

Gage County, Nebraska



ZONING REGULATIONS.



January, 2019

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**ARTICLE 1
GENERAL PROVISIONS**

1.1 TITLE

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

1.2 JURISDICTION

The provisions of this Regulation shall apply within the planning jurisdiction of Gage County as established on the map entitled "The Official Zoning Map of Gage County, Nebraska." The jurisdiction includes the rural and unincorporated areas of Gage County.

1.3 PURPOSE

In pursuance of the authority conferred by Section 23-114.03-114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this regulation is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Gage County, 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 amount 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 well assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation;
11. Securing economy in governmental expenditures;
12. Fostering the state's agriculture, recreation, and other industries;
13. Encouraging the most appropriate use of land in the county; and
14. Preserving, protecting, and enhancing historic buildings, places, and districts.

ARTICLE 2
APPLICATION OF REGULATIONS

2.1 GENERAL

The Zoning Regulations set forth within each Zoning District shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

Excepting nonconforming lot sizes, structures and usages, as set forth in Sections 14.1, 14.2 and 14.3 of these Regulations and as otherwise excepted by state law, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved or structurally altered except in conformity with all of the Zoning Regulations herein specified for the district in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

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

2.4 MINIMUM REQUIREMENTS

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

**ARTICLE 3
GENERAL DEFINITIONS**

3.1 GENERAL PROVISIONS

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

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

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

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

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

3.2 GENERAL TERMINOLOGY

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

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

3.3 DEFINITION

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

3.31 ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes such as used in conjunction with residential uses; agricultural and recreation storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

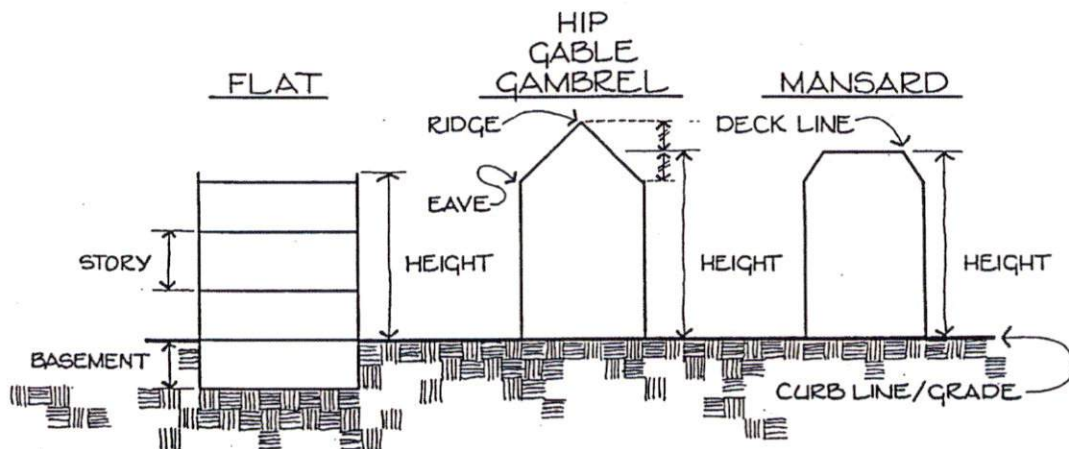
3.32 AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over twenty (20) acres in area used for or devoted to the commercial production of farm products, with sales of at least one thousand dollars (\$1,000) annually.

3.33 ALL WEATHER ROAD - A road currently maintained with a regular placement of gravel or rock as a surface material.

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

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

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



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

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

3.38 CEMETERY: A place of burial of human remains.

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

3.40 **CONDITIONAL USE PERMIT:** A permit issued by the Zoning Administrator when the proposed conditional use is determined to be in conformance with the list of conditions stipulated for that use. A conditional use permit does not require any review, nor public hearings by, the Planning Commission or the Gage County Board.

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

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

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

3.44 **DWELLING, TWO-FAMILY:** A building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

3.45 **EASEMENT:** A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

3.46 **FARM RESIDENCE:** Residential dwellings located on a farm including, but not limited to, mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

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

3.48 **HOME OCCUPATION:** An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

3.49 **LAGOON:** An impoundment made by constructing an excavated pit, dam, embankment, tank or combination of these for storage or treatment of waste by anaerobic, aerobic or facultative digestion. A lagoon is a structure under these regulations.

3.50 **LANDFILL:** A disposal site employing an engineering method of disposing of solid

wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

3.51 LIVESTOCK CONFINEMENT FACILITIES/ OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s), pond(s), lagoon(s) and or manure or compost pile(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals, which exceed any combination of three hundred (300) animal units from the following:

Animal Units Equal:

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

Total of item numbers 1 through 11 equaling three hundred (300) or more animal units are defined as a livestock confinement facilities/operation.

3.52 LOT: A parcel of land occupied or intended for occupation by a use permitted in this regulation and fronting upon a street or road.

3.53 LOT, CORNER: A lot abutting two (2) or more streets or roads at their intersection.

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

3.55 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.

3.56 LOT OF RECORD: A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by deed or other conveyance the description of which has been recorded and on file with the Gage County Register of Deeds prior to the effective date of these regulations.

3.57 LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot,

measured at right angles to the line establishing the lot depth at the established building setback line.

3.58 MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

3.59 MOBILE HOME: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more that thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

3.60 MOBILE HOME PARK: Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.61 MOBILE HOME SPACE: A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants. (Neb. Rev. Stat. 76-1465)

3.62 MODULAR HOME: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71- 1557 of the Nebraska revised Statutes.

3.63 NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to June 11, 2001 (date of adoption), and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

3.64 NONCONFORMING STRUCTURE: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the Zoning District in which it is located.

3.65 NONCONFORMING USE: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the Zoning District in which it is located.

3.66 PARCEL: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person(s) or entity.

3.67 PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

3.68 PROPERTY LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

3.69 RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, van conversion, or fifth-wheel trailer.

- a) Travel Trailer: A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet.
- b) Camping Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
- c) Truck Camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor and sides and designed to be loaded onto and unloaded from the bed of a pickup truck.

- d) Motor Home: A vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a portable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply.
- e) Park Trailer: A vehicular unit which meets the following criteria: (a) Built on a single chassis mounted on wheels; (b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances; (c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling and supporting devices; and (d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode.
- f) Van Conversion: A completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.
- g) Fifth-Wheel Trailer: A unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed for hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle. (Neb. Rev. Stat, 71-4603)

3.70 RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

3.71 RECYCLING COLLECTION POINT: A collection point for small refuse items, such as bottles, cans and newspapers, used oil and fluids collection, located either in a container or small structure.

3.72 RESIDENCE: A home, abode, or structure or place where an individual or family is actually living at a specific point in time.

3.73 SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, more than seven (7) unlicensed abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

3.74 SEAL: A device of insignia issued by the Nebraska Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Nebraska Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal. (Neb Rev. Stat. 71-4603).

3.75 SPECIAL USE PERMIT: A written permit issued with authorization of the County Board. The special permit provides permission under specific conditions and, possibly, performance standards to make certain special uses of land, in each of the zoning districts, are permitted in accordance with the zoning regulations.

3.76 STREET, ROAD OR HIGHWAY: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street, road or highway purposes. The term COUNTY ROAD shall also include township roads, streets and highways.

3.77 STREET, CENTER LINE: A line midway between street lines.

3.78 STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

3.79 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

3.80 STRUCTURAL ALTERATIONS: Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

3.81 TOWNHOUSE: One of a group or row of not less than three (3) or more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon

a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.82 VARIANCE: A variance is a relaxation of the terms of the Zoning Regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the Zoning Regulations would result in unnecessary and undue hardship.

3.83 WAIVER: A relinquishment of specified conditions, as identified where defined in these Zoning Regulations.

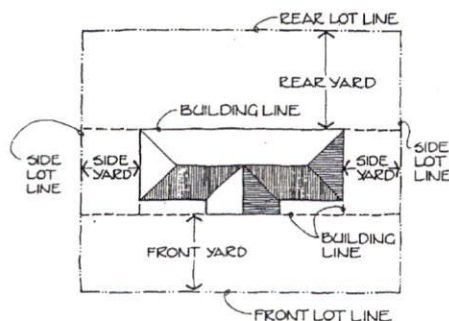
3.84 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the regulations of the Zoning District.

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

3.86 YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

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

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



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

3.89 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these Zoning Regulations.

3.90 ZONING DISTRICT: The term “zoning map” means a map or maps officially enacted by the County Board, as part of this chapter showing the boundaries of a Zoning District or Districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the County Clerk, as an official record of Gage County.

ARTICLE 4
ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 ZONING AND PLANNING COMMISSION RECOMMENDATIONS

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

4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created Zoning Districts for Gage County, as named and described in Article 5 of this Regulation.

1. AG – 1 General Agriculture District
2. AG – 2 Transitional Agriculture District
3. AG – 3 Agricultural Conservation District
4. AG – 4 Urban Reserve District
5. R Residential District
6. I Industrial District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the Zoning Districts are shown upon a map, which is made a part hereof by reference, which map is designated as the Gage County Zoning Map, dated January, 2019, and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the “Official Zoning Map.”
2. The signed copy of the Zoning Map containing the Zoning Districts designated at the time of adoption of this Regulation shall be maintained in the offices of the County Clerk and Zoning Administrator for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the appropriate part of the Official Zoning Map promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map as follows:

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

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

4. No changes of any nature shall be made in the Official Zoning Map or a matter shown thereon except in conformity with the procedures set forth in this Regulation.
5. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, Gage County 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 Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of a zoning District(s) as shown on the Official Zoning Map, the following rules shall apply:

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

**ARTICLE 5
ZONING DISTRICTS**

5.1 AG-1 AGRICULTURE DISTRICT

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

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

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/ operations as defined in Section 3.50.
2. Bulk grain and produce storage, excluding commercial warehouses; and
3. Irrigation, flood, erosion and sediment control projects.

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8; and
3. Roadside stands for the temporary sale of produce.

5.14 PERMITTED CONDITIONAL USES AND STRUCTURES: The following shall be permitted upon a determination of compliance with the conditions stated below and approved as such by the Gage County Zoning Administrator:

1. Expansion of existing or development of new livestock confinement facilities/operations of a capacity of 300 to 1,000 Animal Units. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
2. Non-farm single family, ranch and farm dwellings and two (2) additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers.
 - A. Any dwelling placed within the minimum distance requirement of a livestock confinement facility shall be by special permit.

- B. Minimum lot size of single family dwellings shall be three (3) acres. Only four (4) single family dwellings are permitted for each legal quarter-section. A legal quarter-section shall constitute 160 acres. For any application involving a non-standard quarter-section, the Zoning Administrator shall take into consideration the actual acreage of the quarter-section in question.
- C. All single family dwellings other than seasonal use dwellings, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

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

- 1. Airports and heliports including crop dusting strips;
- 2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
- 3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;
- 4. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers when in conformance with the following:
 - A. Towers, including wind generation towers, shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
 - B. Towers shall be minimum distance from any street, county road or federal highway of equal to or greater than the height of the tower measured from the right-of-way line.
 - C. Towers shall have direct frontage on, or direct access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

D. Towers must comply with the regulations of the Federal Aviation Administration (FAA).

5. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
6. Churches, place of worship and cemeteries;
7. Public and private recreational uses, including parks and playgrounds, golf courses, campgrounds and riding stables;
8. Auction/sale barns and yards;
9. Greenhouses and garden centers;
10. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
11. Salvage or junk yards in accordance with Section 6.3;
12. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries;
13. Pre-school and child care centers;
14. Private elementary and high schools;
15. Expansion of existing or development of new livestock confinement facilities/operations of a capacity equal to, or in excess of one thousand (1,000) animal units and expansion or development within the minimum distance requirements of a cemetery. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
16. Veterinary facilities;
17. Dog breeding establishments and kennels;
18. Manufacturing, Commercial and/or Industrial operations;
19. Hospitals, penal institutions and sanitariums;
20. Nursing and care homes;
21. Public and private, including non-profit, charitable institutions;
22. Recreational motel-lodging;

23. Bed and Breakfast establishments;
 24. Disposal of paunch animal waste; and
 25. Dwellings within the minimum distance requirement of a livestock confinement facility.
 26. Alternative energy systems utilizing Wind sources, in conformance with “Net Metering” as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or “Small Wind Energy Conversion Systems (SWECS)” shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.
 27. Commercial Wind Energy Conversion Systems (CWECS) utilizing a single tower application or multiple tower applications or “Wind Farm,” held in single ownership or in an association of multiple owners, in conformance with the provisions of Article 6, Section 6.6 of these Regulations.
- 5.16 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or nor permissible as special uses shall be prohibited from the AG-1 Agriculture District.
- 5.17 MINIMUM LOT REQUIREMENTS: All improved area or uses, other than seasonal use residential buildings and general farming, ranching, pasturing, etc, shall have direct frontage on, or private access to, an improved street, county or township road
- A. Any subdivision of land which results in at least one but not more than three lots or parcels which are three (3) to ten (10) acres in size may be approved by the Gage County Administrator, as stated in Section 7.15 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.
- 5.18 MINIMUM YARD REQUIREMENTS
1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated May 1, 1990 as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.

2. Yard Requirements:

Front Yard: There shall be a minimum front yard of not less than a depth of seventy-five (75) feet measured from the center line of the county road in conformance with Section 8.7.

Rear Yard: No limitations; unless abutting a R Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be seventy-five (75) feet

Side Yard: No limitations; unless abutting a R Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be seventy-five (75) feet.

3. Waiver of Requirements. Minimum rear, front and side yard requirements and planting set-backs may be waived by agreement between adjoining landowners provide that:

- a) Said agreement for waiver is made in writing;
- b) Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
- c) Said agreement shall be recorded in the Gage County Register of Deeds Office, indexed to the affected properties.

5.19 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.110 PARKING REQUIREMENTS: See Article 7.

5.111 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.112 IMPACTS OF AGRICULTURAL USES ON RESIDENTIAL USES PERMITTED IN AG-1.

Gage County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-1 District and therefore, all persons seeking to construct a new dwelling unit in the AG-1 District shall do so only after:

- 1. Making Application for a Zoning Permit for a dwelling unit in AG-1 with the Zoning Administrator;

2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter, developed in Gage County, within local, state and federal law, including but not limited to:
 - a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;
 - b. dust from animal pens, field work, harvesting, and gravel roads;
 - c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;
 - d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including; liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;
 - e. smoke from burning ditches or other approved burning;
 - f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;
 - g. all field preparation, harvest practices, and all livestock animal husbandry practices;
 - h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
 - i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

5.2 AG-2 TRANSITIONAL AGRICULTURAL DISTRICT

5.21 INTENT: This district is intended to provide for higher density agricultural development including provisions for non-farm single family dwellings, rural subdivisions and commercial and industrial uses where appropriate. Generally, these areas are adjacent highway corridors or areas suitable for concentrations of rural subdivision within reasonable proximity of hard surfaced roads.

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

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.50.
2. Bulk grain and produce storage, excluding commercial warehouses; and
3. Irrigation, flood, erosion and sediment control projects.

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8; and
3. Roadside stands for the temporary sale of produce.

5.24 PERMITTED CONDITIONAL USES AND STRUCTURES: The following shall be permitted upon a determination of compliance with the conditions stated below and approved as such by the Gage County Zoning Administrator:

1. Expansion of existing or development of new livestock confinement facilities/operations of a capacity of three hundred (300) to seven hundred fifty (750) Animal Units. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
2. Non-farm single family, ranch and farm dwellings and two (2) additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers.
 - A. Any dwelling placed within the minimum distance requirement of a livestock confinement facility shall be by special permit.
 - B. Minimum lot size of single family dwellings shall be three (3) acres.

Only five (5) single family dwellings are permitted for each legal quarter-section. A legal quarter-section shall constitute 160 acres. For any application involving a non-standard quarter-section, the Zoning Administrator shall take into consideration the actual acreage of the quarter-section in question.

- C. All single family dwellings other than seasonal use dwellings, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

5.25 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-2 Transitional Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;
2. Sewage treatment plants for primary and secondary treatment;
3. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers when in conformance with the following:
 - A. Towers, including wind generation towers, shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
 - B. Towers shall be minimum distance from any street, county road or federal highway of equal to or greater than the height of the tower measured from the right-of-way line.
 - C. Towers shall have direct frontage on, or direct access to, an improved street, county or township road (not including dirt or minimum maintenance roads).
 - D. Towers must comply with the regulations of the Federal Aviation Administration (FAA).
4. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;

5. Churches, places of worship and cemeteries;
6. Public and private recreational uses, including parks and playgrounds, golf courses, campgrounds and riding stables;
7. Greenhouses and garden centers;
8. Pre-school and child care centers;
9. Private elementary and high schools;
10. Expansion of existing or development of new livestock confinement facilities/operations of a capacity equal to, or in excess of seven hundred fifty (750) animal units and expansion or development within the minimum distance requirements of a cemetery. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
11. Veterinary facilities;
12. Manufacturing, Commercial and/or Industrial operations;
13. Nursing and care homes;
14. Public and private, including non-profit, charitable institutions;
15. Recreational motel-lodging;
16. Bed and Breakfast establishments;
17. Rural subdivisions shall constitute one (1) dwelling per quarter section with individual parcels less than three (3) acres in accordance with the Nebraska Department of Environmental Quality - Title 124 and Department of Health and Human Services Regulations and/or with a shared or "community" drinking water and/or sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one (1) acre; and
18. Dwellings within the minimum distance requirement of a livestock confinement facility.
19. Alternative energy systems utilizing Wind sources, in conformance with "Net Metering" as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or "Small Wind Energy Conversion Systems

(SWECS)” shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

27. Commercial Wind Energy Conversion Systems (CWECS) utilizing a single tower application or multiple tower applications or “Wind Farm,” held in single ownership or in an association of multiple owners, in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

5.26 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or nor permissible as special uses shall be prohibited from the AG-2 Transitional Agriculture District.

5.27 MINIMUM LOT REQUIREMENTS: All improved area or uses, other than seasonal use residential buildings and general farming, ranching, pasturing, etc, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

- A. Any subdivision of land which results in at least one but not more than three lots or parcels which are three (3) to ten (10) acres in size may be approved by the Gage County Zoning Administrator, as stated in Section 7.15 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

5.28 MINIMUM YARD REQUIREMENTS:

1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated 05/01/1990 as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.
2. Yard Requirements:
 - Front Yard: There shall be a minimum front yard of not less than a depth of seventy-five (75) feet measured from the center line of the county road in conformance with Section 8.7.
 - Rear Yard: No limitations; unless abutting a R Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be seventy-five (75) feet.
 - Side Yard: No limitations; unless abutting a R Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway,

then the minimum side yard shall be seventy-five (75) feet.

3. Waiver of Requirements. Minimum rear, front and side yard requirements and planting set-backs may be waived by agreement between adjoining landowners provide that:
 - a) Said agreement for waiver is made in writing;
 - b) Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
 - c) Said agreement shall be recorded in the Gage County Register of Deeds Office, indexed to the affected properties.

5.29 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.210 PARKING REQUIREMENTS: See Article 7.

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

5.212 IMPACTS OF AGRICULTURAL USES ON RESIDENTIAL USES PERMITTED IN AG-2.

Gage County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-2 District and therefore, all persons seeking to construct a new dwelling unit in the AG-2 District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-2 with the Zoning Administrator;
2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter developed in Gage County, within local, state and federal law, including but not limited to:
 - a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;
 - b. dust from animal pens, field work, harvesting, and gravel roads;

- c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;
- d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including; liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;
- e. smoke from burning ditches or other approved burning;
- f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;
- g. all field preparation, harvest practices, and all livestock animal husbandry practices;
- h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
- i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

5.3 AG-3 AGRICULTURAL CONSERVATION DISTRICT

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

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

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.50.
2. Irrigation, flood, erosion and sediment control projects.

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8; and
3. Roadside stands for temporary sale of produce.

5.34 PERMITTED CONDITIONAL USES AND STRUCTURES: The following shall be permitted upon a determination of compliance with the conditions stated below and approved as such by the Gage County Zoning Administrator:

1. Expansion of existing or development of new livestock confinement facilities/operations of a capacity of three hundred (300) to five hundred ninety-nine (599) Animal Units. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
2. Non-farm single family, ranch and farm dwellings and two (2) additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers in conformance with the following conditions:
 - A. Any dwelling placed within the minimum distance requirement of a livestock confinement facility shall be by special permit.
 - B. Minimum lot size of single family dwellings shall be three (3) acres. Only two (2) single family dwellings are permitted for each legal quarter-section. A legal quarter-section shall constitute 160 acres.

For any application involving a non-standard quarter-section, the Zoning Administrator shall take into consideration the actual acreage of the quarter-section in question.

- C. All single family dwellings other than seasonal use dwellings, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

5.35 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-3 Agricultural Conservation District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Sewage disposal and water systems;
2. Public and private uses including parks, playgrounds, golf courses, recreation uses, riding stables, public utilities, and utility distribution system;
3. Bed and breakfast establishments;
4. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
5. Expansion of existing or development of new livestock confinement facilities/operations of a capacity equal to, or in excess of six hundred (600) animal units and expansion or development within the minimum distance requirements of a cemetery. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4; and
6. Dwellings within the minimum distance requirement of a livestock confinement facility.
7. Alternative energy systems utilizing Wind sources, in conformance with "Net Metering" as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or "Small Wind Energy Conversion Systems (SWECS)" shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.
8. Commercial Wind Energy Conversion Systems (CWECS) utilizing a single tower application or multiple tower applications or "Wind Farm," held in single ownership or in an association of multiple owners, in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

5.36 PROHIBITED USES AND STRUCTURES: All other uses and structures which

are not specially permitted or not permissible as special uses shall be prohibited from the AG-3 Agricultural Conservation District.

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

5.38 MINIMUM LOT REQUIREMENTS: All improved area or uses, other than seasonal use residential buildings and general farming, ranching, pasturing, etc, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

- A. Any subdivision of land which results in at least one but not more than three lots or parcels which are three (3) to ten (10) acres in size may be approved by the Gage County Zoning Administrator, as stated in section 7.15 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

5.39 MINIMUM YARD REQUIREMENTS:

- 1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated 05/01/1990 as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.
- 2. Yard requirements are as follows:
 - Front Yard: There shall be a minimum front yard of not less than a depth of seventy-five (75) feet measured from the center line in conformance with Section 8.7.
 - Rear Yard: No limitations; unless abutting a R Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be seventy-five (75) feet.
 - Side Yard: No limitations; unless abutting a R Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be seventy-five (75) feet.
- 3. Waiver of Requirements. Minimum rear, front and side yard requirements and planting set-backs may be waived by agreement between adjoining

landowners provide that:

- a) Said agreement for waiver is made in writing;
- b) Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
- c) Said agreement shall be recorded in the Gage County Register of Deeds Office, indexed to the affected properties.

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

5.311 PARKING REQUIREMENTS: See Article 7.

5.312 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.313 IMPACTS OF AGRICULTURAL USES ON RESIDENTIAL USES PERMITTED IN AG-3.

Gage County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-3 District and therefore, all persons seeking to construct a new dwelling unit in the AG-3 District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-3 with the Zoning Administrator;
2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter developed in Gage County, within local, state and federal law, including but not limited to:
 - a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;
 - b. dust from animal pens, field work, harvesting, and gravel roads;
 - c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;

- d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including; liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;
- e. smoke from burning ditches or other approved burning;
- f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;
- g. all field preparation, harvest practices, and all livestock animal husbandry practices;
- h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
- i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

5.4 AG-4 URBAN RESERVE DISTRICT

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

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

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.50.
2. Irrigation, flood erosion and sediment control projects;

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

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

5.44 PERMITTED CONDITIONAL USES AND STRUCTURES: The following shall be permitted upon a determination of compliance with the conditions stated below and approved as such by the Gage County Zoning Administrator:

1. Non-farm single family, ranch and farm dwellings and two (2) additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers in conformance with the following conditions:
 - A. Any dwelling placed within the minimum distance requirement of a livestock confinement facility shall be by special permit.
 - B. Minimum lot size of single family dwellings shall be three (3) acres.
 - C. All single family dwellings other than seasonal use dwellings, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

5.45 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-4 Urban Reserve District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations:

1. Agricultural service establishments primarily engaged in performing agriculture, animal husbandry or horticultural services;
2. Expansion of existing or development of new livestock confinement facilities/operations of a capacity equal to, or in excess of three hundred (300) animal units and expansion or development within the minimum distance requirements of a cemetery. Proposed facilities/operations, as defined in Section 3.50, shall be in accordance with Section 6.4;
3. Churches, places of worship, and cemeteries.
4. Pre-school and child care centers;
5. Public and/or private schools;
6. Radio and television towers and transmitters;
7. Public and private recreational uses, including parks and playgrounds, golf courses, campgrounds and riding stables;
8. Public Uses: Including fire stations, public utilities and utility distribution systems;
9. Wind generating systems;
10. Dog breeding establishments and kennels;
11. Public and private, including non-profit charitable institutions;
12. Greenhouses and nurseries;
13. Animal clinics, animal hospitals and veterinarian services;
14. Mobile home parks;
15. Rural subdivisions shall constitute one (1) dwelling per quarter section with individual parcels less than three (3) acres in accordance with the Nebraska Department of Environmental Quality - Title 124 and Department of Health and Human Services Regulations and/or with a shared or "community" drinking water and/or sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one (1) acre; and

16. Dwelling within the minimum distance requirement of a Livestock Confinement Facility;
17. Wholesale and/or Retail Business;
18. Manufacturing, Commercial and/or Industrial operations.
19. Alternative energy systems utilizing Wind sources, in conformance with "Net Metering" as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or "Small Wind Energy Conversion Systems (SWECS)" shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

5.46 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from AG-4 Urban Reserve District.

5.47 MINIMUM LOT REQUIREMENTS: All improved area or uses, other than seasonal use residential buildings and general farming, ranching, pasturing, etc, shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

- A. Any subdivision of land which results in at least one but not more than three lots or parcels which are three (3) to ten (10) acres in size may be approved by the Gage County Zoning Administrator, as stated in Section 7.16 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

5.48 MINIMUM YARD REQUIREMENTS:

1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated 05/01/1990 as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.
2. Yard requirements:

Front Yard: There shall be a minimum front yard of not less than a depth of seventy-five (75) feet measured from the road center line in conformance of Sections 8.7.

Rear Yard: There shall be a minimum rear yard of fifteen (15) feet or

unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be seventy-five (75) feet.

Side Yard: There shall be a minimum side yard of ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be seventy-five (75) feet.

3. Waiver of Requirements. Minimum rear, front and side yard requirements and planting set-backs may be waived by agreement between adjoining landowners provide that:
 - a) Said agreement for waiver is made in writing;
 - b) Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
 - c) Said agreement shall be recorded in the Gage County Register of Deeds Office, indexed to the affected properties.

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

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

5.411 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.412 IMPACTS OF AGRICULTURAL USES ON RESIDENTIAL USES PERMITTED IN AG-4.

Gage County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-4 District and therefore, all persons seeking to construct a new dwelling unit in the AG-4 District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-4 with the Zoning Administrator;
2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be

hereafter developed in Gage County, within local, state and federal law, including but not limited to:

- a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;
- b. dust from animal pens, field work, harvesting, and gravel roads;
- c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;
- d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including; liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;
- e. smoke from burning ditches or other approved burning;
- f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;
- g. all field preparation, harvest practices, and all livestock animal husbandry practices;
- h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and
- i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

5.5 R RESIDENTIAL DISTRICT

5.51 INTENT: This District is intended for use in un-incorporated communities to provide for low density residential uses consisting of single family and two-family detached dwelling units and accessory structures.

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

1. Single family dwellings;
2. Manufactured homes which comply with the provisions of Article 8;
3. Mobile homes;
4. Two-family dwellings;
5. Nursery, primary and secondary education;
6. Public parks, buildings and grounds;
7. Child care homes;
8. Public uses: Including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
9. Places of worship such as churches and synagogues.

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

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purpose in the R Residential District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Medical clinics;
2. Mortuaries;
3. Child care center;

4. Museum and art galleries;
5. Nursing homes;
6. Public and private golf courses;
7. Retirement homes;
8. Bed and breakfast homes; and
9. Mobile home parks.
10. Alternative energy systems utilizing Wind sources, in conformance with “Net Metering” as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or “Small Wind Energy Conversion Systems (SWECS)” shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

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

5.56 MINIMUM LOT REQUIREMENTS: All improved area or uses shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

- A. Any subdivision of land which results in at least one but not more than three lots or parcels which are ten (10) acres or less in size may be approved by the Gage County Zoning Administrator, as stated in Section 7.16 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

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

1. General Requirements:

	Lot Area (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Single Family Dwelling	7,000	50'	25'	7'	20'	35'*
Two Family Dwelling	3,750 per family	25' per family	25'	7', 0' of party wall	20'	35'*
Other Permitted Uses	10,000	75'	25'	7'	20'	35'*

* Unless more regulated by state or federal authorities.

2. All approved uses utilizing individual sanitary septic systems must adhere to the requirements of the State of Nebraska Department of Environmental quality Title 124 provisions and provide copy of approved permit to the Gage County Zoning Administrator prior to issuance of a zoning/building permit.

3. There shall be a required front yard setback of twenty-five (25) feet on each street side of a corner lot;

4. Building on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages; and designate remaining yards as one rear and one side yard;

5. Building and structures shall not exceed two and one half stories in height; and

6. The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one (1) hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

5.58 PARKING REGULATIONS: Parking within the R Residential District shall be in conformance with the provisions of Article 7 of this Regulation.

5.59 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.6 C COMMERCIAL DISTRICT

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

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

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

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

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

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna;
4. Recycling centers;
5. Single Family Homes; and
6. Campgrounds.
7. Alternative energy systems utilizing Wind sources, in conformance with Net Metering” as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or “Small Wind Energy Conversion Systems (SWECS)” shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

5.65 SCREENING REQUIREMENTS:

1. Where a site adjoins the R Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

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

5.67 MINIMUM LOT REQUIREMENTS: All improved area or uses shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

A. Any subdivision of land which results in at least one but not more than three lots or parcels which are ten (10) acres or less in size may be approved by the Gage County Zoning Administrator, as stated in Section 7.16 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the locations and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

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

1. General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted Uses	7,500	50'	90'*	7', 15' when abutting a residential property	20'	35'*
* Measured from the center line of the road. ** Unless more regulated by state or federal authorities.						

5.69 PARKING REGULATIONS: Parking within the C Commercial District shall be in conformance with the provisions of Article 7 of these Regulations.

5.610 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.7 I INDUSTRIAL DISTRICT

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

5.72 PERMITTED PRINCIPAL USES AND STRUCTURES:

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

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

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

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

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries; and
4. Airport.
5. Alternative energy systems utilizing Wind sources, in conformance with “Net Metering” as per the Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009, as amended) and with the following.
 - a. Individual or “Small Wind Energy Conversion Systems (SWECS)” shall also be in conformance with the provisions of Article 6, Section 6.6 of these Regulations.

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

5.76 MINIMUM LOT REQUIREMENTS: All improved area or uses shall have direct frontage on, or private access to, an improved street, county or township road (not including dirt or minimum maintenance roads).

A. Any subdivision of land which results in at least one but not more than three lots or parcels which are ten (10) acres or less in size may be approved by the Gage County Zoning Administrator, as stated in Section 7.16 of the Gage County Subdivision Regulations. All other requirements of the Gage County Zoning Regulations must be complied with and each application for such a subdivision shall be accompanied by a survey clearly showing the location and dimensions of the lots or parcels to be created. The creation of the lots or parcels shall be recorded with the Register of Deeds.

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

1. General Requirements:

	Lot Area (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted Uses	None	100'	90'*	0', 15' when abutting a residential property	15'	None**
* Measured from the center line of the road. ** Unless more regulated by state or federal authorities.						

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

5.79 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7.

5.8 AHP AIRPORT HAZARD PROTECTION DISTRICT (OVERLAY)

5.81 INTENT: This Overlay District is intended to provide for the safe operation of aircraft into and out of the Beatrice Municipal Airport, located in Sections 16, 21, and 28, Township 4 North, Range 6 East of the 6th P.M., Gage County, Nebraska.

5.82 LOCATION, BOUNDARIES, ZONES, AND HEIGHT RESTRICTIONS: The areas located within the Gage County zoning jurisdiction set forth in Article 1.2 hereof and further located within the Airport Hazard Area as described in this Article 5.82 are hereby zoned as follows:

A. Airport Hazard Area Description: The Airport Hazard Area consists of the Operation Zone, Approach Zones, Turning Zone, and Transition Zone for the Beatrice Municipal Airport as described in this subsection.

B. Zone Descriptions:

1. Operation Zone: The Operation Zone is longitudinally on each runway.
 - a) Length: The Operation Zone begins and ends two hundred (200) feet beyond the ends of each runway.
 - b) Width: The Operation Zone shall be one thousand (1,000) feet in width, with the center being the centerline of the runway.
 - c) Height Limit: The height limit of the Operation Zones shall be the same as the height of the finished grade of the runway or surface of the ground.
2. Approach Zones: The Approach Zones extend from the end of the Operation Zone, and is centered along the extended runway centerline.
 - a) Length and Width: The Approach Zones for each runway shall extend fifty thousand (50,000) feet beyond the end of each Operation Zone, measured along the extended runway centerline. The Approach Zone shall be one thousand (1,000) feet wide at the end nearest the runway and expand uniformly at the rate of thirty (30) feet in width for each one hundred (100) feet in length to the outer boundary of the Approach Zone.
 - b) Height Limit: The height limit for each Approach Zone shall commence at the

elevation of the Operation Zone and rise outward throughout the length of the Approach Zone at the continuous rate of one (1) foot vertically for every fifty (50) feet horizontally (1:50).

3. Transition Zone: The Transition Zone begins at the edges of the Operation Zone and the Approach Zones, and extends outward at right angles to the runway centerlines. The height limit for the Transition Zone shall begin at the height of the outer limit of the adjacent zone, and shall extend outward, rising one (1) foot in height for every seven (7) feet in horizontal distance. The Transition Zone ends when it reaches a height of one hundred fifty (150) feet above the elevation of the Operation Zone.
4. Turning Zone: The Turning Zone encompasses all of the area within three (3) miles of the Beatrice Municipal Airport boundary line, except that area within any of the other zones. The Turning Zone has a height limit of one hundred fifty (150) feet.

5.83 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 height limits described in Article 5.82 hereof.

5.84 LOCATION SKETCH AND OFFICIAL ZONING MAP: Pursuant to Section 4.3, the boundaries of the Airport Hazard Protection District shall be indicated on the Official Zoning Map that accompanies and is hereby made a part of these regulations. A copy of the Official Zoning Map shall at all times be on file in the office of the Gage County Clerk.

5.85 PERMITTED REQUIRED: It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish, any building, transmission line, pole, tower, chimney, wires, or any other structure or appurtenance within the Airport Hazard Area without first obtaining a zoning permit from the Zoning Administrator. This Section shall not apply to any non-residential structure thirty five (35) feet in height or less.

5.86 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 shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow to a height above the heights permitted by Article 5.8 if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of sixty (60) percent or more of their original condition, or abandoned for a period of twelve (12) months or more. Transmission lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the Airport Hazard Area.

5.9 WHP WELLHEAD PROTECTION DISTRICT (OVERLAY)

5.91 INTENT: The Wellhead Protection Overlay District is intended to assist municipalities that maintain and operate public water wells in the County, which serve municipalities within or adjoining Gage County. In addition, this overlay district assists rural water districts maintaining and operating semi-public water wells in the County that serve rural areas and municipalities within Gage County, as well as neighboring counties. In order to provide protection for such wells, and to maintain the health, safety and general welfare of Gage County residents, the regulation of land uses having the potential for contamination of groundwater source(s) is necessary within a specified boundary area surrounding said wells.

5.92 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT: Prior to the application of this district to any lands in Gage 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, 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:

Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,

Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,

Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,

Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,

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,

Development of a program to install and maintain Wellhead Protection

Area signs on roadways around the Wellhead Protection Area,

Willingness to execute an inter-local agreement with Gage 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 to which the parties involved agree; willingness to provide legal council 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.

Willingness to participate in the Special Use Permit process pursuant to Section 5.99.

5.93 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-field determination of such boundaries.

5.94 AMENDMENT OF OFFICIAL ZONING MAP: Whenever the requirements of Section 5.92 of this Article have been complied with and the County Board has approved the application of this overlay zoning district on land within the County, in accordance with the procedures for amendment of the Official Zoning Map set forth in this resolution, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

5.95 ALLOWABLE USES AND STRUCTURES: Any use or structure indicated as an allowable use, a permitted use, a conditional use, or an accessory use in the primary zoning district to which this overlay district is applied shall be allowed or permitted in accordance with the zoning requirements of the primary zoning district, except when specifically prohibited by Section 5.97 of this Article, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 5.98 of this Article.

5.96 MINIMUM LOT REQUIREMENTS: The minimum lot requirements as set forth on the primary zoning district shall apply within this overlay district, according to the location of each primary zoning district. Such requirements include lot area, lot width and frontage, setback requirements, and height restrictions.

5.97 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use are prohibited. Furthermore, the following uses and/or structures shall be specifically prohibited:

1. The expansion of existing or development of new livestock confinement facilities/operations of more than 299 animal units without a Special Use Permit pursuant to Section 5.99.
2. Landfills and other types of waste handling facilities.
3. Commercial or industrial uses which utilize or generate any materials determined by the

United States Department of Environmental Protection as hazardous materials, including commercial or industrial uses which store petroleum products, agricultural chemicals, anhydrous ammonia or other fertilizers in excess of fifty (50) gallons.

4. Domestic, irrigation and any other water wells closer than one- thousand (1,000) feet to the water wells being protected in this Wellhead Protection District.

5.98 WELLHEAD PROTECTION RESTRICTIONS: The following restrictions shall apply to uses within any area of land on which this overlay district is applied:

The expansion of existing or development of new livestock confinement facilities/operations of 299 animal units or less shall conform to the requirements of Section 6.4.

On farm storage of gasoline or diesel fuel in excess of one-thousand one-hundred (1,100) gallons per aboveground storage tank or five hundred (500) gallons per underground storage tank shall be prohibited.

Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30.

No fuel storage, except when associated with Item 3 (above) shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.

No septic tank or tile field associated with any residential, commercial, industrial, or other type of use shall be permitted within one- thousand (1,000) feet of any water well protected under this overlay district.

Domestic, irrigation and any other water well shall not be located closer than one-thousand (1,000) feet to any water well protected under this overlay district.

All storage tanks permitted by Section 5.98 shall be operated safely and maintained in an operable and serviceable condition.

5.99 SPECIAL USE PERMITS: A building or premises may be used for the expansion of existing or development of new livestock confinement facilities/operations of 300 animal units or more in the WHP Wellhead Protection District if a Special Use Permit for such use has been obtained pursuant to the following provisions:

1. Compliance With Article 6: The Special Use Permit provisions of Article 6, Sections 6.1, 6.2, and 6.4 must be complied with.
2. Municipal Review: The municipality receiving the benefit of the WHP Wellhead Protection District shall be notified by the Gage County Zoning Administrator of any application for a Special Use Permit within their respective wellhead protection area

with a request for their recommendations to be submitted to the Planning Commission. The Planning Commission shall not take final action on the application prior to receiving recommendations from such municipality. If no recommendation is received within ten (10) business days, the application shall be deemed approved by such municipality. Such municipality shall also be present at and participate in the discussion on the application at Public Hearings before the Planning Commission and County Board.

5.910 PERMITS AND INSPECTIONS: All storage tanks permitted by Section 5.98(2) with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit before being placed into service. There shall be no fee for said permit, which shall be acquired from the Zoning Administrator. The Zoning Administrator, County Emergency Manager, or their designee shall inspect all storage tanks located within a Wellhead Protection District that have a capacity of at least three hundred (300) gallons no less than once every two (2) years for compliance with the provisions of this Article.

ARTICLE 6 SPECIAL USE PERMIT

6.1 GENERAL

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

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three (3) miles of the property affected by such action of the County Board, one (1) time at least ten (10) days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County Board, or Planning Commission which has jurisdiction over land within three (3) miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three (3) miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas.

Except as otherwise provided herein, no special use permit shall be granted by the County Board (Ref. 23-114.01 R.S. Neb.), without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

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

2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds (2/3 or five (5) members) of the total seven (7) members of the County Board of Supervisors (Section 23-165 of Nebraska Revised Statutes, as amended).

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by Special Permit in the AG-1 Zoning District under the following conditions:

1. The operation shall be located on a tract of land at least one-half (1/2) mile from a residential or agricultural farm residence, as measured from the property line of the salvage operation to the nearest point on the dwelling unit.
2. A remediation fund or bond shall be posted for clean up of facility in the event of abandonment.
3. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge.
 - a) When the property abuts a paved road, the side of the property abutting the paved road shall be screened with a fence or wall.
 - b) The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color and shall be so maintained by the proprietor to effectively screen the property as to insure maximum safety to the public and preserve the general welfare of the neighborhood.

- c) The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence, wall or hedge. d) When a hedge is used, the hedge shall be planted before a Zoning Permit will be issued. Thereafter, the hedge must be maintained so as to reach full maturity within a reasonable time based on the species of vegetation used.
- 4. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge, fence or wall, or within the public right-of-way.
- 5. All customer and employee parking shall be within the hedge, fence or wall.
- 6. Any other requirements deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
- 7. Special use permits granted under this section may be subject to annual review by the County Board with written notice of hearing of such review given to permit holder at last known address.

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

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations that exceed the maximum capacity of animal units for permitted conditional uses and structures shall only be allowed by special permit in the AG-1, AG-2, AG-3 and AG-4 Agricultural Districts under the following conditions:

- 1. Distance requirements:
Any new or expanding livestock confinement facilities/operations, as defined in Section 3.50, shall be a minimum distance, in accordance with the table below, measured from the livestock confinement facility/operation to the nearest wall of any residence other than seasonal use dwellings, commercial or industrial facility, or church, cemetery, school or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. If a cemetery within the minimum distance requirement is determined by the County Board of Supervisors to be of such infrequent use for burial, visitation, or care and maintenance that it should not prevent a proposed or new confinement facility, then the County Board may grant a special permit for a new confinement facility or expansion regardless of the existence of such cemetery.

Any residence which is within the minimum distance requirement for an existing facility under its existing classification as stated below, and which was constructed

following establishment of the facility shall not be treated as being within such minimum distance requirement with respect to expansion of the facility.

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

**MINIMUM DISTANCE REQUIREMENTS
FOR LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS**

	Facility A	Facility B	Facility C	Facility D	Facility E	Facility F
Total Animal Units Allowed (Section 3.50)	300 to 500	501 to 1,000	1,001 to 2,500	2,501 to 5,000	5,001 to 10,000	10,001+
Minimum Distance Required	1/4 Mile	3/8 Mile	1/2 Mile	3/4 Mile	1 Mile	1.5 Mile

2. A management plan for the facility, acceptable to the Nebraska Department of Environmental Quality and the County Board, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor.
3. Disposal and storage of livestock confinement facility/operation animal waste shall be in conformance with the following:
 - A. Disposal and storage of livestock confinement facility/operation animal waste on land within Gage County other than on the property upon which the livestock confinement facility/operation is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska and subject to the approval of the Gage County Board of Supervisors.
 - B. There shall be no storage, or disposal, of livestock waste from a livestock confinement facility/operation upon land designated as wetlands by the United States Department of Agriculture, Farm Services Commission.
 - C. Paunch waste disposal shall only be allowed in the AG-1, AG-2, and AG-Agriculture Districts in conformance with a Special Use Permit process.
4. Special use permits granted under this section shall be subject to review by the County Board if not in compliance with the Nebraska Department of Environmental

Quality regulations.

5. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health, safety and welfare of the residents of Gage County.
6. Feedlot Minimum Requirements:
 - A. Application for proposed or new construction of feedlot shall be published in the local newspaper ten (10) days prior to each public hearing. Notices by mail shall be sent by Gage County to all landowners in accordance with the minimum distances identified by facility type in the table in Section 6.4, Subsection 1.
 - B. Design and management plan shall be required for new and expanding operations, using a form supplied by the County as a checklist to include:
 1. Distances from water sources ie: surface water feet, wellheads feet (200 feet from state water source or agricultural drainage well.)
 2. Scaled drawings for location of facilities and lagoon of confinement including setback distances from center of road.
 3. Distances from nearest residences to include all within minimum distances identified by facility type in the table in Section 6.4, Subsection 1, also note prevailing wind. Any owned by livestock operator neighbors.
 4. Application of manure, nutrients.
 1. injection
 2. irrigation
 3. surface application
 5. Signed, long-term contracts with other landowners showing that the operator has access to additional land for manure distribution.
 6. Treatment technologies, if alternate waste management is to be practiced.
 - Additional steps to assure proper utilization of nutrients.
 - Initial deep soil test, nutrient analysis of manure, compost and effluent.

- Calibration of manure spreaders to accurately determine amount of manure being spread per acre.

***All such operations shall be operated in conformance with local, state and federal standards.**

6.5 TELECOMMUNICATION TOWERS, FACILITIES and ANTENNAS

6.51 INTENT: The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. This Section is intended to regulate telecommunication towers, facilities and antennas within the zoning jurisdiction of the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services; 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 and colocation of towers and other antenna support structures rather than the construction of additional single use towers; to avoid potential damage to property caused by telecommunication towers, 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.

6.52 DEFINITIONS: As used in this Section, the following terms shall have the following meanings:

- a) ANTENNA: A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
- b) ANTENNA SUPPORT STRUCTURE: Any building or structure other than a tower that can be used for location of telecommunications facilities.
- c) APPLICANT: Any person, firm, partnership, association, company, corporation or other legal entity, private or public, whether for profit or not, that applies for a Tower Development Permit.
- d) APPLICATION: A process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the County concerning such request.

- e) CONFORMING COMMERCIAL EARTH STATION: A satellite dish that is six feet (6') or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this Zoning Regulation.
- f) ENGINEER: Any engineer qualified and licensed by any state or territory of the United States of America.
- g) OWNER: Any person with fee interest or a leasehold interest of three years or longer 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.
- h) PERSON: Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- i) SATELLITE DISH ANTENNA: An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
- j) STEALTH: Any telecommunication tower, facility 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 like a tower such as light poles, power poles and trees.
- k) TELECOMMUNICATIONS FACILITIES: Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 - i. Any Conforming Commercial Earth Station antenna six feet (6') in diameter or less which is located on real estate zoned Industrial.
 - ii. Any earth station antenna or satellite dish antenna of three feet (3') or less in diameter, regardless of the zoning applicable to the location of the antenna.
- l) TOWER.:A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
- m) TOWER DEVELOPMENT PERMIT: A special use permit issued by the County upon approval by the County Board of Supervisors of an application

to develop a tower within the zoning jurisdiction of the County, which permit shall continue in full force and effect for the term of the permit granted. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed and assigned by the applicant to assigns and successors-in-interest.

- n) TOWER OWNER: Any person or applicant with an ownership or lease interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

6.53 NON-DEFINED TERMS: All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC).

6.54 LOCATION OF TOWERS AND CONSTRUCTION STANDARDS:

1. Towers shall be permitted special uses of land in only the following zoning districts: AG-1, AG-2, and AG-4. Towers less than 100 feet shall be permitted special uses in the following zoning districts: R and C. Towers greater than 100 feet shall be prohibited uses in the following zoning districts: R and C.
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 Tower Development Permit by the County Board of Supervisors and issuance of the permit by the County. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator in triplicate and shall pay a filing fee in accordance with Section 10.5.
3. All telecommunication towers, facilities and antennas on which construction is commenced within the zoning jurisdiction of the County after April 1, 2002, shall conform to the County Building Code and all other construction standards set forth in the County Zoning Regulation, federal and state law, and applicable American National Standards Institute (ANSI) standards. 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.

6.55 APPLICATION TO DEVELOP A TOWER: Prior to commencement of development or construction of a tower, an application shall be submitted in triplicate to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. The 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. All applicants shall execute the application.
2. The legal description of the parent parcel and the leased parcel (if applicable) and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a three (3) mile radius of the location of the proposed tower, including publicly and privately owned towers or structures.
4. A propagation map and inventory of all existing towers in excess of one hundred feet (100') located within a three (3) mile radius of the proposed tower location, including specific information on the owner, location, height and design of each tower.
5. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicant's telecommunications facilities on a tower or useable antenna support structure within a three (3) mile radius of the proposed tower location or written technical evidence from an engineer that the applicant's telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure within a three (3) mile radius of the proposed tower location.
6. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future uses and, if collocation can be accommodated, a specific description of the type and number of additional antennas and the engineering requirements for collocation.
7. A notarized statement by the applicant as to whether the applicant agrees to permit the collocation of the County's emergency service antennas as provided in Section 6.523.
8. Written technical evidence from an engineer that the proposed tower will meet the Building Code, all other construction standards set forth by the County Zoning Regulations and federal and state law and applicable ANSI standards.
9. 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 residential zoned property and nearest roadway, street or highway.

10. Aerial photo showing the proposed location of the tower and lands within a one (1) mile radius of the proposed tower.
11. Descriptions and diagrams of the proposed telecommunication towers, facilities and/or antenna, manufacturer's literature, appurtenances such as buildings, driveway, parking area and fences or other security enclosures with sufficient detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
12. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, floodways, floodplains, drainage plan, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this chapter.
13. An application for a building permit pursuant to the County Zoning Regulations.

6.56 APPLICATION; COPIES; DISTRIBUTION: The applicant for a Tower Development Permit shall submit to the Zoning Administrator an original and six (6) copies of the application and all supporting documents and materials. Said original and copies shall be distributed by the Zoning Administrator as follows:

- Original to the County Clerk for filing.
- One (1) copy to the County Clerk for public inspection.
- Three (3) copies review by the members of the County Board of Supervisors and the Planning Commission.
- One (1) copy each to the Zoning Administrator and County Attorney.

6.57 TOWER DEVELOPMENT PERMIT; PROCEDURE: Notice of an application for a Tower Development Permit shall conform to the requirements contained in Section 6.2. The County Board of Supervisors may approve a Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearing or deny the application. In all zoning districts in which towers are a permitted special use of land, the Tower Development Permit shall be deemed a special use permit.

6.58 SETBACKS AND SEPERATION OR BUFFER REQUIREMENTS:

1. All towers shall be set back from all property lines, rights-of-way, and public roads a distance equal to one hundred percent (100%) of the height of the proposed tower plus the required setback. The height of a 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. Towers exceeding one hundred feet (100') in height may not be located in any residential zoned district and must be separated from all residential zoned land and/or residential structures other than those owned by the tower owner, by a minimum of one-thousand feet (1000').
3. Towers of one hundred (100') or less in height may be located in residential zoned districts provided said tower is separated from any residential structure, school, church, and/or residential structures other than those utilized by the tower owner, by a minimum of three hundred percent (300%) of the height of proposed tower.
4. 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 seven hundred fifty feet (750').
 - b) Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of one thousand five hundred feet (1,500').

6.59 STRUCTURAL STANDARDS FOR TOWERS ADOPTED: The Structural Standards For Steel Antenna Towers And Antenna Supporting Structures, 1991 Edition (ANSUEIA/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 chapter of the County Zoning Regulation.

6.510 ILLUMINATION AND SECURITY FENCES:

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential zoned properties located within a distance of three hundred percent (300%) of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.

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.

6.511 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 County Board of Supervisors as part of the application approval process. All towers which must be approved as a special use shall be of stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

6.512 SIGNS: No signs shall be allowed on any antenna or tower.

6.513 MULTIPLE ANTENNA PLAN: The County encourages the development of towers that permit the colocation of multiple antennas. Towers greater than one hundred feet (100') shall be designed for two (2) or more antennas.

6.514 FACTORS CONSIDERED IN GRANTING APPROVAL: The County Board of Supervisors will consider the following factors, in addition to those factors set forth in Section 6.2 of these regulations, in determining whether to issue a special use permit for a tower:

1. Height of proposed tower.
2. Proximity of the proposed tower to residential structures and residential zoning district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress.
8. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the County Board of Supervisors that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - a) Certification of a licensed engineer that no existing towers or structures are located within the geographic area which meet the applicant's engineering requirements; that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements; existing towers or structures do not have sufficient structural strength to

support the applicant's proposed antenna and related equipment; or the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

- b) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable. An applicant submitting evidence under this subsection must provide specific information concerning the anticipated fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure and the anticipated costs of new tower development.
- c) The applicant demonstrates that there are other limiting factors that render collocation on an existing tower or other structure unreasonable.
- d) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall be presumed to render the technology unsuitable.

6.515.1.1 ADMINISTRATIVE APPROVAL: The tower and antenna uses described in this section are permitted either as principal or accessory uses upon issuance of an administrative approval.

- 1. The Zoning Administrator may administratively approve the uses listed in Section 6.516.
- 2. Each applicant for administrative approval shall apply to the Zoning Administrator by providing the information set forth in Section 6.55 and a non-refundable fee as established by the County Board of Supervisors.
- 3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with this Article. shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

6.516 ADMINISTRATIVELY APPROVED USES: The Zoning Administrator may approve the following uses after conducting an administrative review.

1. Locating antennas on existing structures or towers consistent with the terms of this Article.

a) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial or professional structure, provided that:

i. The antenna does not extend more than thirty feet (30') above the highest point of the structure;

ii. The antenna complies with all applicable FCC and FAA regulations; and

iii. The antenna complies with all applicable building codes.

b) Antennas on existing towers. An antenna which is attached to an existing tower may be administratively approved by the Zoning Administrator, and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:

i. A tower that is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole. ii. Height.

A. An existing tower may be modified or rebuild to a taller height, not to exceed thirty feet (30') over the tower's existing height, to accommodate the collocation of an additional antenna.

B. The height change referred to above may only occur one time per communication tower.

C. The additional height referred to above shall not require an additional distance separation as set forth in Section 6.58 of this Article.

- c) Conditions of Administratively Approved Uses. The following conditions shall be applicable to any application for administrative approval and shall be a condition of any administrative approval by the Zoning Administrator.
 - i. In the case of a dish antenna, the diameter of the antenna shall not exceed five feet (5').
 - ii. Conformance with all other requirements of Article 6.5.

6.517 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 Zoning Regulation.

6.518 MAINTENANCE, REPAIR OR MODIFICATION OF EXISTING TOWERS: All towers constructed or under construction on April 1, 2002 may continue in existence as a nonconforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on April 1, 2002 shall require compliance with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to approval by the County Board of Supervisors, an exemption from compliance as a condition of the Tower Development Permit.

6.519 INSPECTIONS: The County reserves the right to conduct an inspection of towers, antenna support structures, telecommunications facilities and antennas upon reasonable notice to the tower owner or operator to determine compliance with this Article 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 Building Code and any other construction standards set forth in the County Zoning Regulation, federal and state law or applicable ANSI standards.

6.520 MAINTENANCE: The telecommunication towers, 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.

6.521 ABANDONMENT: The tower owner shall be responsible to notify the Zoning Administrator of any periods of non-use of the tower, or of an abandonment of the tower. If any tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Zoning Administrator shall notify the tower owner that the site will be subject to a determination by the Zoning Administrator that the site has been abandoned. Upon issuance of notice by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of the 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 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 seventy five (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 County or County designee and a written request shall be directed to the County Attorney to proceed to abate said public nuisance, 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.

6.522 SATELLITE DISH ANTENNAS, REGULATION: After April 1, 2002 installation of satellite dish antennas shall be permitted within the zoning jurisdiction of the County only upon compliance with the following criteria:

1. In residential zoned districts, satellite dish antennas may not exceed a diameter of five feet (5').
2. All satellite dish antennas installed within the zoning jurisdiction of the County after April 1, 2002, shall be of a neutral color such as black, gray, brown, or such other color as will blend with the surrounding dominant color in order to camouflage the antenna.

6.523 COLOCATION FOR COUNTY EMERGENCY SERVICES: All Tower Owners of towers having a height in excess of one hundred feet (100') shall permit Gage County or other governmental agencies as so designated to place and operate antennas and communications facilities on the tower and tower site without charge to the County if colocation of the County's equipment is technically feasible. Provided, however, the County shall be responsible for the cost of equipment, materials, and labor for the installation and operation of any such antennas and communications facilities and shall further be responsible for utility services required for the support of any such antennas and communications facilities.

6.524 RECORDING REQUIREMENTS: Ownership information for tower facility and leasehold contracts shall be filed in the Gage County Register of Deeds office. Said information shall also be sent via certified mail to the Gage County Zoning Administrator. All future ownership and/or leasehold agreements or transfers shall also be recorded in the Gage County Register of Deeds office and mailed via certified mail to the Gage County Zoning Administrator. All recording and mailing fees shall be paid at the cost of the tower owner and/or leaseholder. Failure to record said documents shall result in permit revocation and the institution of abandonment procedures, regardless of any colocations.

6.525 SEVERABILITY: If any clause, section, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

6.6 SMALL AND COMMERCIAL WIND ENERGY CONVERSION SYSTEMS

6.61 INTENT: In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Gage County, Nebraska, the County finds these regulations are necessary in order to ensure that all wind energy conversion systems (WECS) are appropriately designed, sited and installed. These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. Gage County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

6.62 TYPES OF WIND ENERGY SYSTEMS:

A. Small Wind Energy Conversion System (SWECS) - A WECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering.

B. Commercial Wind Energy Conversion System (CWECS) - A WECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

6.63 DEFINITIONS:

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

entity but are also included as part of the aggregated project.

- B. Fall Zone - The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.
- C. Feeder Line - Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the WECS.
- D. Height, Hub - The height above grade of the fixed portion of the tower, including the generation unit measured to the hub or center point of the rotor blade diameter.
- E. Height, Total System - The height above the grade of the system, including the generating unit and the measured highest vertical extension of any rotor blades or rotors.
- F. Meteorological Tower - For the purposes of wind energy conversion systems meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment uses by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.
- G. Non-participating Property - Any property that is not the subject of an agreement with the Wind Energy Conversion System Owner or Operator.
- H. Participating Property - Any property that is under lease or other property agreement with the Wind Energy Conversion System Owner or Operator.
- I. Rotor Diameter - The diameter of the circle created by the outer most point of the rotor blades of the windmill.
- J. Shadow Flicker - The strobe effect that occurs when the sun is horizontal to the rotor blades, which causes repetitive intermittent shows that can affect people on near-by properties.
- K. Substations - Any electrical facility utilized to convert electricity produced by a CWECS for interconnection with high voltage transmission lines.
- L. Tower - The vertical component of a WECS that elevates the WTG and attached blades above the ground.
- M. Transmission Line - The electrical power lines that are High Voltage Transmission Lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

N. Wind Energy Conversion System (WECS) - An aggregation of parts including the base, tower, generator, rotor, blades, supports and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill or wind turbine.

O. Wind Turbine Generator (WTG) - The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

6.64 Small Wind Energy Conversion System

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of a maximum of one hundred (100) kilowatts of electrical energy supplied by the wind. The facility may include wind turbine(s) with total height(s) of one hundred thirty five (135) feet or less and any transmission lines. The SWECS is primarily used to generate energy for use by its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering.

A. General Site and Design Standards

1. Located on a lot or parcel of at least three (3) acres;
2. Shall be permitted by an approved Conditional Use Permit to be issued in the AG-1, AG-2, AG-3 and AG-4 Zoning Districts.
3. SWECS shall maintain a minimum setback distance from any property line of one and one-half (1.5) times the total system height of the windmill for non-participating property owners. Adjoining property owners (second or third additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers) participating in the same or Aggregated Project shall have no setback requirements between adjoining properties.
4. SWECS shall maintain a minimum setback distance from any public road or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.
5. In no case shall a SWECS be located within any required setback or in any front yard area.
6. Turbines and towers shall be of tubular design and if painted or coated, shall be of a non-reflective white, grey or other neutral color and shall not be used to display advertising.

7. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
8. All electrical wires associated with a SWECS other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
10. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
11. The owner of a SWECS shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the facility.
12. Construction access must be re-graded and re-vegetated to minimize environmental impacts.
13. A SWECS application must include an agreement that addresses Decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

B. Application Requirements

1. A survey map at an appropriate scale identifying:
 - Site boundary;
 - Adjacent public right-of-ways;
 - Existing structures;
 - Proposed small wind energy system and accessory structures;
 - Adjacent ownership and existing residence;
 - Any overhead utility lines.
2. A report from a licensed engineer containing:
 - a. Small wind system specifications including manufacturer and model; rotor diameter; tower height and tower type (freestanding or guyed);
 - b. Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location;
 - c. Certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
3. Compliance with FAA Regulations, including any documentation required by

the FAA certifying approval of proposed location when located within the three (3) mile Planning Jurisdiction of any airport.

4. Signed letter of Notification by the property owner submitted to the Electrical Supplier/Purchaser, the Gage County Assessor's Office and the Gage County Zoning Administrator signifying that the utility service is approved.

5. Required proof of insurance on application.

6.65 Commercial Wind Energy Conversion System (CWECS) - A WECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers. CWECSs may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project. All individual wind turbine towers of an aggregated project shall comply with Section 6.65 (A) items (1) through (17).

A. General Site and Design Standards

1. Located on a lot or parcel of at least ten (10) acres in size.

2. The entire aggregated project shall be permitted by a Special Use Permit in an AG-1; AG-2; AG-3 or AG-4 District.

3. If an aggregated project, setbacks from multiple entities (turbines) shall be one and one-tenth (1.1) times the height of the total system.

4. Each CWECS location must have a 911 address.

5. CWECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. The design shall include documentation according to the Application Requirements found in Section 6.66 (E) - (F).

6.. CWECS shall maintain a minimum setback distance from any property line of two (2) times the total system height of the windmill for non-participating property owners. Adjoining property owners participating in the same Aggregated Project shall have no setback requirements between adjoining properties.

7. CWECS shall maintain a minimum setback distance from any public road or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way or the turbine

manufacturing recommendation or whichever is greater.

8. In no case shall a CWECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by written agreement which shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Gage County Planning & Zoning Administrator prior to approval of the permit.

9. Structures for wind turbines shall be self-supporting tubular towers, if painted or coated shall be of a non-reflective neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.

10. Colors and surface treatment of the CWECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.

11. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint affecting residences within or immediately adjacent to the project area.

12. CWECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such light should be positioned or shielded to avoid visual impact on neighboring properties and shall be a white flashing light from daylight until twilight and a steady red light at night time. Light system must be maintained and working at all times.

13. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

14. A Meteorological Tower is permitted by a Conditional Use Permit for the purposes of the Aggregated Project. Meteorological Towers shall meet the same setback requirements of those established for an Aggregated Project. If the tower is non-functional, it shall be removed after a period of two (2) years.

15. CWECS shall have a minimum setback of three eighths (3/8) mile (1,980 ft.), OR three times the total height of the tower, whichever is greater from the turbine to any residence on a Non-participating Property. However, no setback is required between an adjacent residence of a property participating in the same Aggregated Project.

16. Current platted subdivisions approved prior to September 1, 2015 shall have

a minimum setback of one-half (1/2) mile (2,640 ft) from the turbine to the property line. Platted subdivisions approved after September 1, 2015 shall have a minimum setback of three eighths (3/8) mile (1,980 ft.), OR three times the total height of the tower, whichever is greater, from the turbine to the property line.

17. Platted subdivisions for every town and village within Gage County that do not have applicable zoning regulations shall have a minimum setback of one-half (1/2) mile (2,640 ft), OR four times the total height of the tower, whichever is greater, from the turbine to the property line.

6.66 Application Requirements

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

A. A survey map illustrating the following:

1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation.
2. Location and elevation of all components of the proposed CWECS.
3. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the total height of the system;
4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed CWECS;
5. Location of any overhead utility lines on the property;
6. Location of all known communications towers within two (2) miles of the proposed CWECS.
7. Access roads;
8. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of 2,640 feet (one-half mile).

B. Provide a copy of the Easement Deed or similar recorded document from the Gage County Register of Deeds Office for each Participating Property.

C. Provide a map illustrating all Transmission Lines connecting to the Substation.

- D. Compliance with FAA regulations, including any documentation required by the FAA, which shall include Form 7460, certifying approval of each proposed location.
- E. Copy of the Agreement or Notification of Compliance Letter between the Beatrice Airport Authority and Applicant.
- F. Results of Consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring in the CWES project areas.
- G. Results of consultation regarding potential interference with existing communication facilities within the CWES project area.
- H. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed and the effects on the following activities shall also be addressed:
 - 1. Existing or proposed tourist or recreation activities;
 - 2. Residential activities;
 - 3. Industrial activities;
 - 4. Agricultural activities;
 - 5. Commercial activities.
- I. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
 - 1. Grading;
 - 2. Construction and drainage of access roads and turbine pads;
 - 3. Design features to control dust;
 - 4. Design features to maintain downstream water quality;
 - 5. Re-vegetation to ensure slope stability;
 - 6. Restoring the site after temporary project activities;
 - 7. Disposal or storage of excavated materials;
 - 8. Protecting exposed soil;
 - 9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
 - 10. Maintenance of erosion controls throughout the life of the project.
- J. Applicant shall provide information regarding flora and fauna of the proposed project area including:
 - 1. Officially listed threatened or endangered species;

2. Critical habitat and habitat conditions;
 3. An avian study based on the U.S. Fish and Wildlife Services, "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines".
- K. A pre-construction noise modeling study shall be conducted in accordance with procedures approved by Standard 61400-11 of the International Electrotechnical Commission (IEC)*; and shall include all property with a dwelling within one mile of a tower support base. The protocol, methodology and noise modeling shall be included in the study. The complete results and full study report shall be submitted to the Gage County Planning Commission for review at the time of the application.
- L. Projections of the "shadow flicker" on any existing structures located off the property on which the CWECS will be constructed and shall include the extent and duration of the shadow flicker on these existing structures.
- M. Standard drawings of the structural components of the CWECS, including structures, tower, base and footings.
- N. Certification by a registered engineer that shows:
1. There is a substantial need for the proposed use of CWECS, one hundred (100) kW or greater;
 2. All applicable local, state and federal building, structural and electrical codes have been followed;
 3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Gage County;
 4. The rotor and over speed control have been designed for the proposed use on the proposed site;
 5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
 6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

6.67 Construction and Operations

- A. All public roads to be used for the purpose of transporting CWECS substation materials, cement or equipment for construction, operation or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s). The

survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.

- B. The CW ECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation or maintenance of the CW ECS.
- C. 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.

6.68 Safety Measures

- A. Each CW ECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. The Planning Commission shall determine the height, color and type of fencing, if needed, for the CW ECS installation. CW ECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment and entrances. The sign shall contain the following information:
 - 1. Warning – high voltage;
 - 2. Manufacturer's name;
 - 3. Operator's name;
 - 4. Emergency phone number;
 - 5. Emergency shutdown procedures.
- C. Each CW ECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
- D. Any CW ECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked protective fence at least six (6) feet high shall enclose the tower.
- E. The CW ECS operator shall maintain a current insurance policy which will cover which will cover liability, installation, operation and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CW ECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

6.69 Discontinuation and Decommissioning

- A. CW ECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Gage County Zoning Administrator outlining the steps and schedule for returning the CW ECS to service. All CW ECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CW ECS.
- B. Each CW ECS shall have a decommissioning plan outlining the anticipated means and costs of removing CW ECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.
- C. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months.
- D. A bond or equivalent enforceable security instrument shall be based upon salvage value and is required by the end of operational service in year #10, to guarantee removal and restoration upon discontinuation, decommissioning or abandonment. Upon transfer of any CW ECS permit, the permit holder shall submit proof that the bond has been reassigned, or that a new bond or other security instrument has been obtained for decommissioning. The transfer of a CW ECS permit and any assignment of bond and all other or new bonds must be filed with the Register of Deeds and evidence of that filing shall be presented to the Gage County Planning and Zoning Administrator.

6.70 Noise

- A. No CW ECS shall exceed 60 dBA 10 minute leq at the nearest structure occupied by humans. In the event of periods of severe weather, as defined by the United States Weather Service, a CW ECS may exceed 60 dBA. Except that a participating landowner may waive a noise limitation by written agreement, which shall be submitted at the time of the application.
 - 1. No CW ECS shall exceed 45 dBA during day time and 40 dBA at night (night hours are 10:00 p.m. to 7:00 a.m.) at the nearest residence of a non-participating property; or
 - a. Five (5) dBA maximum 10 minute leq allowed above ambient noise level.
 - b. In the event of periods of severe weather, as defined by the United States Weather Service, a CW ECS may exceed 60 dBA.
 - 2. A non-participating landowner can waive a noise requirement by written

agreement. A written waiver shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Gage County Planning & Zoning Administrator prior to approval of the permit.

- B. All noise complaints regarding the operation of any CW ECS shall be referred, in writing, to the Gage County Planning and Zoning Administrator.
- C. At the discretion of the Gage County Planning and Zoning Administrator, post-construction noise level measurements may be required to be performed at the expense of the CW ECS operator and the results shall be forwarded to the County Board.
- D. The County Board shall determine whether a violation has occurred.

6.71 Nonconformities

The CW ECS that was approved by Special Use Permit #2013-1 (also known as the Steele Flats Wind Project) shall be subject only to the zoning regulations applicable at the time that the Special Use Permit #2013-1 was approved and shall not be subject to any subsequently adopted regulations. This section shall not be construed to allow the addition of any structures that were not previously authorized by Special Use Permit #2013-1.

**ARTICLE 7
PARKING REGULATIONS**

7.1 GENERAL PROVISIONS

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

7.2 OFF-STREET PARKING REQUIREMENTS

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

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential	1 per dwelling unit
2. Mobile Home Trailer Park	1 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 per every four persons
6. Bowling Alley	2 for each alley
7. Retails sales department stores,	1 per 200 square feet of floor area as

restaurants, taverns, grocery stores, etc.	determined by exterior wall dimensions
8. Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.3 OFF-STREET LOADING REQUIREMENTS

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

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

ARTICLE 8 ACCESSORY USES

8.1 ACCESSORY BUILDING

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

8.2 HOME OCCUPATIONS

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

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

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

8.3 MANUFACTURED HOMES

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

- a) The home shall have no less than nine hundred (900) square feet of floor area;
- b) The home shall have no less than an eighteen (18) foot exterior width;
- c) The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- d) The exterior material shall be of a color, material, and scale comparable

with those existing in residential site-built, single-family construction;

e) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

f) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

8.4 YARD REGULATIONS:

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

Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest adjacent existing building.

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

8.5 EXCEPTIONS TO HEIGHT REGULATIONS

The height limitations contained in the permissible heights for the various Zoning District Regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS

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

8.7 RURAL RIGHT-OF-WAYS

All buildings and sight impairing or “solid” fences, walls and hedges shall have a minimum set back of seventy-five (75) feet measured from the center of county roads, state or federal highways. Furthermore, all buildings, fences, walls, retaining walls, diversions, walkway structures or planting of trees, shrubbery, or similar uses are prohibited within the right-of-ways of rural roads or state and federal highways. Planting of shelter belts shall have a minimum set back of seventy-five (75) feet measured from the center-line of the street, county or township road.

8.8 TEMPORARY HOUSING

The Zoning Administrator may authorize temporary housing under the following conditions:

1. The temporary housing shall be located on the same lot or parcel as a permanent dwelling or use.
2. The owner of the property is (re)constructing a permanent dwelling on the same lot.
3. A Temporary Housing Permit shall be issued prior to the property owner locating a temporary housing unit on the lot.
4. A Temporary Housing Permit or Renewal Permit application shall include a site plan showing the following information:
 - a) The location of any existing or proposed permanent structures.
 - b) The location of any existing or proposed temporary structures.
 - c) The location of any existing or proposed septic field, lagoon, or other waste handling facility.
 - d) The location of any existing or proposed well.
5. A Temporary Housing Permit application shall include copies of any State of Nebraska permits relating to the location and use of wells and septic systems, lagoons, or any other waste handling facility, or shall include evidence that public water and/or sewer will be provided to the temporary housing unit.
6. A Temporary Housing Permit shall be issued for a maximum of one (1) year. A renewal application may be submitted at any time within sixty (60) days prior to the expiration of the original permit. A maximum of one (1) Renewal Permit may be issued, for a maximum duration of one (1) year. The fee for Temporary Housing Permits and Renewal Permits shall be set by the Board of Supervisors.

7. Permitted temporary housing units shall be limited to mobile or manufactured homes. Recreational Vehicles shall not be permitted for use as temporary housing units. However, Recreational Vehicles will be permitted for one (1) year in case of a Natural Disaster.

***In addition, each district that allows residential dwellings shall have the following provision added to its Accessory Uses:

- Temporary housing units pursuant to Section 8.8
- Permit should say possible extension after one (1) year, absolutely no extension beyond two (2) years.

**ARTICLE 9
COUNTY BOARD OF ZONING ADJUSTMENT**

9.1 CREATION, MEMBERSHIP

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

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

Said board shall consist of five (5) regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the County Clerk and shall be a public record.

9.3 INTERPRETATIONS AND VARIANCES

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

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any Regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and

3. Whereby reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of 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 and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Zoning Regulations, but no such variance shall be authorized unless the Board finds that:

- a) The strict application of the Regulation would produce undue hardship;
- b) Such hardship is not shared generally by other properties in the same Zoning District and the same vicinity;
- c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- d) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

9.32 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Regulations.

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

9.4 PROCEDURES FOR REQUESTING A VARIANCE

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

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the Zoning Administrator. Such appeal shall be made within ten (10) days from the date of decision by any county officer or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all the paper constituting the record upon which the action appealed from was taken. 9.42 The chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

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

ARTICLE 10
ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

10.1 ENFORCEMENT

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

1. Approve and issue all zoning/development permits when compliance is made with this Regulation.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Regulation.
3. Receive, file and forward, to the County Board of Zoning Adjustment, the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Regulation including, but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, and map for each year;
 - a) The compiled text of the Zoning Regulation and amendments thereto, including all amendments adopted through the preceding twelve (12) months; and
 - b) A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding twelve (12) months.
6. Whenever the Zoning Administrator shall find that any of the provisions of this Regulation have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this Regulation to insure compliance with, or to prevent violation of, its provisions.

10.2 ZONING PERMITS

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

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

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

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

10.25 CERTIFICATE OF ZONING COMPLIANCE FOR NEW, ALTERED, NON-ALTERED OR NON-CONFORMING USES:

A. It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use of structure until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of the Regulation.

B. No Certification of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all applicable provisions of this Regulation unless the Administrator shall receive a written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Commissioners in the form of an approved special exception, as provided by law.

C. Development permit issued on the basis of plans and applications approved by

the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. If the Zoning Administrator determines that the construction of development under any permit is not proceeding according to the applicable regulations of this Regulation, plans filed with said permit application or additional requirements or conditions upon which such permit was issued, or is otherwise proceeding in violation of law, the permit shall be revoked.

D. Failure to obtain a development permit and failure to comply with the plans and applications under which such permit was issued shall be a violation of this Regulation and punishable as provided in Article 12 of this Regulation.

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

10.31 A verbal decision by the Zoning Administrator except in the cases of building, occupancy shall be the primary instrument for administering compliance with this Regulation.

10.4 DEVELOPMENT PERMITS

No building or other structure shall be erected, moved, added to or structurally altered in the Gage County planning jurisdiction without a development permit therefore, issued by the Zoning Administrator. No development permit shall be issued by the Zoning Administrator except in conformity with all provisions of this Regulation unless the Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Supervisors in the form of an approved special exception, as provided in this Regulation.

10.41 APPLICATION FOR A DEVELOPMENT PERMIT:

- A. All applications for a development permit shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the sizes and locations on the lot of all existing buildings and other structures, if any, and the location and dimensions of the proposed building(s) and/or structure(s) or alteration thereof.
- B. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed uses of the building and land, existing or proposed buildings or alterations, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot, soil conditions, the proposed number of animal units and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Regulation.

- C. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he/she shall have marked the copy of the plans as approved or disapproved and attested to same by his/her signature on such copy. If a development permit is refused, the Zoning Administrator shall state the reason(s) for such refusal in writing and attach same to the applicant's copy of the plans. The original set of plans and one copy similarly marked shall be retained by the Zoning Administrator.
- D. When a development permit is issued for the erection, alteration of any building within the County's jurisdiction, the Zoning Administrator shall, if the cost of the improvement is one thousand dollars (\$1,000.00) or more, issued a duplicate of such permit to the County Assessor.

10.42 EXPIRATION OF DEVELOPMENT PERMIT: If the work described in any approved development permit has not begun within ninety (90) calendar days from the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be given to the person(s) affected.

If work described in any approved development permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be given to the person(s) affected together with written notice that further work, as described in the canceled permit, shall not proceed unless and until a new development permit has been obtained.

10.5 SCHEDULE OF FEES - ZONING AND DEVELOPMENT PERMITS

The schedule of fees to cover the costs of administration of this Zoning Regulation (zoning and development permits) shall be established by the County Board. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**ARTICLE 11
AMENDMENT**

11.1 GENERAL

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

11.2 SUBMISSION TO PLANNING COMMISSION

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

If such proposed amendment is not a general revision of an existing provision of this Regulation, and will affect specific property, it shall be designated by legal description and general street location and notice shall be published in a paper of general circulation in the County and in addition to such publication notice, posting a sign upon the property identifying the pending zoning action. Written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered in incorporated areas and one (1) mile in unincorporated areas and an opportunity granted to interested parties to be heard.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

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

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

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

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment to the Regulations or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk prior to the date of final action thereon by the Gage County Board of Supervisors, duly signed and acknowledged by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds ($2/3$ or five (5) members) of the total seven (7) members of the County Board (Section 23-165 Nebraska Revised Statutes, as amended).

ARTICLE 12
COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

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

12.2 PENALTIES

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

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

12.3 REMEDIES

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

ARTICLE 13
LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

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

13.2 PURPOSE OF CATCH HEADS

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

13.3 REPEAL OF CONFLICTING RESOLUTIONS

All other Regulations in conflict with this Regulation are hereby repealed to the extent necessary to give this Regulation full force and effect.

13.4 EFFECT DATE

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

**ARTICLE 14
NONCONFORMITIES**

NONCONFORMITIES, INTENT: Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

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

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

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the Zoning Regulations, and

Said use must meet all yard, height and parking regulations for the district in which it is located.

14.2 NONCONFORMING STRUCTURES

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

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

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the Zoning District in which it is located. When a structure is damaged to the extent of sixty (60) percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six (6) months, and restoration is actually begun one (1) year after the date of such partial destruction and is diligently pursued to completion.

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

14.3 NONCONFORMING USES

Authority to Continue: Nonconforming use of land or part or all of a structure may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

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

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Any nonconforming use may be extended throughout any portions of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of these Regulations, but no use shall be extended to occupy any land outside such building. Any nonconforming use of land may not be increased in size beyond the area occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

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

Damage or Destruction: In the event that the structures that are devoted in whole or in part to a nonconforming use are damaged to the extent of more than sixty (60) percent of their reasonable replacement value, the property shall conform to the Zoning District in which it is located.

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

Change in use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the

Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the Zoning District than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the Zoning District in which such land is located.

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