04.09 of this Resolution. The vertical clearance at such spaces shall comply with 6.04.10 of this Resolution. All such spaces may be grouped on one level of a parking structure.
3. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
4. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2 percent) in all directions.
5. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 6.04.11 of this Resolution.
6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 6.04 of this Resolution shall be provided in accordance with 6.04.01 of this Resolution; except as follows:
 - A. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
 - B. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
7. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
 - A. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
 - B. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.
8. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 6.04.02 shall have an additional sign with the words "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
9. Minimum vertical clearance of 114 inches shall be provided at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 6.04.02, minimum vertical clearance of 98 inches shall be provided at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

10. Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Passenger loading zones and access aisles shall be level with surface slopes not exceeding 1:50 (2 percent) in all directions.

ARTICLE 7: SIGN REGULATIONS**Section 7.01 Compliance with Sign Regulations**

All signs constructed, erected, modified or moved after the effective date of this Regulation shall comply with the requirements herein, unless expressly exempted.

Section 7.02 Sign Definitions

The following are the definitions relating to signs within the Red Willow County zoning jurisdiction.

ADVERTISING SIGN: A sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

ANIMATED SIGN/ COMMERCIAL MESSAGE SIGN: Any sign wording, copy, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

ARCHITECTURAL CANOPY SIGN: An enclosed, illuminated or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

AWNING OR CANOPY SIGN: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

BANNER SIGN: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.

BUILDING MARKER SIGN: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

BUILDING SIGN: Any sign supported by, painted on or otherwise attached to any building or structure.

CHANGEABLE COPY SIGN: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

CLOSED SIGN: A sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

COMMUNITY OR CIVIC SIGN: A sign containing business logos and/or logos of civic organizations. The sign is intended to provide space for several businesses and/or organizations on one sign, and all advertising is similar in size. The primary intent of the community or civic sign is for informational purposes and to communicate information to the motoring public as to businesses and organizations that are active in the community. Community or civic signs are owned and operated by the local chamber of commerce or other civic organization or non-profit entity.

DESTINATION SIGN: A sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

ELECTRONIC MESSAGE BOARD SIGN: A sign using changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

FLASHING SIGN: A sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

 <p>Animated Sign</p>	 <p>Awning Sign</p>	 <p>Banner/Flag Sign</p>	 <p>Banner Sign - Temporary</p>	 <p>Blade Sign - Temporary</p>
 <p>Building Marker Sign</p>	 <p>Canopy Sign</p>	 <p>Changeable Copy Sign</p>	 <p>Commemorative Sign</p>	 <p>Double-faced Sign</p>
 <p>Electronic Message Sign</p>	 <p>Freestanding Sign</p>	 <p>Ground Monument Sign</p>	 <p>Off-Premises Sign</p>	 <p>Painted Wall Sign</p>
 <p>Parapet Sign</p>	 <p>Pole Sign</p>	 <p>Projecting Sign</p>	 <p>Public/Traffic Information Sign</p>	 <p>Roof Sign</p>
 <p>Roof (Integrated) Sign</p>	 <p>Sign Stacking</p>	 <p>Subdivision Identification</p>	 <p>Suspended Sign</p>	 <p>Wall Sign</p>
 <p>Warning Sign</p>	 <p>Window Sign</p>			

FREESTANDING SIGN: Any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

GROUND SIGN: A sign mounted directly to the ground with a maximum height not to exceed six feet.

ILLUMINATED SIGN: A sign illuminated in any manner by an artificial light source.

INCIDENTAL SIGN: A sign, generally informational, that has a purpose secondary to the use on the lot which it is located.

MARQUEE SIGN: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

NAMEPLATE SIGN: A sign not exceeding two square feet for each dwelling. (Also, considered an Identification Sign or Address Sign)

NON-CONFORMING SIGN: Any sign that does not conform to the requirements of this ordinance.

OBSELETE SIGN: A sign that advertises a business no longer in existence or a product no longer offered for sale and has continued to advertise such business or product for a period of six consecutive months after the termination of the existence of such business or the termination of sale of the product advertised.

OFF-PREMISES SIGN: A sign including any supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

ON-PREMISE SIGN: A sign, display, or device-advertising activities conducted on the property on which such sign is located.

PENNANT SIGN: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

POLE SIGN: A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

PORTABLE SIGN: A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

PROJECTING SIGN: A projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

ROOF SIGN: A sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over (attached in some manner) the roof of a building and extending vertically above the highest portion of the roof.

ROOF (INTEGRAL) SIGN: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SIGN COPY AREA: The entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

SIGN SETBACK: The horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN SURFACE: The entire area of a sign itself, not counting any supporting structures.

SUBDIVISION SIGN: A sign erected on a subdivision outlot identifying the platted subdivision where the sign is located.

SUSPENDED SIGN: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

TEMPORARY SIGN: A sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

WALL SIGN: Any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

WINDOW SIGN: Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes of glass and is visible from the exterior side of the window.

Section 7.03 Sign Area Computation

7.03.01 Computation of Area of Individual Signs

The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the copy, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning regulations and is clearly identical to the display itself.

7.03.02 Computation of Height

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

Section 7.04 Signs, Special Conditions

7.04.01 Billboard Signs.

Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district it is located and shall also be subject to the following conditions and restrictions.

1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.

7.04.02 Signs for Stand-alone ATM's shall follow the minimum standards:

1. One wall sign on each exterior wall provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
3. Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
4. All signs are subject to the required permitting process of these Regulations.
5. Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.

7.04.03 Signs for Coffee Kiosks and other Kiosks shall follow the minimum standards:

1. One wall sign on each exterior wall not used for drive-up service, provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the Coffee Kiosks/Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk/Kiosks, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
3. Directional signage shall be contained on the Coffee Kiosk/Kiosk, painted within a drive lane or in any curbing defining a drive lane
4. Window signs limited to menu boards and daily specials shall not require a sign permit.

5. All signs are subject to the required permitting process of these Regulations, unless otherwise noted.

7.04.04 Temporary Signs

Temporary signs for which a permit has been issued shall be issued only for signs meeting the following criteria:

1. Temporary signs may be for a continual period. Said temporary signs shall be removed upon the conclusion of the purpose.
2. Temporary signs shall not be placed within the rights-of-way of Red Willow County.

7.04.05 Emergency Signs

Emergency warning signs erected by a governmental agency, public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

Section 7.05 Other Signs Forfeited

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

Section 7.06 Signs Exempt from Regulation Under this Ordinance

The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, as per Section 3.25 of this Ordinance and/or a collision hazard to the public:

- Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
- Any religious symbol;
- Construction signs when equal to six square feet or less;
- Any sign identifying a public facility or public/civic event;
- Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
- Holiday lights and decorations with no commercial message;
- Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort; and
- A political sign exhibited in a residential zone in conjunction with the election of political candidates. Such signs may not exceed six square feet in any zone. Only four political signs shall be allowed per zone lot at any one time. All such political signs shall not be erected more than 30 days before the election and shall be removed no later than 10 days after the election. Political signs shall not create an obstruction within the R.O.W.

Section 7.07 Signs Prohibited Under These Regulations

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the County. Such signs include, but are not limited to:

1. Audible Signs
2. Beacons;
3. Marquee signs;
4. Roof signs;
5. Suspended signs;
6. Strings of lights not permanently mounted to a rigid background, except those exempted under the previous section; and

Section 7.08 Signs and Rights-of-Way

All signs shall be required to be setback 20 feet from any right-of-way line in the county. This shall include all county roads, state highways and federal highways.

Section 7.09 Sign Schedules

7.09.01 Signs shall be permitted in the various districts according to the following schedule:

	Zoning District						
	AG-G	AG-T	AAA	PAA	FP	VAD	AG-SWP
Animated	+	+	-	-	-	+	-
Announcement	+	+	+	+	+	+	+
Architectural Canopy	+	+	+	-	-	+	-
Banner	+	+	-	-	-	+	-
Changeable Copy	+	+	+	-	-	+	-
Destination	+	+	+	+	+	+	+
Electronic Message Board	+	+	-	-	-	+	-
Flashing	-	-	-	-	-	-	-
Freestanding	T	T	T	T	T	T	T
Ground	+	+	+	+	+	+	+
Illuminated	NA	NA	NA	NA	NA	NA	NA
Incidental	+	+	+	+	+	+	+
Marquee	-	-	-	-	-	-	-
Nameplate	+	+	+	+	+	+	+
Off-Premises	+	+	+	-	-	+	-
Pennant	+	+	-	-	-	+	-
Pole	+	+	+	+	-	+	-
Projecting	+	+	+	-	-	+	-
Portable	T	T	T	T	T	T	T
Roof	-	-	-	-	-	-	-
Roof-Integrated	+	+	-	-	-	+	-
Subdivision	+	+	+	+	-	+	-
Suspended	+	+	+	-	-	+	-
Temporary	T	T	T	T	T	T	T
Wall	+	+	+	-	-	+	-
Window	+	+	+	+	-	+	-

+: permitted -: not permitted C: Conditional Use T: Temporary

7.09.02 Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

	Zoning District						
	AG-G	AG-T	AAA	PAA	FP	VAD	AG-SWP
Animated							
Max. Square Ft.	200	200	-	-	-	200	-
Max. Height Ft.	45	45	-	-	-	45	-
Max. Number	1	1	-	-	-	1	-
Announcement							
Max. Square Ft.	32	32	32	6	6	6	6
Max. Height Ft.	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1
Architectural Canopy							
Max. Square Ft.	250	250	-	-	-	250	-
Max. Height Ft.	45	45	-	-	-	45	-
Max. Number	1 ⁶	1 ⁶	-	-	-	1 ⁶	-
Banner							
Max. Square Ft.	32	32	-	-	-	32	-
Max. Height Ft.	NA	NA	-	-	-	NA	-
Max. Number	NA	NA	-	-	-	NA	-
Changeable Copy							
Max. Square Ft.	32	32	32	-	-	32	-
Max. Height Ft.	NA	NA	NA	-	-	NA	-
Max. Number	NA	NA	NA	-	-	NA	-
Destination							
Max. Square Ft.							
Max. Height Ft.	16	16	16	16	16	16	16
Max. Number	8	8	8	8	8	8	8
Max. Number	1	1	1	1	1	1	1
Electronic Message Board							
Max. Square Ft.	100	100	-	-	-	100	-
Max. Height Ft.	20	20	-	-	-	20	-
Max. Number	1	1	-	-	-	1	-

	Zoning District						
	AG-G	AG-T	AAA	PAA	FP	VAD	AG-SWP
Flashing							
Max. Square Ft.	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-
Freestanding							
Max. Square Ft.	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1
Ground							
Max. Square Ft.	50	50	50	-	-	-	-
Max. Height Ft.	10	10	10	-	-	-	-
Max. Number	1	1	1	-	-	-	-
Illuminated							
Max. Square Ft.	NA	NA	NA	NA	NA	NA	NA
Max. Height Ft.							
Max. Number							
Marquee							
Max. Square Ft.	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-
Nameplate							
Max. Square Ft.	2	2	2	2	2	2	2
Max. Height Ft.	-	-	-	-	-	-	-
Max. Number	1	1	1	1	1	1	1
Off-Premises							
Max. Square Ft.	640	640	640	-	-	640	-
Max. Height Ft.	30	30	30	-	-	30	-
Max. Number	1	1	1	-	-	1	-
Pennant							
Max. Square Ft.	32	32	-	-	-	32	-
Max. Height Ft.	NA	NA	-	-	-	NA	-
Max. Number	NA	NA	-	-	-	NA	-
Pole							
Max. Square Ft.	100 ⁴	100 ⁴	-	-	-	100 ⁴	-
Max. Height Ft.	40	40	-	-	-	40	-
Max. Number	1	1	-	-	-	1	-
Projecting							
Max. Square Ft.	16	16	16	-	-	16	-
Max. Height Ft.	45	45	45	-	-	45	-
Max. Number	1	1	1	-	-	1	-
Portable							
Max. Square Ft.	32	32	32	32	32	32	32
Max. Height Ft.	4	4	4	4	4	4	4
Max. Number	1	1	1	1	1	1	1
Roof							
Max. Square Ft.	-	-	-	-	-	-	-
Max. Height Ft.	-	-	-	-	-	-	-
Max. Number	-	-	-	-	-	-	-
Roof-Integrated							
Max. Square Ft.	250	250	-	-	-	250	-
Max. Height Ft.	45	45	-	-	-	45	-
Max. Number	1	1	-	-	-	1	-
Subdivision							
Max. Square Ft.	500	500	500	500	-	500	500
Max. Height Ft.	35	35	35	35	-	35	35
Max. Number	1	1	1	1	-	1	1
Max. Lot area s.f.	5,000	5,000	5,000	5,000	-	5,000	5,000
Suspended							
Max. Square Ft.	20	20	20	-	-	20	-
Max. Height Ft.	10	10	10	-	-	10	-
Max. Number	1	1	1	-	-	1	-
Temporary							
Max. Square Ft.	NA	NA	NA	NA	NA	NA	NA
Max. Height Ft.							
Max. Number							
Wall							
Max. Square Ft.	200 ¹	200 ¹	200 ¹	-	-	200 ¹	-
Max. Height Ft.	15	15	15	-	-	15	-
Max. Number	1	1	1	-	-	1	-
Window							
Max. Square Ft.	200 ¹	200 ¹	200 ¹	200 ¹	-	200 ¹	-
Max. Height Ft.	15	15	15	15	-	15	-
Max. Number	1	1	1	1	-	1	-

- ¹ Wall/Window signs shall not exceed 10 percent of the total wall area or the number indicated whichever is greater.
- ² Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
- ³ Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.

- ⁴ Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
- ⁵ Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
- ⁶ One Canopy per window – canopy shall meet all minimum height requirements for accessibility.
- NA = Not Applicable – Refer to specific structural sign types

7.09.03 A building or use having frontage on a second street may install a sign on the second street side no greater in size than 20 percent of the total allowed on one facade.

Section 7.10 Conditional Permit Condition

A permit shall be obtained from NDOT prior to creating signs along the edge of the R.O.W of any interstate or designated state or federal route.

Section 7.1.1 Sign Discontinuation

The owner of any sign within the jurisdiction of Red Willow County shall be required to do one of the following steps, after discontinuation of any business:

- Replace the discontinued business with another advertisement
- Remove the sign completely

ARTICLE 8: SUPPLEMENTAL REGULATIONS

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

Section 8.01 Radio, Television and Wireless Communication Towers**8.01.01 Intent**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the County, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

8.01.02 Definitions

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

Base Station shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

Broadcasting Tower shall mean a structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding 50 feet in height shall not be considered broadcast towers.

Collocation shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Conforming commercial earth station shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

Eligible facilities request is defined as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

In Writing refers to the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

Owner shall mean any person with a fee simple title or a leasehold exceeding ten years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.

Replacement shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

Specific and absolute timeframe: this refers to the timeframe allowed for processing a telecommunication applications under Section 6409 (a) of the Spectrum Act of 2012.

Stealth: Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

Telecommunications Facilities shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include: a. Any Conforming Commercial Earth Station antenna two meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

Tower shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

Tower owner shall mean any person with an ownership interest of any nature in a proposed or existing tower.

Transmission Equipment: any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

8.01.03 Tower Construction Standards

Listed below are tower construction standards.

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

8.01.04 Application to develop a Tower

1. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Conditional Use Permit and shall include the following:
 - A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
 - B. The legal description and address of the tract of land on which the tower is to be located.
 - C. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately owned towers and structures.
 - D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
 - E. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the County Board and federal and state and ANSI standards.
 - F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.

- G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
 - H. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60-day application processing period may be extended only:
 - A. By mutual agreement between the Red Willow County and the applicant, or
 - B. By Red Willow County's determination that the application is incomplete.
2. If Red Willow County deems the application to be incomplete, the County shall notify the applicant of the incompleteness within 30 days of the initial filing.
 3. The County shall clearly and specifically delineate writing the missing information
 4. The clock shall resume when the information is provided but may tolled again if Red Willow County notifies the applicant within 10 days that the application remains incomplete.
 5. The County shall not request new information beyond what is already required.
 - A. If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.

8.01.05 Setbacks and Separation or Buffer Requirements

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning Commission and County Board of Commissioners may reduce the setback with a conditional use permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
5. Towers must meet the following minimum separation requirements from other towers:
 - A. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
 - B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.
6. Towers shall be held to all height requirements as prescribed in the Airport Hazard Area District.
7. As part of its conditional use approval process, the Planning Commission and County Board of Commissioners may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

8.01.06 Structural Standards for Towers Adopted

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

8.01.07 Illumination and Security Fences

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual

mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.

2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

8.01.08 Exterior Finish

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

8.01.09 Landscaping

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

8.01.10 Prohibitions

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

8.01.11 Substantial Change

Red Willow County may only require an amended conditional use permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:

- A. Towers outside the public right-of-way, a "substantial change"

- Increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
- Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

- B. Towers in the right-of-way, and all base stations, a "substantial change"

- increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
- protrudes from the edge of the structure more than 6 feet

- C. All Towers and base stations, a substantial change:

- involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- entails any excavation or deployment outside the current site of the tower or base station;
- defeats the existing concealment elements of the tower or base station; or
- does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.

2. **Changes In Height**

- A. Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.

- B. In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.

- C. Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.

8.01.12 Inspections

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

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

8.01.13 Maintenance

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

8.01.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the County Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Red Willow County codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

8.01.15 Approval Denial Procedures for Tower Development Permit

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record.
2. The regulation of placement, construction, and modification of personal wireless services facilities by Red Willow County shall not unreasonably discriminate among providers of functionally equivalent services;
3. The regulation of the placement, construction, and modification of personal wireless service facilities by Red Willow County shall not prohibit or have the effect of prohibiting the provision of personal wireless services;
4. Red Willow County shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations;

Section 8.02 Sand, Gravel, Mineral, Stone, Rock, Soil Extraction and Quarries

1. The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours.
2. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
3. The application shall identify proposed vehicle and equipment storage areas.
4. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.
5. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility.
6. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
7. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible.
8. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land.
9. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

10. The edge of any mining operation shall be a minimum of 25 feet from any property line or as required by any geologic, state, or federal requirement.

Section 8.03 Small Wind Energy Systems

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

8.03.02 *Definitions:* The following are defined for the specific use of this section.

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.

Tower Height shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

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

1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Noise
 - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
3. Approved Wind Turbines
 - a. Small wind turbines must have been approved under a small wind certification program recognized by the American Wind Energy Association.
4. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
 - c. Wet stamps shall not be required.
5. Compliance with FAA Regulations
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
6. Compliance with National Electrical Code
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The manufacturer frequently supplies this analysis.
7. 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. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
9. All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	
River Bluffs		
Private landing strips	Shall meet requirements listed in the appropriate zoning district	Shall meet requirements listed in the appropriate zoning district

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

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

Section 8.04 Commercial/Utility Grade Wind Energy Systems

8.04.01 Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within Red Willow County.

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

AGGREGATE PROJECT shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

COMMERCIAL WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

HUB HEIGHT shall mean the distance from ground level as measured to the centerline of the rotor.

FALL ZONE shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.

FEEDER LINE shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

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.

PROPERTY LINE shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.

PUBLIC CONSERVATION LANDS shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

ROTOR DIAMETER shall mean the diameter of the circle described by the moving rotor blades.

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.

SUBSTATIONS shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.

TOTAL HEIGHT shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

TOWER shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.

TOWER HEIGHT shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

TRANSMISSION LINE shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

WIND ENERGY CONVERSION SYSTEM shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

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.

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

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project 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 electrical grid.
5. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Certification by an Engineer competent in disciplines of WEC's.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines; Included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.

8.04.04 Aggregated Projects:

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

8.04.05 Setbacks:

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	600 feet	600 feet
Wetlands, USFW Types III, IV, and V	600 feet	600 feet
Other structures and cemeteries adjacent to the applicant's sites	One times the tower height.	One times the tower height.
Other existing WECS not owned by the applicant.	6,000 lineal feet	
River Bluffs	1,320 feet	
Private landing strips	Shall meet requirements listed in the appropriate zoning district	Shall meet requirements listed in the appropriate zoning district

- * The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.
- ** The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.

8.04.06 Special Safety and Design Standards: All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. 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.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
7. Other signage: All other signage shall comply with the sign regulations found in these regulations.
8. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
9. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
10. Discontinuation and Decommissioning:
 - A. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.

- B. Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
11. Noise: No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use occupied by humans.
12. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.
13. Roads: Applicants shall:
- A. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
 - C. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
14. Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

Section 8.05 Waste Disposal Sites and Landfills

A Conditional Use Permit may be granted for any waste material disposal, garbage disposal or land fill operations in the designated zoning district; provided the following special conditions shall be considered:

1. The effects on the adjacent property, traffic, and
2. The public necessity and advantage.
3. The maintenance of access routes related to all weather conditions and droppings of rubbish and litter
4. The effects on underground water quality.
5. The immediate and long term effects on the environment and the public.
6. The concerns for public safety.
7. The application shall include documents to indicate conformance to all applicable governmental regulations and standards.
8. The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

Section 8.06 Waste Handling Facilities for Livestock Feeding Operations

8.06.01 Class I Livestock Feeding Operations

- A. A waste handling facility associated with a Class I LFO shall not be located closer the minimum separation distances for the category of waste handling facility set forth in Table 8.06.01 of this Resolution to any church, school, public use area or any dwelling unit not of the same ownership and not on the same premises as the livestock feeding operation and waste handling facility, provided:
- 1) No minimum separation distances shall be applicable to any site on which animal waste is surface applied as composted waste or as solid manure or
 - 2) Where liquid animal waste is injected into the soil.
 - 3) Measurement of this distance shall be from the point of lot, pen, building or waste handling facility nearest to said church, school, public use area or dwelling unit and measured to the nearest wall of a church, school or dwelling unit.
 - 4) If one or more impact easement(s) have been granted to the owner of the LFO and waste handling facility, any dwellings or other uses associated with the land on which any such

- easement has been granted shall not be included in the minimum distance measurements herein specified.
- 5) For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the LFO shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.
- B. Utilizing a 25 year storm as an engineering basis, surface runoff or other drainage from such LFO and associated waste handling facility shall not flow directly or indirectly into any river, stream or other drainageway which would allow any waste to contaminate ground or surface water. Further no such use shall be located within an area which is subject to flooding on a 100-year basis.
 - C. The total capacity of any waste handling facility serving a LFO shall not exceed 1,000 animal units per half-section of land, except when a conditional use for a waste handling facility serving a larger number of animals units has been authorized by the County Board in accordance with the procedures and requirements of this Resolution.
 - D. Development of a waste handling facility associated with a Class I LFO shall require preparation of a Comprehensive Nutrient Management Plan (CNMP), including the same information as required by the NDEQ, and submission of said CNMP to the Zoning Administrator. In addition, the following shall also be required:
 - 1) Such Plan shall be reviewed for consistency with the requirements of the NDEQ by said Department or such other agency or entity, as determined by the County Board.
 - 2) Such Plan shall address, at a minimum,
 - a. the amount, form, method of application,
 - b. location of application and
 - c. timing of animal waste and animal waste water so that such Plan is in accordance with local, state and federal requirements.
 - 3) The owner of the waste handling facility shall also submit proof of ownership or lease of a sufficient amount of land, as specified in the CNMP, for application of such wastes.
 - 4) Loss of land for such waste application shall require written submission of the availability of additional land, either through ownership or lease.
 - 5) Failure to maintain the ability to provide sufficient land on which to apply such wastes shall result in the County requiring the removal of a sufficient number of animals from the operation to maintain the levels of waste application per unit of land as specified in the CNMP.
 - 6) The owner/operator of such waste handling facility shall conduct annual soil sampling and testing for build-up of nutrients on all locations where waste is to be placed and shall submit a copy of the results of such soil sampling and testing to the Zoning Administrator, who shall have such results reviewed by the NDEQ or other agency or entity with soil nutrient expertise, to verify compliance with the CNMP.
 - E. Each zoning permit application for establishment of a new waste handling facility serving a Class I LFO shall include a summary and results of a search for abandoned wells. In the event any such wells are found in any area of where the waste handling facility is to be located or any area where animal waste is to be applied to the land, such wells shall be properly closed and sealed in accordance with standards of the applicable NRD.
 - F. Whenever the average anticipated level of groundwater usage (in gallons per minute per year) exceeds 200% of the estimated average of groundwater usage (in gallons per minute per year) for existing uses within a three mile radius of the proposed use, the zoning permit application shall include information regarding possible impacts on existing neighboring wells. Such information shall be based upon existing data and estimates of possible impacts by the applicable NRD or other entity, which may have existing hydrologic data and hydrologic expertise
 - G. Each zoning permit application shall list the names and telephone number(s) of the owner and manager of said use to be contacted in the event of fire, waste spill or other emergency on the site of a waste handling facility and shall authorize access to the site for emergency service and potential contamination inspections.
 - H. Animals shall not be introduced into the facility until any permit required to be issued by the NDEQ, has been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and the requirements of this Resolution.
 - I. Any waste handling facility serving a Class I LFO shall be prohibited from applying any liquid waste to the surface of any land. Surface application of liquid waste may only occur upon

authorization of a conditional use by the County Board in accordance with the procedures for conditional use authorization set forth in this Resolution.

- J. Exceptions to the minimum separation requirements, as set forth in Table 8.06.01, may be authorized by conditional use where:
- 1) special types of LFOs,
 - 2) special provisions for odor control,
 - 3) special provisions for dust control,
 - 4) topography,
 - 5) prevailing winds, or
 - 6) other factor or combination of factors exist and
 - 7) it is determined by the County Board that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.

8.06.02 Class II, III, and IV Livestock Feeding Operations

- A. The developer of a waste handling facility use shall submit a plan for the proper and timely disposal of dead animals within 36 hours of knowledge of death. Such plan shall:
- 1) Comply with the regulations of the State of Nebraska and
 - 2) Be subject to the approval of the County Board who may establish additional requirements regarding the proper and timely disposal of dead animals.
 - 3) At a minimum such plan shall comply with the following restrictions:
 - a. Dead animals shall not be removed from the premises where they died unless disposed of at a licensed rendering plant;
 - b. On-site burial shall result in the carcasses being buried at least four feet below the surface of the ground;
 - c. Incineration in a State approved Incinerator;
 - d. Composting in accordance with the procedures of the American Veterinary Medical Association, Volume 210, No. 8.
 - 4) The proposed use of a separate entity or company to collect and dispose of dead animals shall require written verification of the availability of and commitment to provide such services by the entity or company. Written notice will be given to the County immediately upon the cessation of such services and indication of how dead animal will be disposed of in a timely manner.
- B. For all categories of waste handling facility uses (regardless of size or type), all run-off, control ponds and basins, the method of waste disposal and related waste handling facilities and operational activities shall be engineered and developed to meet the following:
- 1) Minimize air and ground and surface water pollution
 - 2) Constructed and operated in accordance with the requirements established by the County Board, and in establishing such requirements:
 - a. May consult with the applicable NRD, the NRCS, the University of Nebraska Extension Service, the NDEQ,
 - b. May also consult with geologists, soil scientists, agronomist, biological engineers, civil engineers and any other entity with environmental protection expertise.
 - c. Have a permit from NDEQ if a permit is so required.
- C. Any waste handling facility use, which proposes to dispose of any waste through application on crop or other land, shall prepare and present a waste handling a Comprehensive Nutrient Management Plan (CNMP), including the following:
- 1) Same information required by the NDEQ, and submission of the CNMP to the Zoning Administrator. Such Plan shall address at a minimum the amount, form, method of application, location of application and timing of animal waste and animal waste water so that such Plan is in accordance with state and federal requirements.
 - 2) The owner of the waste handling facility shall also submit proof of ownership or lease of sufficient land, as specified in the CNMP, for application of such wastes. The loss of land for waste application shall require written submission of the availability of additional land, either through ownership or lease.
 - 3) Failure to maintain the ability to provide sufficient land to apply wastes shall result in the County requiring the removal of a sufficient number of animals from the operation to maintain the levels of waste application as specified in the CNMP.
 - 4) The County Board shall require the owner/operator of such waste handling facility use to conduct annual soil sampling and testing for build-up of nutrients on all locations where

waste is to be placed. The owner/operator shall submit the results of such soil sampling and testing to the Zoning Administrator, who shall have such results reviewed by the NDEQ or other agency or entity with soil nutrient expertise, to verify compliance with the CNMP.

- D. All locations, which are used by any authorized waste handling facility for stockpiling or composting of waste and/or dead animals, shall be subject to authorization by the County Board as part of any waste handling facility permit. Said authorization may include:
- 1) The establishment of maximum amounts of waste which may be stockpiled,
 - 2) The methods and operation of any waste composting facility, and facilities to collect and properly digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site,
 - 3) All composting shall be aerobic composting, and
 - 4) The maximum amount of waste which may be stockpiled shall not exceed the waste produced by the permitted animal feeding use in 12 consecutive months and such stockpile shall be removed within said 12 month period.
- E. Each application for establishment of a new waste handling facility serving a LFO shall include the results and a summary of the research conducted to locate abandoned wells. In the event any such wells are found in any area where the waste handling facility is to be located or any area where animal waste is to be applied to the land, such wells shall be properly closed and sealed in accordance with standards of the applicable NRD.
- F. Whenever the average anticipated level of groundwater usage (in gallons per minute per year) exceeds 200% of the estimated average of groundwater usage (in gallons per minute per year) for existing uses within a three mile radius of the proposed use, the zoning permit application shall include information regarding possible impacts on existing neighboring wells. Such information shall be based upon existing data and estimates of possible impacts by the applicable NRD or other entity which may have existing hydrologic data and hydrologic expertise.
- G. Each application for establishment of a new waste handling facility serving a LFO shall list the names and telephone number(s) of the owner and manager to be contacted in the event of fire, waste spill or other emergency on the site of a waste handling facility and shall authorize access to the site for emergency service and potential contamination inspections.
- H. The owner/operator of any waste handling facility use authorized by the County Board shall agree to permit access to the waste handling facilities and sufficient access to the animal feeding use to verify animal unit capacity within 24 hours of notification of a proposed inspection.
- 1) Allowing inspection of said facilities by the Zoning Administrator or other person(s) designated by the County Board to assure compliance with all conditions established in the authorization of such use shall be meet the following:
 - a. Shall be conducted on a written complaint basis only, and
 - b. Shall be first investigated by the Zoning Administrator who shall document compliance or lack of compliance with all conditions of use established by the County Board in authorizing such use.
 - c. In making such inspections, the Zoning Administrator or other authorized person shall follow all bio-hazard procedures required by the operator of the animal feeding use.
 - d. Such inspections shall be considered a general function of the Zoning Administrator and the cost of such inspection(s) shall be considered an administrative expense of the County and shall not be assessed against the owner(s) of a waste handling facility use.
 - 2) Finding of Non-compliance

Upon a finding by the Zoning Administrator or other authorized person that a waste handling facility is not in compliance with the approved conditions of said use,

 - a. He/she shall report same to the County Board
 - b. Shall notify the owner/operator of the waste handling facility use involved, in writing, that the use is in violation of the approved conditions and shall state the specific violation(s) of such conditions.

- c. The owner/operator of such use shall have 30 calendar days to correct such violation.
 - d. If the violation is not corrected within such time period, as verified through additional inspection(s) by the Zoning Administrator, the Zoning Administrator shall initiate any and all actions authorized under this Resolution to require compliance with the conditions of use approved by the County Board, including the possible requirements of reducing the waste produced by reduction in the activities generating such waste or, in the case of LFO, reducing the number of animal units on the premises or removal of all animals until such violation(s) have been corrected.
- 3) A condition of authorization of any waste handling facility use shall be that the owner(s)/operator of each such use shall agree to comply with any written order of the County Board, including:
- a. Reduction in the activities generating such waste,
 - b. In the case of LFO's, reduction in the number of animals being feed at the location,
 - c. To correct any lack of compliance with any conditions of the original or subsequent conditional use authorization detected in any on-site inspection within 30 calendar days of the date of the written order for compliance issued by the Zoning Administrator.
 - d. In the event the owner/operator of a waste handling facility involved in the inspection can present reasonable cause to the County Board that additional time to comply with any order of the Zoning Administrator is needed, the County Board may authorize an extension of time up to, but not exceeding 90 calendar days. Failure to comply with the order within the time specified shall result in an order to cease all activities which result in the generation of waste or, in the case of LFO, the removal of all animals from the premises until such time as compliance with these regulations can be achieved.
- 4) The provisions for inspections and compliance set forth in this Subsection shall not apply to any waste handling facility use which was in existence as of the effective date of this Resolution, except to verify compliance with the expansion limitations of this Resolution or unless such use has been expanded in its capacity beyond that which existed as of the effective date of this Resolution.
- I. Any waste handling facility shall be located only in areas of the County, which are not subject to flooding on a 100-year basis, and only in areas where it is determined by the County Board that the geology, soil permeability, depth to water table, drainage patterns and other natural characteristics will minimize the potential for surface and groundwater contamination. In making a determination regarding the appropriateness of the site, the County Board may utilize the advice and recommendations of the NRD, the NRCS, geologist and any other entities with applicable environmental protection expertise.
- Where it is determined that the geology, soil permeability, depth to water table, drainage patterns or other environmental characteristic would present a reasonable potential for contamination of groundwater through leakage from a lagoon or waste holding pond, the County Board may require the use of above ground waste storage tanks or not authorize such use.
- J. Each waste handling facility use shall be engineered, constructed and operated utilizing best management practices to minimize odor, dust, flies, vermin and other problems and hazards to avoid environmental contamination and/or negative impacts on adjoining and neighboring properties.
- K. In authorizing any waste handling facility use, the County Board may attach any additional requirement or condition of design or operation of such use which will minimize the potential for environmental degradation and/or negative impacts on adjoining and neighboring properties, provided such requirement or condition is based upon reasonable finding or scientific fact, which may include findings or recommendations by the applicable NRD, the NRCS, the University of Nebraska Extension Service, the NDEQ, geologists, biological engineers, civil engineers and any other entities with applicable environmental protection

expertise and said requirement or condition is not based upon hear say, unfounded public remonstrance or other reason not based on reasonable finding or fact.

- L. In authorizing any waste handling facility use, the County Board may, after consultation with the applicable NRD, NDEQ and/or other entity with groundwater contamination expertise, may:
- 1) Require the installation of groundwater monitoring wells at recommended locations,
 - 2) Require that sampling from such well(s) occur on a particular schedule,
 - 3) That sampling of the well(s) be conducted by an independent certified party,
 - 4) That independent laboratory analysis of the samples is conducted, and
 - 5) That the results of the laboratory analysis be provided to the County Board in accordance with the sampling schedule,
 - 6) All at the expense of the owner of the waste handling facility use.
 - 7) When groundwater monitoring wells are required,
 - a. A minimum of three such wells shall be required for each use.
 - b. One of the three monitoring wells shall be located up gradient of the groundwater flow direction, with the remaining wells located down gradient.
 - c. Each monitoring well shall be sampled once in the spring and once in the fall,
 - d. Each sample measuring depth to water before purging, and
 - e. Each sample shall be analyzed for levels of nitrate, chloride, ammonia and phosphorus with analysis results submitted to the County Zoning Administrator.
 - 8) In establishing any requirement for monitoring wells, the County Board shall take into account any wells required by the NDEQ in its permitting process.
- M. Where any Federal and/or State of Nebraska permit for facilities associated with a waste handling facility use is required, such permit(s) shall be approved by the appropriate agency. All facilities and safeguards required by such agency and all facilities and safeguards required by the County Board shall be in place and operational prior to the generation of waste or, in the case of confined or intensive animal feeding uses, prior to the introduction of any animals to the premises.
- N. Residential dwellings existing on the same premises and under the same ownership as a waste handling facility as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such facility. In addition, the residential dwelling(s) shall not be subdivided or otherwise sold off as a separate parcel unless the waste handling facility has been discontinued or an impact easement, as defined in Section 2.03 of this Resolution, is effective at the time of such subdivision. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility as set forth in Table 8.06.01 of this Resolution.
- O. Exceptions to the minimum separation requirements, as set forth in Table 8.06.01, may be authorized by conditional use where:
- a. special types of animal feeding uses,
 - b. special provisions for odor control,
 - c. special provisions for dust control,
 - d. topography,
 - e. prevailing winds, or
 - f. other factor or combination of factors exist and
 - g. it is determined by the County Board that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.
- P. Any conditional use application for a waste handling facility, which is determined by the County Board to be in compliance with all requirements of this Section and for which there is agreement by the owner of such proposed use to comply with any additional requirement or condition established by the County Board, as set forth in Subsection M above, shall be authorized.

TABLE 8.06.01: Minimum Separation Distances for LFO's and Waste Handling Facilities

Waste Handling Facility	Minimum Distance from a Waste Handling Facility to any Neighboring DU, Church, School or Public Use Area*	
	North/South (miles)	East/West (miles)
<i>Category A (Aerobic) serving a:</i>		
Class I LFO	0.5	0.25
Class II LFO	0.75	0.5
Class III LFO	1.0	0.75
Class IV LFO	1.25	1.0
<i>Category ANC (covered Anaerobic) serving a:</i>		
Class I LFO	0.75	0.5
Class II LFO	1.0	0.75
Class III LFO	1.5	1.0
Class IV LFO	1.5	1.25
<i>Category FAC (Facultative) serving a:</i>		
Class I LFO	1.0	0.5
Class II LFO	1.5	0.75
Class III LFO	1.75	1.0
Class IV LFO	1.5	1.25
<i>Category AN (Aerobic)*** serving a:</i>		
Class I LFO ***	0.75	0.5
Class II LFO ***	1.0	0.75
Class III LFO ***	1.25	1.0
Class IV LFO ***	1.5	1.25
<i>Class A (aerobic) serving a:</i>		
Municipal Sanitary Sewer System	0.5	0.5

Footnotes:

- * Measurement of this distance shall be from the point of the waste handling facility associated with a LFO, including any site where raw or partially digested liquid or slurry waste is applied to the surface of the land, nearest to a church, school, public use area or dwelling not on the same premises and not of the same ownership as the waste handling facility, to the nearest wall of such dwelling, church, school, or nearest boundary of a public use area, provided that if one or more impact easement(s) shall have been granted to the owner of the waste handling facility use, in which case any church, school, dwelling unit or public use area associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Minimum separation distances herein specified shall not apply to sites where solid manure is spread on the surface of the land at agronomic rates or where liquid or slurry waste is injected into the soil at agronomic rates. A dwelling unit not of the same ownership and on the same premises as the waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.
- ** Separation distances are based upon compass directions of prevailing winds and shall be applied as defined in Section 2.03 of this Resolution.
- *** By definition in this Resolution, all waste handling facilities serving LFO's, shall be categorized as AN (Anaerobic) unless a conditional use exception is authorized in accordance with the requirements and procedures of this Resolution where it is clearly demonstrated that a different category of waste handling facility is appropriate.

8.06.03 Existing Waste Handling Facilities

- A. If the waste handling facility complies with the minimum separation distances from neighboring uses, as set forth in Table 8.06.01 of this Resolution, such use may be expanded in any direction provided:
 - 1) such expansion complies with all requirements of Paragraph B, Parts 3) through 8) and
 - 2) such expansion shall not result in separation distances to any church, school, public use area or dwelling unit not on the same premises being less than set forth in Table 8.10.01 for the specific class of LFO and category of the waste handling facility for which the use would qualify after such expansion, except if:
 - a. the owner(s) of any such church, school, public use area or dwelling unit grant the owner of the LFO and associated waste handling facility an impact easement.
- B. If the waste handling facility is located closer than the minimum separation distances from neighboring uses, as set forth in Table 8.06.01 of this Resolution for the class of LFO and category of waste handling facility, such use may be expanded, provided any expansion complies with all of the following restrictions:

- 1) Such waste handling facility may not be expanded closer to any church, school, public use area or dwelling unit not on the same premises and not of the same ownership to which such facility is already less than the minimum distance specified, except if:
 - a. The owner of any such church, school, public use area or dwelling unit shall grant the owner of the LFO and associated waste handling facility an impact easement.
- 2) Expansion in any other direction shall be permitted, provided:
 - a. such expansion shall not result in separation distance to any other church, school, public use area or dwelling unit not on the same premises and not of the same ownership being less than set forth in Table 8.06.01 for the class of LFO and category of the waste handling facility for which the use would qualify after such expansion, except if:
 - i. the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the LFO and associated waste handling facility an impact easement.
- 3) Any physical expansion of the waste handling facility shall be immediately contiguous with the existing waste handling facilities.
- 4) Such expansion may occur over time, but
 - a. Such expansion(s) shall not result in a waste handling facility which would serve a one-time animal unit capacity which is more than 50% greater than the one-time animal unit capacity which existed as of the effective date of this Resolution.
 - b. Expansion beyond these limits may only be authorized as a conditional use in accordance with the procedures and requirements of this Resolution.
- 5) Each zoning permit application, for such expansion, shall include a summary and the results of a search for any abandoned wells. In the event any abandoned wells are found in any area of such expansion or any area where animal waste is to be applied to the land, such wells shall be properly closed and sealed in accordance with standards of the applicable NRD.
- 6) No minimum separation distance shall be applicable to any site where composted animal waste or solid manure is applied to the surface of the land or any site where liquid or slurry animal waste is injected into the soil.
- 7) Additional animals shall not be added until any new permit required by the NDEQ shall have been issued and such use shall be operated in a manner consistent with the requirements of any such permit and the requirements of this Resolution.
- 8) Exceptions to the minimum separation requirements, as set forth in Table 8.06.01, may be authorized by conditional use where:
 - a. special types of animal feeding uses,
 - b. special provisions for odor control,
 - c. special provisions for dust control,
 - d. topography,
 - e. prevailing winds, or
 - f. other factor or combination of factors exist and
 - g. it is determined by the County Board that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.
- 9) For purposes of this regulation, a dwelling unit not of the same ownership and not on the same premises as the LFO and associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

Section 8.07 Home Occupations and Home-Based Businesses within Agricultural Districts

8.07.01 Intent: A home occupation or home-based business shall be permitted when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence, and shall not be construed as a business.

8.07.02 Procedure:

1. Home Occupations: An application for a home occupation, within agriculturally zoned areas shall be made to the Red Willow County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

2. Home Based Businesses: An application for a home based business, within agriculturally zoned areas shall be made to the Red Willow County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

8.07.03 Permitted home occupations:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one station), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

8.07.04 Prohibited home occupations:

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

8.07.05 Performance Standards for Home Occupations:

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation when contained within the principal structure.
5. Home occupations may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home occupation is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
7. Home occupations focused on repairs and maintenance of vehicles and motors shall not be allowed to store damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home occupations are taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.

9. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home based business.
10. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
11. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

8.07.06 Permitted home-based businesses:

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one station), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Trapping and outfitting operations.
6. Instructional services, including music, dance, art and craft classes and tutoring.
7. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
8. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
9. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
10. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
11. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

8.07.07 Prohibited home based businesses:

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

8.07.08 Performance Standards for Home Based Businesses:

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home-based business shall remain a resident in the dwelling unit.
2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at

- the time of application. All alterations and additions shall meet all building and zoning criteria of Red Willow County.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business when contained within the principal structure.
 5. Home based businesses may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
 6. When a home-based business is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
 7. Home based businesses focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home based business is taking place.
 8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
 9. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
 10. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
 - a. Two additional spaces for the unrelated employees;
 - b. Two additional spaces to be used for client/visitor parking;
 - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback;
 - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height;
 - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
 - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
 11. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
 12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
 13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
 14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

8.07.09 Revocation:

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
 - a. That any condition of the home occupation or home-based business permit has been violated;
 - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
 - c. That the permit was obtained by misrepresentation or fraud;
 - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
 - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Red Willow County Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Red Willow County Board of Adjustment. The Red Willow County Board of

Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board's final determination.

3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

Section 8.08 Adult Entertainment Establishments

8.08.01 Purpose; Findings and Rationale

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the County. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
2. *Findings and Rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's*

Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v Nebraska Liquor Control Commission*, 266 Neb. 361(2003); *Village of Winslow v Sheets*, 261 Neb.203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); *Metropolis, Illinois - 2011-12*; *Manatee County, Florida - 2007*; *Hillsborough County, Florida - 2006*; *Clarksville, Indiana - 2009*; *El Paso, Texas - 2008*; *Memphis, Tennessee - 2006*; *New Albany, Indiana - 2009*; *Louisville, Kentucky - 2004*; *Fulton County, GA - 2001*; *Chattanooga, Tennessee - 1999-2003*; *Jackson County, Missouri - 2008*; *Ft. Worth, Texas - 2004*; *Kennedale, Texas - 2005*; *Greensboro, North Carolina - 2003*; *Dallas, Texas - 1997*; *Houston, Texas - 1997, 1983*; *Phoenix, Arizona - 1995-98, 1979*; *Tucson, Arizona - 1990*; *Spokane, Washington - 2001*; *St. Cloud, Minnesota - 1994*; *Austin, Texas - 1986*; *Indianapolis, Indiana - 1984*; *Garden Grove, California - 1991*; *Los Angeles, California - 1977*; *Whittier, California - 1978*; *Oklahoma City, Oklahoma - 1986*; *New York, New York Times Square - 1994*; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); *Dallas, Texas - 2007*; "Rural Hotspots: The Case of Adult Businesses," *19 Criminal Justice Policy Review* 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult establishments: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; *Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets In Forest Park, GA and Sandy Springs, GA)*, McLeary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, *Law and Policy*, Vol. 31, No. 2 (April 2009), *Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998)*,

the Board of Commissioners finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. Additionally, the County's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the County. The County finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The Board hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

8.08.02 Geography:

These uses shall be permitted, provided they meet all setback requirements and the regulations stated in Section 8.08.04 of this Resolution, the following Zoning Districts:

1. The AG-G, provided the establishments are confined to within ¼ mile of any State or Federal Highway within Red Willow County.

2. The AG-T Transitional Agriculture District, provided the establishments are confined to within ¼ mile of any State or Federal Highway within Red Willow County.

8.08.03 Definitions

Adult Bookstore Or Adult Video Store shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Adult Cabaret shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

Adult Establishment shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

Adult Motion Picture Theater shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

Adult Paraphernalia Store shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Employee of an Adult Establishment shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Enclosed Regional Shopping Mall means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

Nudity means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator of Adult Establishment means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

Semi-Nude or Semi-Nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Specified Anatomical Areas shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

Specified Sexual Activities shall mean Intercourse, oral copulation, masturbation or sodomy.

8.08.04 Performance Standards

1. No person shall establish, operate, or cause to be operated an adult establishment in Red Willow County within:
 - a. 1,000 feet of another adult establishment;
 - b. 500 feet of a business licensed to sell alcohol at the premises; or
 - c. 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
 - d. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a

film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

- a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the County Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
- b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
- e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - ii. That specified sexual activity on the premises is prohibited.
 - iii. That the making of openings between viewing rooms is prohibited.
 - iv. That violators will be required to leave the premises.
 - v. That violations of these regulations are unlawful.
- f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 8.08.04 (9)(e)(i), though 8.08.04 (9)(e)(v) above.
- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- i. It shall be unlawful for a person having a duty under subsections 8.08.04 (9)(a) through 8.08.04 (9)(h) above to knowingly or recklessly fail to fulfill that duty.
- j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.

- I. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 8.08.04.

Section 8.09 Special Events Requirements

8.09.01 Intent

These requirements are focused on special events that typically do not fall into specific criteria and are temporary in nature. These events may include large numbers of people as well as vehicular traffic (including recreational vehicles). These events are limited uses in the nature of an amusement or attraction. Contemplated uses of this nature are:

1. Tractor pulls; races
2. Festivals; concerts;
3. Rallies;
4. Fireworks displays
5. Sports events
6. Fairs and carnivals

8.09.02 Procedure

1. The Zoning Administrator, if he/she determines that the use is a one time, occasional, or annual event, under the control of a reliable sponsor, may issue a letter of "Special Events Permit" and allow the activity to proceed.
2. Any Special Event where alcoholic beverages will be sold, allowed and/or consumed shall require Permit approval by the Planning Commission and County Board as a Conditional Use Permit, following all prescribed procedures for said permit.
3. If the Zoning Administrator determines that the use will be conducted occasionally (as opposed to a single event), or that the activity is likely to be associated with site impacts (traffic, dust, noise and activity), he/she may refer the matter to the Planning Commission and County Board.
4. The Planning Commission and County Board, after an examination of all facts and circumstances, and the imposition of appropriate conditions, may allow the use on an occasional basis, as a Conditional Use Permit or a Temporary Permit.

8.09.03 Permit Requirements

1. Special Events Permit requirements shall include, but are not limited to:
 - A. Establish appropriate time limits for operation, if necessary.
 - B. Establish necessary mitigation procedures that will need to be undertaken to minimize traffic impacts.
 - C. Establish the number of times the activity may operate.
 - D. Establish the beginning and ending dates of said Special Event.
 - E. Assess
 - F. Set conditions as operating principles, including the advice and approval of the Red Willow County Emergency Manager.
 - G. Incorporate rules and conditions established by the Nebraska State Fire Marshal, the Nebraska Liquor Commission, Nebraska State Patrol or other Nebraska state agency and any resolutions established by Red Willow County.
2. The Special Permit is a license to operate an activity. It may be revoked for failure to operate within the established conditions, and shall not run from operator to operator.
3. Identify a Fire Safety Plan/Emergency Plan (approved by the local rural fire department) in the event of a man-made or natural emergency or disaster.
4. The Special Permit shall be signed by both the property owner and the operator.
5. Any Special Permit approved by the Planning Commission and County Board shall also be countersigned by the Zoning Administrator.

Section 8.10 Recreational Vehicle Parks

No Recreational Vehicle Park shall be constructed within the zoning jurisdiction of Red Willow County unless a Conditional Use permit is approved and issued by the County and is constructed in conformance with the following requirements:

1. The tract to be used as a recreational vehicle park or campground shall not be less than two acres in area. Under no circumstances shall a manufactured home be parked in a recreational vehicle park or campground.
2. The maximum number of recreational vehicles, trailers, or camp sites shall be 15 per acre.
3. Each recreational vehicle, trailer, camp site shall be plainly marked.
4. The minimum dimensions of a recreational vehicle, trailer or camp site shall be 30 feet wide by 60 feet long.
5. Each recreational vehicle, trailer, camp site shall be separated from other recreational vehicles, trailers, or camp sites by at least 15 feet.
6. All recreational vehicle, trailer, camp sites shall meet the required setbacks from roads and from the ordinary high water mark and shall be located at least 50 feet from exterior lot lines.
 - A. The exterior lot line setback shall be maintained in open space; except that landscaping for the purpose of screening the Park from visual views from adjacent properties.
 - B. Screening at least six feet in height shall be provided between the recreational vehicle park or campground and any adjoining residential area.
7. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided:
 - A. No one space shall be designed for direct access to a county road or highway outside the boundaries of the recreational vehicle park or campground;
 - B. All interior access drives shall be at least 20 feet in width;
 - C. All interior access drives and parking areas shall be surfaced with gravel, asphalt or other material to free the site of mud.
8. Each pad location shall be equipped with the following:
 - A. Electrical outlet
 - B. A sanitary sewer connection per Nebraska DEQ requirements
 - C. A potable water connection per Nebraska HHS requirements
 - D. If pad sites are not supplied with individual sanitary sewer and water connections then a "Community Building" shall be constructed to the following requirements:
 - 1) Pads shall not be located more than 300 feet from the "Community Building"
 - 2) Separate toilet, lavatory and shower facilities for each sex, in the following ratio: one flush-type toilet, one lavatory and one shower or bathtub for females and one flush-type toilet, one lavatory, and one shower or bathtub for males.
 - 3) The previous toilet sanitary standards shall be for every 30 pad sites.
 - 4) Have an accessible, adequate, safe and potable supply of cold water.
 - 5) Comply with all Nebraska Building, Electrical and life safety codes.
 - 6) Be maintained in a clean, sanitary condition and kept free of any condition that is considered a health hazard.
9. Other criteria that shall be met include:
 - A. No more than one wheeled recreational vehicle or trailer shall be allowed on any individual pad site. In addition to these units, a tent may be erected to serve as an auxiliary shelter, but shall not be erected for more than 14 consecutive days.
 - B. These Parks are considered as a seasonal business and site and individual recreational vehicles or trailers are considered seasonal dwelling and shall not be occupied for more than six continuous months in a 12 month period. However, a recreational vehicle or trailer may remain on site for the remaining portion of the year in a stored state.
 - C. Wheels and tires shall remain in the in-transit position.
 - D. No porches, lean-tos, or additions shall be constructed onto any of these recreational dwellings. Canvas screen rooms or awnings shall be allowed.
 - E. A recreational dwelling may only be skirted with a mesh-lined or, solid skirting may be installed immediately adjacent to the tires.
 - F. A shelter unit may located on an individual pad site provided it is designed only to protect occupants from the elements and does not have a permanent water supply, a sewage system, electricity, or heating and cooking facilities.

- G. Identify a Fire Safety Plan/Emergency Plan (approved by the local rural fire department) in the event of a man-made or natural disaster.

One permanent dwelling unit may be constructed within the Recreational Vehicle Park and is to be used strictly by the Park owner and family or the resident superintendent.

Section 8.11 Solar Farms

8.11.01 Applicability

The purpose of this subsection is to provide standards for photovoltaic solar farms consisting of ground-mounted solar panels, with or without single-axis or dual-axis tracking systems, that capture energy from the sun and convert it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels that support the flow of rainwater between each array of modules and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, Red Willow County finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in non-urbanized, low-density areas with other agricultural and scattered industrial uses.

8.11.02 Definitions

The following definitions pertain specifically to this section of the Resolution.

Photo-voltaic (PV) cell: A solid-state device incorporating semi-conductor materials designed and engineered to convert the energy of sunlight directly into electrical energy without use of mirrors, pumps, liquids or conversion of sunlight to thermal energy.

Photo-voltaic (PV) module: a collection of inter-connected PV cells within a weathertight enclosure covered with high-strength tempered glass.

Photo-voltaic (PV) array or photo-voltaic panel: an inter-connected collection of PV modules held together in a framework mounted to posts to hold them above the ground. Motorized tracking systems are often used to automatically tilt PV panels to optimize the capture of sunlight falling on them as the sun moves throughout the day and thereby maximize the conversion of the sunlight to electrical energy.

Solar Access: A property owner's right to have sunlight shine on his land.

Solar Collector: An assembly, structure, or design, including passive elements such as photo-voltaic (PV) panels, used for gathering, concentrating or absorbing direct or indirect solar energy, which may be specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid, or to convert the energy of sunlight directly into electrical energy; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity, including by means of PV panels.

Solar Energy: Radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use, or photovoltaic use.

Solar Energy System: A system that uses the power of the sun to capture and store energy and reduce on site consumption of utility power and/or to supply electricity to a utility company or cooperative.

Solar Energy System, Freestanding: A solar energy system that is not mounted on a building or attached to another structure and is ground mounted using rammed-posts or other stand-alone support systems.

Solar Energy System, Joint: A solar energy collector or storage mechanism that supplies energy for structures or processes on more than one lot or in more than one dwelling unit or leasehold, but not to the general public and involves at least two owners or users.

Solar Skyspace: The maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

- (A) Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
- (B) Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock (8:00) A.M. and four o'clock (4:00) P.M. local apparent time from March 23 through September 21 of each year.

Solar Skyspace Easement: A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

Solar Storage Mechanism: Equipment or elements such as piping and transfer mechanisms, containers, heat exchangers or controls thereof and gases, solids, liquids or combinations thereof that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

8.11.03 Site Development Standards:

1. Lot coverage: No more than one percent of the gross site area shall be occupied by enclosed buildings and structures.
2. Setbacks: A thirty-foot side and rear setback shall apply only to the setback area measured from a lot line that abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district, or the two districts are separated by a public right-of-way.
3. Height: The average height of the solar panel arrays shall not exceed 15 feet.
4. Landscaping Buffer: The primary use of the property shall determine the buffer requirement. Where a ground-mounted photovoltaic solar farm is the primary use the property shall be considered agricultural for the purposes of buffer requirements. There is no requirement for screening from public streets.
5. Stormwater Management: Fixed panel solar arrays shall be considered pervious and any fee in lieu of detention shall be considered based on impervious cover. The impervious cover calculation shall include the support posts of the panels, any roads or impervious driveway surfaces, parking areas and buildings on the site.
6. Subdivision: A property developed pursuant to this subsection shall be required to plat however a water and sewer connections shall not be required. Suitable fire department access shall be required.
7. Signage: Signage shall conform to Article 7 of this Resolution as well as any sign limitations of the zoning districts.
8. Customer owned on-site power lines shall be buried except where connecting to existing overhead utility lines. This requirement shall not apply to fiber optic connections.
9. Fencing: Due the unique security requirements of this land use, and to facilitate educational value of seeing this land use, fencing up to eight (8) feet in height is permitted provided the fencing material is predominantly open, as defined in Appendix A.
10. All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

8.11.04 Districts

Ground-mounted fixed-panel photovoltaic solar farms may be allowed upon the approval of a Conditional Use Permit as established in Article 5 of this Resolution.

8.11.05 Submittal Requirements:

Conditional Use Permits are required for solar farms. Plans shall contain the following:

1. A plot plan, drawn to scale, of the property indicating the total site acreage, any proposed landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the property lines;
2. The plot plan shall include any roads, electric lines and/ or overhead utility lines;
3. A description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated and pre-approved with the appurtenant Power District;
4. A copy of the interconnection agreement, or proposed agreement with the local electric utility (financial terms may be redacted) or a written explanation outlining why an interconnection agreement is not necessary;
5. Drawings or blueprints of solar panels and arrays in conjunction with the application for a building permit for a solar farm/solar power plant;
6. Structural engineering analysis for a solar panel, array and its foundation, as applicable.
7. Manufacturer's recommended installations, if any; and
8. Documentation of land ownership and/or legal authority to construct on the property.
9. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. The Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning.
10. If any of the information required in items 4, 5, 6 and/or 7, above, is not available at the time of application for a Conditional Use Permit, the application may be approved subject to the submission of such information at the time of application for a building permit and shall be subject to review and approval by the County's engineer at that time before any building permit is issued.

8.11.06 Compliance with Other Regulations:

1. Zoning permit applications for solar farms shall be accompanied by a line drawing of electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the state's adopted electrical code and that has been pre-approved by the associated power district meeting their Distribution Generation Requirements and Guidelines; and
2. This subsection does not waive any requirements of any state or Federal codes, electrical codes or other technical codes as applicable.

8.11.07 Discontinuation.

A solar farm shall be considered abandoned after one year without energy production. The solar equipment owner shall remove all solar farm equipment and appurtenances within 180 days of abandonment.

ARTICLE 9: ADMINISTRATION AND ENFORCEMENT**Section 9.01 Zoning Administrator**

The Zoning Administrator of the Red Willow County Planning and Zoning Office, as appointed by the County Board shall administer and enforce these Regulations. The Zoning Administrator may be provided with the assistance of such other persons as the County Board may direct.

Section 9.02 Zoning Permit Required

It shall be unlawful to commence or do any excavating, erecting, constructing, reconstructing, enlarging, altering, or moving of any building or structure or to use or occupy or permit the use or occupancy of any building, land or premises, or construction or connection to water or sewer facilities or part thereof hereafter created, erected, change, converted, or wholly or partly altered or enlarged in its use or structure until a zoning permit shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to these regulations, unless otherwise stated herein.

Section 9.03 Application for Zoning Permit

Written application on forms prescribed and furnished by the Zoning Administrator stating such information as may be required for the enforcement of these regulations shall be submitted and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, existing and proposed water and sanitary sewer facilities, as may be necessary to determine and provide for the enforcement of these regulations. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Administrator together with such zoning permits as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

The Zoning Administrator shall issue a written permit, or denial, thereof, with reasons in writing within 20 days from the date of the acceptance of the application. Those proposed uses requiring a zoning permit that are affected directly through these Regulations by another use currently in the conditional use process must yield until such use is permitted or denied.

Except where an extension has been obtained in writing from the Zoning Administrator, permits issued shall expire within 180 days if the work described in the permit has not begun or the use applied for has not been established and within one year should the work not have been completed.

Section 9.04 Enforcement by the Zoning Administrator

It shall be the duty of the Zoning Administrator to enforce these Regulations in accordance with its provisions. All departments, officials, and public employees of Red Willow County, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of these regulations and shall issue no permit or license for any use, building or purpose, if the same would be in conflict with the provisions of these Regulations.

Any person, partnership, limited liability company, association, club, or corporation violating these regulations or of erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the County Board or the Zoning Administrator, as well as any owner or owners of real estate within the district affected by these regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, or to prevent the illegal act, conduct, business, or use in or about such premises. Any taxpayer or taxpayers in the county may institute proceedings or compel specific performance by the Zoning Administrator, County Board or any other responsible officials of the County.

Section 9.05 Certification of Zoning Compliance

No structure or land shall be hereafter used or the use changed thereof until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator. A Certificate of Zoning Compliance for a

new building or for the alteration of an existing structure shall be applied for in conjunction with the application for a zoning permit and shall be issued within 10 days after the erection or alteration of such building is completed in conformity with these regulations.

Application for a change of use of land or existing structure shall be made on forms provided by the Zoning Administrator and shall state the proposed use is in conformity with these regulations.

ARTICLE 10: BOARD OF ADJUSTMENT**Section 10.01 Intent**

A Board of Adjustment is hereby created in accordance with Nebraska State Statutes governing such creation. The Board shall be an appeals body and may decide any matter appropriately brought before it.

Section 10.02 Membership

The Red Willow County Board of Commissioners shall appoint a Board of Adjustment which shall consist of five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and be removable for cause by the appointing authority upon written charges and after public hearing. No member of the Board of Adjustment shall be a member of the County Board of Commissioner. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed by the County Board from the membership of the County Planning Commission, and the loss of membership on the Commission by such member shall also result in his immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.

Section 10.03 Rules and Meetings

1. The Board of Adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this act. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the County Clerk and shall be a public record.
2. An appeal to the Board of Adjustment may be taken by any person or persons aggrieved or by any officer, department, board, or bureau of the County by any decision other than the approval or denial of a conditional use permit application of an administrative officer, planning commission, and/or County Board, depending upon the nature of aggrievement. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person, by agent, or by attorney.

Section 10.04 Powers

1. The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board of Commissioners, have only the following powers:
 - A. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
 - B. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by such regulation to pass; and
 - C. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of any zoning regulations, but no such variance shall be authorized unless the Board of Adjustment finds that:

- (1) The strict application of the resolution would produce undue hardship;
 - (2) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - (3) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
 - (4) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- D. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned, or the intended use of the property concerned is not of so general or recurring a nature as to make reasonable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
2. In exercising the above-mentioned powers, the Board may, in conformity with the provision of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to affect any variation in such regulation.

Section 10.05 Appeal of Board Decisions

1. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment; or any officer, department, board, or bureau of the county, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality.
 - A. The petition must be presented to the court within fifteen days after the filing of the decision in the office of the Board of Adjustment.
 - B. Upon the filing of such petition a summons shall be issued and be served upon the Board of Adjustment together with a copy of the petition and return of service shall be made within four days after the issuance of the summons.
 - C. Within 10 days after the return day of the summons, the County Board of Adjustment shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition.
 - D. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgment according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.
 - E. The court may reverse or affirm, wholly or partly, or may modify the decision brought upon for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals-in actions at law.

ARTICLE 11: AMENDMENTS**Section 11.01 Amendments**

1. The regulations, restrictions and boundaries set forth in this Resolution may from time to time be amended, supplemented, changed or repealed, provided however that no such action may be taken until after public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least ten days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the county.
2. An amendment may be initiated by the County Board of Commissioners, by a motion of the Planning Commission, or by written petition of any property owner addressed to the County Board of Commissioners. The County Board of Commissioners shall act on such petitions within 90 days of receipt. Having once considered a petition, the County Board of Commissioners will not consider substantially the same petition for one year.
3. All proposed amendments (except those initiated by the Planning Commission) shall be submitted to the Planning Commission for study and recommendation. The Planning Commission shall study the proposals to determine:
 - a. The need and justification for the change.
 - b. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property and on surrounding properties.
 - c. When pertaining to a change in the district classification of property, the amount of undeveloped land in the general area and in the county having the same district classification as requested.
 - d. The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purpose of this Resolution and the Comprehensive Plan.
4. Within 45 days from the date that any proposed amendment is referred to it (unless a longer period shall have been established by mutual agreement between the County Board of Commissioners and the Planning Commission in the particular case), the Planning Commission shall submit its report and recommendation to the County Board of Commissioners. The recommendation of the Planning Commission shall be advisory only and shall not be binding on the County Board of Commissioners. If the Planning Commission does not submit its report within the prescribed time, the County Board of Commissioners may proceed to act on the amendment without further awaiting the recommendations of the Planning Commission.

Section 11.02 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 Sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172, 23-174.02, 23-373, and 23-376, Reissue Revised Statutes of 1943 (in full), or this Regulation, or any regulation made pursuant to said sections, 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.

Section 11.03 Fines and Penalties

Violation of the provisions of this regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 per offense, with each day resulting in a separate offense, and in addition, shall pay all costs and expenses involved in the case.

