

POLK COUNTY NEBRASKA

ADOPTED BY POLK COUNTY, NEBRASKA

Prepared By

The Polk County Planning Commission

Table of Contents

| | |
|---|----|
| ARTICLE 1: GENERAL PROVISIONS | 1 |
| 1.1 TITLE..... | 1 |
| 1.2 JURISDICTION | 1 |
| 1.3 PURPOSE..... | 1 |
| ARTICLE 2: APPLICATION OF REGULATIONS | 4 |
| 2.1 GENERAL | 4 |
| 2.2 ZONING AFFECTS EVERY BUILDING AND USE | 4 |
| 2.3 YARD AND LOT REDUCTION PROHIBITED | 4 |
| 2.4 MINIMUM REQUIREMENTS | 4 |
| 2.5 NONCONFORMITIES..... | 4 |
| ARTICLE 3: GENERAL DEFINITIONS..... | 7 |
| 3.1 GENERAL PROVISIONS..... | 7 |
| 3.2 GENERAL TERMINOLOGY..... | 7 |
| 3.3 DEFINITION..... | 7 |
| ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF DISTRICTS | 14 |
| 4.1 PLANNING COMMISSION RECOMMENDATIONS | 14 |
| 4.2 DISTRICTS CREATED..... | 14 |
| 4.3 OFFICIAL ZONING MAP | 14 |
| 4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES | 15 |
| 4.5 RULES FOR CALCULATION OF MINIMUM LOT SIZE | 15 |
| ARTICLE 5: ZONING DISTRICTS | 27 |
| 5.1 AG-1 AGRICULTURE DISTRICT | 27 |
| 5.2 AG-2 AGRICULTURE DISTRICT..... | 30 |
| 5.3 RC RURAL CONSERVATION DISTRICT | 33 |
| 5.4 AGR AGRICULTURAL RESIDENTIAL DISTRICT..... | 36 |
| 5.5 HC HIGHWAY COMMERCIAL DISTRICT | 39 |
| 5.6 I INDUSTRIAL DISTRICT | 41 |
| ARTICLE 6: CONDITIONAL USE PERMIT | 43 |
| 6.1 GENERAL | 43 |
| 6.2 PROCEDURES | 43 |
| 6.3 SALVAGE OR JUNK YARD..... | 44 |
| 6.4 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS | 44 |
| 6.5 SMALL WIND ENERGY SYSTEMS..... | 45 |
| 6.6 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS..... | 47 |
| ARTICLE 7: PARKING REGULATIONS..... | 52 |
| 7.1 GENERAL PROVISIONS..... | 52 |
| 7.2 OFF-STREET PARKING REQUIREMENTS | 52 |
| 7.3 OFF-STREET LOADING REQUIREMENTS..... | 53 |

| | |
|---|-----------|
| ARTICLE 8: ACCESSORY USES | 54 |
| 8.1 ACCESSORY BUILDING | 54 |
| 8.2 HOME OCCUPATIONS..... | 54 |
| 8.3 MANUFACTURE HOMES..... | 54 |
| 8.4 YARD REGULATIONS:..... | 55 |
| 8.5 EXCEPTIONS TO HEIGHT REGULATIONS: | 55 |
| 8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS: | 55 |
| | |
| ARTICLE 9: COUNTY BOARD OF ZONING ADJUSTMENT | 56 |
| 9.1 CREATION, MEMBERSHIP | 56 |
| 9.2 MEETINGS..... | 56 |
| 9.3 INTERPRETATIONS AND VARIANCES | 56 |
| 9.4 PROCEDURES FOR REQUESTING A VARIANCE..... | 57 |
| 9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT..... | 58 |
| | |
| ARTICLE 10: ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES..... | 48 |
| 10.1 ENFORCEMENT..... | 48 |
| 10.2 ZONING PERMITS..... | 48 |
| 10.3 SCHEDULE OF FEES..... | 49 |
| | |
| ARTICLE 11: AMENDMENT..... | 49 |
| 11.1 GENERAL..... | 49 |
| 11.2 SUBMISSION TO PLANNING COMMISSION | 49 |
| 11.3 AMENDMENT CONSIDERATION AND ADOPTION | 49 |
| 11.4 PROTEST | 50 |
| | |
| ARTICLE 12: COMPLAINTS, PENALTIES, REMEDIES | 49 |
| 12.1 COMPLAINTS REGARDING VIOLATIONS..... | 49 |
| 12.2 PENALTIES | 49 |
| 12.3 REMEDIES | 49 |
| | |
| ARTICLE 13: LEGAL STATUS PROVISIONS..... | 50 |
| 13.1 SEPARABILITY | 50 |
| 13.2 PURPOSE OF CATCH HEADS | 50 |
| 13.3 REPEAL OF CONFLICTING RESOLUTIONS | 50 |
| 13.4 EFFECT DATE | 50 |

ARTICLE 1: GENERAL PROVISIONS

1.1 TITLE

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

1.2 JURISDICTION

The provisions of this Resolution shall apply within the planning jurisdiction of Polk County as established on the map entitled "The Official Zoning Map of Polk County, Nebraska". The jurisdiction includes the rural and unincorporated areas of Polk County, except for the one mile planning jurisdiction of each of the communities in the County.

1.3 PURPOSE

In pursuance of the authority conferred by Nebraska Revised Reissued Statutes, 1943, Sections 23-114 through 23-114.05 and 23-164 through 23-174.06 as amended, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Polk County and for implementing the Comprehensive Plan of the County.

ARTICLE 2: APPLICATION OF REGULATIONS

2.1 GENERAL

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

2.2 ZONING AFFECTS EVERY BUILDING AND USE

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

2.3 YARD AND LOT REDUCTION PROHIBITED

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

2.4 MINIMUM REQUIREMENTS

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

2.5 NONCONFORMITIES

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

2.51 NONCONFORMING LOTS OF RECORD

The Zoning Administrator may issue a Zoning Permit for any nonconforming lot of record provided that: Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulations. Said lot is shown on a survey to be part of a division of land into lots, or blocks, and roads, that was on file with the Polk County Surveyor's Office on or before October 10, 2000 irrespective of whether the owner of an adjoining lot is the same person or entity, and

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

2.52 NONCONFORMING STRUCTURES

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

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, repair or remodeling shall either create any additional nonconformity or

increase the degree of existing nonconformity of all or *any* part of such structure.

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

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

2.53 NONCONFORMING USES

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

Ordinary Repair and Maintenance:

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

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming), except that land area occupied by a nonconforming use may be extended by the addition of a structure, including but not limited to a garage or shed, that is not for the use of human habitation, and provided that the zoning administrator issues a zoning permit for such addition.

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

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

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

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

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of 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.

ARTICLE 3: GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

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

- 3.11 TENSE: Words used in the present tense include the future tense.
- 3.12 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.
- 3.13 SHALL AND MAY: The word "shall" is mandatory; the word "may" is permissive.
- 3.14 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Resolution and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

3.2 GENERAL TERMINOLOGY

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

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

3.3 DEFINITION

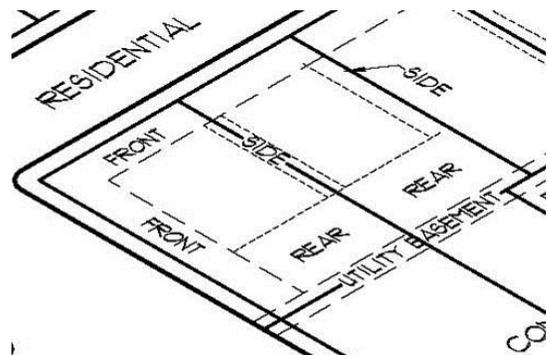
For the purpose of this resolution certain words and terms used herein are defined as follows:

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

AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over 20 acres in area used for or devoted to the commercial production of farm products.

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

BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by



other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

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

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.

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

CONDITIONAL USE: A use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

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

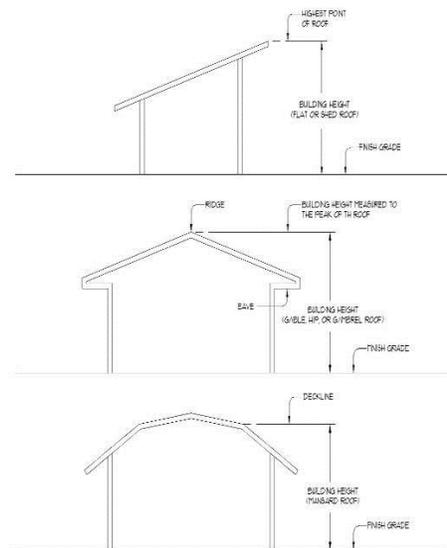
DWELLING; MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

DWELLING, SINGLE FAMILY: A dwelling having accommodations to be occupied by one family.

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.

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

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



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.

INTENSIVE LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s), or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days, which exceed a combination of 301 animal units below.

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, 55 lbs. and over |
| 5. | (0.04 x _____ number of head) | Weaned Pigs, less than 55 lbs. |
| 6. | (0.1 x _____ number of head) | Sheep |
| 7. | (2.0 x _____ number of head) | Horses |
| 8. | (0.01 x _____ number of head) | Chickens |
| 9. | (0.02 x _____ number of head) | Turkeys |
| 10. | (0.2 x _____ number of head) | Ducks |
| 11. | For Immature Dairy Cattle, or those species not listed, number of animal units shall be calculated as the average weight of animals divided by 1,000 lbs., multiplied by the number of animals | |

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

LAKE RECREATIONAL AREA: A tract of land consisting of five acres or more, containing a pond or lake that:

- a. Is not a subdivision approved by the County of Polk; and
- b. Is not surveyed into blocks or lots; and meets Nebraska Department of Environmental Quality sewer and water title 124 and 178 requirements
- c. On or before October 10, 2000, the owner used for the purpose of renting or leasing space to the general public for camping, the parking of mobile homes, or the placement of permanent dwellings for residential or recreational use. (Adopted 5-16-06)

LAKE RESIDENTIAL COMMUNITY: An existing tract of land consisting of five acres more or less, containing a lake or lakes, that:

- a. Was divided into lots, leased or owned prior to October 10, 2000; and
- b. The lot boundary lines are defined by a plat and survey prepared by a licensed surveyor and filed in the office of the County Surveyor of Polk County before October 10, 2000; and
- c. The lot sewage and water systems meet Nebraska Department of Environmental Quality Title 124 and 178 requirements; and
- d. The County Board of Polk County, NE has not approved the plat as a county subdivision.

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. Facilities must conform to State and Federal regulations.

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

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

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

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

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

LOT OF RECORD: A lot of which is part of a sub-division recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded, or a lot which is shown on a survey dividing land into lots, or blocks, and roads, that was on file with the Polk County Surveyor's Office on or before October 10, 2000. This regulation is for zoning purposes only. This regulation shall not be considered to supplant in any way the County Subdivision Regulations, nor shall this regulation be considered to make lots marketable.

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.

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.

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

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

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.

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 October 10, 2000, 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.

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.

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.

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

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

RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.

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

SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or

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

SELF-SERVICE STORAGE FACILITY shall mean a building or group of buildings containing individual, compartmentalized, and/or controlled access stalls or lockers for storage.
(June 18, 2013)

START OF CONSTRUCTION: The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling. Start of construction must begin in 6 months or 180 days after zoning permit is signed by the zoning administrator.

STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

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

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.

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.

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.

SUBDIVISION DEFINED: Subdivision shall mean the division of a lot, tract, or parcel of land into two or more sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be a subdivision when the smallest parcel of land created is as follows:

- a. In zoning district AG-1 Agricultural District, more than 20 acres in area
- b. In zoning district AG-2 Agricultural District, more than 40 acres in area;
- c. In zoning district RC Rural Conservation District, more than 40 acres in area;
- d. In zoning district AGR Residential District, more than 5 acres in area.

A subdivision of land created before or after October 10, 2000 shall not be considered a subdivision if such subdivision is one of the following;

- a. Land taken by any government by eminent domain proceedings;
- b. Land taken by any government by condemnation proceedings;
- c. Land conveyed for road purposes.

A subdivision for any of the following uses created before October 10, 2000 shall not be considered a subdivision:

- a. Churches, places of worship, and cemeteries;

- b. Public uses, including, but not limited to, fire stations, utility distribution systems, public and religious elementary, middle, junior and senior high schools;
- c. Irrigation, flood, erosion and sediment control projects;
- d. Subdivisions created for use as grain bin sites.

After October 10, 2000, any of the subdivisions and contemplated uses described in this subparagraph must comply with the requirements of the zoning district in which they will be located.

A conveyance or sale of ten acres or less shall not be considered a subdivision if notice of such conveyance or sale was filed for record in the office of the Polk County Clerk/ex officio Register of Deeds on or before October 10, 2000

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

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

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

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

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.

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

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.

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

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

ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 PLANNING COMMISSION RECOMMENDATIONS

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

4.2 DISTRICTS CREATED

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

1. AG-1 - Agriculture District
2. AG-2 - Agriculture District
3. RC Rural Conservation District
4. AGR - Agricultural Residential District
5. HC - Highway Commercial District
6. I - Industrial District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which is made a part hereof by reference, which map(s) are designated as the Polk County Zoning Map, dated October 10, 2000, and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this resolution shall be maintained in the offices of the County Clerk for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map(s) as follows:

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

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

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

Map(s) which shall supersede the prior Official Zoning Map(s).

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

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

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

4.5 RULES FOR CALCULATION OF MINIMUM LOT SIZE

1. If parcel is adjacent to a County, State or Federal Aid Highway, the minimum lot area is measured from the road right-of-way line.
2. If the parcel is adjacent a County road or street, the minimum lot area is measured from center-line of road or street right-of-way.

ARTICLE 5: ZONING DISTRICTS

5.1 AG-1 AGRICULTURE DISTRICT

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

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

1. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined.
2. Public Uses: Including fire stations, public elementary and junior/high schools, colleges, public utilities and utility distribution systems;
3. Bulk grain and produce storage, excluding commercial warehouses;
4. Irrigation, flood, erosion and sediment control projects;
5. Single family dwellings, including ranch and farm dwellings; and one additional single/two family dwelling for the purpose of housing relatives or permanent agriculture workers.
 - a. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located minimum distance from an intensive livestock confinement facility/operation in conformance with Section 6.4;
 - b. Existing parcels of twenty (20) acres or more not previously subdivided as of October 10, 2000 as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than three (3) acres;
 - c. All single family dwellings shall have direct frontage on, or direct access to, an improved street or county road (above minimum maintenance road);
6. Greenhouses and garden centers;
7. Broadcast towers and stations, including Amateur Radio or land mobile towers of less than 100 feet;
8. Bed and breakfast; and
9. Churches, places of worship and cemeteries.
10. Temporary asphalt or concrete plants.
11. Single family dwellings on unproductive agricultural lands deemed unsuitable or non-productive due to topography, or agricultural methods. Provided:
 - a. Parcels containing at least one (1) acre of land unless a larger lot is required by NDEQ Title 124 or any subsequent department and document.
 - b. Non-productive ground shall be based upon the Polk County Soil Survey

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

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

4. Small Wind Energy Systems subject to Section 6.5 of this regulation.
5. Irrigation wells provided the wellhead and equipment are setback a minimum of 20 feet from any adjacent right-of-way. (June 18, 2013)

5.14 CONDITIONAL USES: A building or premises may be used for the following purposes in the "AG-1" Agriculture District if a conditional use 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
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. Commercial Wind Energy Systems pursuant to Section 6.6 of this Resolution
5. Broadcast towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following;
 - a. 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 of 200 feet or greater in height must comply with the regulations of the Federal Aviation Administration (FAA) and submit an FAA 7460 form to the FAA Central Region Office. Towers less than 200 feet in height that break the 100 to 1 slope of the approach path of a public use airport must also submit a FAA 7460 form.
6. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
7. Auction/sale barns and yards;
8. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
9. Salvage or junk yards in accordance with Section 6.3;
10. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
11. Private elementary, high schools and colleges;
12. Expansion of existing or development of new intensive livestock confinement facilities/operations as defined and in accordance with Section 6.4;
13. Veterinary facilities;
14. Dog breeding establishments and kennels;
15. Manufacturing, Commercial and/or Industrial operations;
16. Hospitals, penal institutions and sanitariums;
17. Nursing and care homes;
18. Public and private, including non-profit, charitable institutions;
19. Recreational motel-lodging.

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

5.16 SPECIAL REGULATIONS: Disposal of any confinement or feedlot waste on land within Polk County other than on the property upon which the confinement or feedlot is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska, and those conditions imposed by the planning commission upon the property owner of land upon which the waste is to be disposed, in consideration of the health, safety and general welfare of the public, and subject to the approval of the County Board. There shall be no storage, or disposal, of livestock waste within a designated flood plain or floodway.

5.17 MINIMUM LOT REQUIREMENTS

All Permitted Principle and Permitted Conditional Uses:

Lot Size: 20 acres*

5.18 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the road right-of-way line.

Rear Yard: The minimum rear yard shall be fifteen (15) feet from the lot line.

Side Yard: The minimum side yard shall be ten (10) feet from the lot line.

Corner Lots: Nothing shall be erected or trees planted to impede vision 120' in each direction from the center of intersection in road.

5.19 MAXIMUM HEIGHT: No limitation.

5.20 A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot shall not be considered a subdivision.

5.2 AG-2 AGRICULTURE DISTRICT

5.21 INTENT: This district is designated an Agricultural area which is impacted by topography and sensitive soils conditions. This district is intended to preserve and protect agriculture production from encroachment by incompatible uses.

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

1. Single family dwellings, including ranch and farm dwellings; and one additional single/two family dwelling for the purpose of housing relatives or permanent agriculture workers.
 - a. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located minimum distances from an existing intensive livestock confinement facility/operation, in conformance with Section 6.4.
 - b. Existing parcels of forty (40) acres or more not previously subdivided as of October 10, 2000 can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than three (3) acres;
 - c. All single family dwellings shall have direct frontage on, or direct access to, an improved street or county road;
2. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined..
3. Public facilities and utility distribution systems;
4. One additional single family dwelling for the purpose of housing relatives or agricultural workers; and
5. Churches, places of worship and cemeteries.
6. Temporary asphalt or concrete plants
7. Single family dwellings on unproductive agricultural lands deemed unsuitable or non-productive due to topography, or agricultural methods. Provided:
 - c. Parcels containing at least one (1) acre of land unless a larger lot is required by NDEQ Title 124 or any subsequent department and document.
 - d. Non-productive ground shall be based upon the Polk County Soil Survey

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;
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.
4. Small Wind Energy Systems subject to Section 6.5 of this regulation.
5. Irrigation wells provided the wellhead and equipment are setback a minimum of 20 feet from any adjacent right-of-way. (June 18, 2013)

5.24 CONDITIONAL USES: A building or premise may be used for the following purposes in the "AG-2" Agricultural District if a conditional use 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, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system;
3. Expansion of existing or development of new intensive livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
4. Flood, erosion and sediment control projects;
5. Commercial Wind Energy Systems pursuant to Section 6.6 of this Resolution
6. Broadcast towers and stations, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
 - a. 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 of 200 feet or greater in height must comply with the regulations of the Federal Aviation Administration (FAA) and submit an FAA 7460 form to the FAA Central Region Office. Towers less than 200 feet in height that break the 100 to 1 slope of the approach path of a public use airport must also submit a FAA 7460 form.
8. Bed and breakfast establishments;
9. Salvage or junk yard in accordance with Section 6.3;
10. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries:
11. Dog breeding establishments and kennels;
12. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee contract basis: agricultural grain product milling and processing; commercial grain dusting, fruit picking, grain cleaning, seed treatment, harvesting, and plowing; farm equipment services and repair; the sale of seeds and plants, and the storage of seeds and plants held for sale. (October 1, 2013)

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the AG-2 Agricultural District.

5.26 SPECIAL REGULATION: Disposal of any confinement or feedlot waste on land within Polk County other than on the property upon which the confinement or feedlot is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska, and those conditions imposed by the planning commission upon the property owner of land upon which the waste is to be disposed, in consideration of the health, safety and general welfare of the public, and subject to the approval of the County Board. There shall be no storage, or disposal, of livestock waste within a designated floodplain or floodway.

5.27 MINIMUM LOT REQUIREMENTS:

All Permitted Principle and Permitted Conditional uses:

Lot Size: 40 acres*

5.28 MINIMUM YARD REQUIREMENTS: All structures first floor (ground level) shall be placed within a minimum of one (1) foot above the high water mark of the 100-year flood plain elevations as identified by the Flood Insurance Rate Map (FIRM) dated August 19, 2008, as special flood hazard areas.

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the road right-of-way line.

Rear Yard: The minimum rear yard shall be fifteen (15) feet from the lot line.

Side Yard: The minimum side yard shall be ten (10) feet from the lot line.

Corner Lots: Nothing shall be erected or trees planted to impede vision 120' in each direction from center of intersection in road.

5.29 MAXIMUM HEIGHT: No limitation

5.30 A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot shall not be considered a subdivision.

5.3 RC RURAL CONSERVATION DISTRICT

5.31 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soil conditions, high water table, 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. Single family dwellings, including ranch and farm dwellings; and one additional single/two family dwelling for the purpose of housing relatives or permanent agriculture workers.
 - a. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located minimum distances from an intensive livestock confinement facility/operation, in conformance with Section 6.4:
 - b. Existing parcels of forty (40) acres or more not previously subdivided as of October 10, 2000 can be subdivided into three parcels, the minimum size of one of said parcels shall not be less than five (5) acres;
 - c. All single family dwellings shall have direct frontage on, or direct access to, an improved street or county road;
2. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined.
3. Temporary asphalt or concrete plants
4. Single family dwellings on unproductive agricultural lands deemed unsuitable or non-productive due to topography, or agricultural methods. Provided:
 - a. Parcels containing at least one (1) acre of land unless a larger lot is required by NDEQ Title 124 or any subsequent department and document.
 - b. Non-productive ground shall be based upon the Polk County Soil Survey

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.
4. Small Wind Energy Systems subject to Section 6.5 of this regulation.
5. Irrigation wells provided the wellhead and equipment are setback a minimum of 20 feet from any adjacent right-of-way. (June 18, 2013)
6. Self-service Storage Facility (June 18, 2013)

5.34 CONDITIONAL USES: A building or premises may be used for the following purposes in the "RC" Rural Conservation District if a conditional use 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 systems;
3. Flood, erosion and sediment control projects;
4. Bed and breakfast establishments;
5. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
6. Expansion of existing or development of new intensive livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
7. Dog breeding establishments and kennels;
8. Broadcast towers and stations, including Amateur Radio and land mobile communication towers of more than 100 feet when in conformance with the following:
 - a. 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. Towers of 200 feet or greater in height must comply with the regulations of the Federal Aviation Administration (FAA) and submit an FAA 7460 form to the FAA Central Region Office. Towers less than 200 feet in height that break the 100 to 1 slope of the approach path of a public use airport must also submit a FAA 7460 form.

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the RC Rural Conservation District.

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

5.37 MINIMUM LOT REQUIREMENTS:

1. The minimum lot area for RC uses shall be 40 acres*.

5.38 MINIMUM YARD REQUIREMENTS: All structures first floor (ground level) shall be placed a minimum of one (1) foot above the high water mark of the 100-year flood plain elevations as identified by the Flood Insurance Rate Map (FIRM) dated as Special Flood Hazard Areas.

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the road right-of-way line.

Rear Yard: The minimum rear yard shall be fifteen (15) feet from the lot line.

Side Yard: The minimum side yard shall be ten (10) feet from the lot line.

Corner Lots: Nothing shall be erected or trees planted to impede vision 120' in each direction from center of intersection in road.

5.39 MAXIMUM HEIGHT: Thirty-Five (35) feet; however, nonresidential uses shall have no height limitations.

5.40 A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot shall not be considered a subdivision.

5.4 AGR AGRICULTURAL RESIDENTIAL DISTRICT

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

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

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of intensive confinement facilities/operations.
2. One single-family dwelling, or mobile home, in accordance with Section 5.45;
3. Irrigation and flood control projects;
4. Child care home;
5. Public Parks and recreational areas;
6. Community buildings and/or facilities owned and/or occupied by public agencies;
7. Public and/or private schools and colleges; and
8. Churches, places of worship, and cemeteries.
9. Lake Residential Communities.
10. Temporary asphalt or concrete plants

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;
4. Broadcast towers, broadcast stations and wind generating systems that existed on or before October 10, 2000. The zoning administrator shall not issue a zoning permit for any structure or dwelling that a person proposes to build within a distance of twice the height of an existing broadcast tower, broadcast station or wind generating system, except that the zoning administrator may issue a zoning permit for a structure associated with the use of any broadcast tower, broadcast station or wind generating system provided that such structure complies with all other zoning regulations.(Adopted 4-8-03)
5. Small Wind Energy Systems subject to Section 6.5 of this regulation.

5.44 CONDITIONAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Mobile home park;
4. Child care center;
5. Radio and television towers and transmitters;
6. Camp grounds;
7. Dog breeding establishments and kennels;
8. Public and private charitable institutions;

9. Greenhouses and nurseries;
 10. Animal clinics, animal hospitals and veterinarian services;
 11. Mineral extraction, which shall include the following; oil wells, sand and gravel extraction and quarries.
 12. Existing parcels of five (5) acres or more not previously subdivided as of October 10, 2000 can be subdivided into smaller parcels, in accordance with the State of Nebraska Department of Environmental Quality Title 124 and/or with a shared or "community" drinking water and/or sewage system, the minimum lot area may be reduced to 3/4 (three-quarter) acre.
 13. Existing parcels of five (5) acres or more subdivided, as shown by a survey filed in the County Surveyor's Office of Polk County, Nebraska as of October 10, 2000, shall be permitted, with no minimum area required, in conformance with the following;
 - a. The subdivision is approved as a subdivision of record provided in the Subdivision Regulations of Polk County, Nebraska;
 - b. Each lot is serviced by a public sewer system.
 14. Existing parcels of five acres or more, containing lakes with lots that were leased before the effective date of this regulation (October 10, 2000), may be subdivided into parcels with a minimum lot area of one-half acre (1/2 acre) in conformance with the Nebraska Department of Environmental Quality Title 124 - Rules and Regulations;
 - a. The subdivision is approved as a subdivision of record provided in the Subdivision Regulations of Polk County, Nebraska.
- 5.45 SPECIAL REGULATIONS: Single family dwellings shall be in conformance with the following:
1. All single family dwellings not owned by an intensive livestock confinement facility/operation must be located minimum distances from an existing intensive livestock confinement facility/operation, in conformance with Section 6.4;
 2. All single family dwellings shall have direct frontage on, or direct access to, an improved street or county road;
 3. The parcel of land upon which the single family dwelling is located must have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Departments of Health and Human Services and the Department of Environmental Quality.
- 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-R Agricultural Residential District.

5.47 MINIMUM AREA AND YARD REQUIREMENTS:

Lot Area: Five (5) acres

Front Yard: There shall be a minimum front yard of not less than a depth of Twenty-Five (25) feet measured from the road right-of-way line.

Rear Yard: The minimum rear yard shall be fifteen (15) feet from the lot line.

Side Yard: The minimum side yard shall be ten (10) feet from the lot line for a dwelling.

The minimum side yard shall be three (3) feet from the lot line for any building other than a dwelling. (Sept. 18, 2012).

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

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

5.50 A change in the boundary between adjoining lands which does not create an additional lot or does not result in nonconformity of an existing lot shall not be considered a subdivision.

5.5 HC HIGHWAY COMMERCIAL DISTRICT

5.51 INTENT: The HC Highway 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.

5.52 PERMITTED PRINCIPAL 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 at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices; and
18. Medical clinics

5.53 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 conditional uses.
2. Small Wind Energy Systems subject to Section 6.5 of this regulation.

5.54 CONDITIONAL USES: A building or premises may be used for the following purposes in the HC Highway Commercial District if a conditional 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; and
5. Single Family Homes

5.55 SCREENING REQUIREMENTS:

1. Where a site adjoins or is located across an alley from the 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 conditional permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

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

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

| | Minimum Lot Area (sq. ft.) | Lot Width (feet) | Required Front Yard (feet) | Required Side Yard (feet) | Required Rear Yard (feet) | Height (feet) |
|----------------|-----------------------------------|-------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------|
| Principal Uses | 7,500 | 50 | 25 | 7 | 20 | 35 |

5.58 PARKING REGULATIONS:

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

5.6 I INDUSTRIAL DISTRICT

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

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

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

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

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries;
4. Airport;
5. Agricultural processing or milling, such as but not limited to ethanol production facilities; and
6. Manufacturing and basic industrial processing facilities not meeting the definition of Light Manufacturing.

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

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

| | Minimum Lot Area (sq. ft.) | Lot Width (feet) | Required Front Yard (feet) | Required Side Yard (feet) | Required Rear Yard (feet) | Height (feet) |
|----------------|-----------------------------------|-------------------------|-----------------------------------|--|----------------------------------|----------------------|
| Principal Uses | None | 100 | 25 | 0 or 10 when abutting a residential district | 15 | None |

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

ARTICLE 6: CONDITIONAL USE PERMIT

6.1 GENERAL

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

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County Board. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. 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 conditional use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of any municipality, county, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within one hundred (100) feet of the property line of the property requesting the conditional use permit in incorporated areas and within one (1) mile of the property line of the property requesting the conditional use permit in unincorporated areas. Applicant shall present the Zoning Administrator with a property list certified by a registered abstractor of the record title holders within said one hundred (100) feet in incorporated areas and within one (1) mile in unincorporated areas, together with a list of the current address of all owners of record.

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

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and

5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

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

6.3 SALVAGE OR JUNK YARD

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

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

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

6.4 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS

Intensive livestock facilities/operations shall only be allowed by conditional use permit in the AG-1, AG-2 and RC Agricultural Districts under the following conditions:

1. Any new or expanding intensive livestock facilities/operations, as defined, shall either be: (1) a minimum distance from any residence, commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator, or (2) have signed letters of

agreement from adjacent property owners supporting the proposed expansion or development of new intensive livestock facilities/operations.

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

| MINIMUM DISTANCE REQUIREMENTS | | | | | |
|---|------------------------|--------------|----------------|-----------------|----------|
| | A | B | C | D | E |
| Total Animal Units Allowed (see definitions) | 1 to 300 | 301 to 1,000 | 1,001 to 5,000 | 5,001 to 10,000 | 10,001+ |
| Minimum Distance Required | No Minimum Requirement | ¼ Mile | 3/8 Mile | ½ Mile | ¾ Mile |

2. A management plan for the facility, acceptable to the Nebraska Department of Environmental quality and the Polk County Board, which provides for the proper disposal of animal waste in a manner as not to contaminate ground water or any stream, creek or river and minimized odor.
3. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
4. Conditional use permits granted under this section shall be subject to review by the County Board.

6.5 SMALL WIND ENERGY SYSTEMS

1. **Purpose:**
It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.
2. **Definitions**
The following are defined for the specific use of this section.

Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.

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

Structurally mounted System shall mean a Small Wind Energy System that is designed to be mounted on a building including residential dwellings.

Tower Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

3. Requirements

Certain requirements as set forth below shall be met:

A. Tower Height

- i. For property sizes less than one acre the tower height shall be limited to 80 feet.
- ii. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

B. Setbacks

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

| | Wind Turbine – Non Commercial | Meteorological Towers |
|---|--|------------------------------|
| Property Lines | One times the total height | One times the total height |
| Neighboring Dwelling Units* | One times the total height | One times the total height |
| Road Rights-of-Way** | One times the total height | One times the total height |
| Other Rights-of-Way | One times the total height | One times the total height |
| Public Conservation Lands Including Wildlife Management Areas and State Recreation Areas | Applicable building setback | 600 feet |
| Wetlands, USFW Types III, IV, and V | NA | 600 feet |
| Other structures not on the applicant's site | NA | One times the total height |
| River Bluffs of over 15 feet | | One times the total height |

C. Noise

- i. Small wind energy systems shall not produce a noise level that exceeds 60 dBA, as measured at the closest neighboring inhabited dwelling unit based upon pre-construction modeling.
- ii. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

D. Approved Wind Turbines

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

E. Compliance with FAA Regulations

Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

F. Compliance with National Electrical Code

- i. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- ii. The applicant shall supply this analysis based upon manufacturer data.

G. Utility Notification

- i. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator,
- ii. Off-grid systems shall be exempt from this requirement.

H. Structurally Mounted Systems

- i. No small wind energy system shall be structurally mounted onto any structure unless a structural engineer verifies the structure is capable of holding the small wind energy system.
- ii. No small wind energy system shall be structurally mounted unless the applicant can show that manufacturer's design has been approved for such an application.

6.6 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS

1. Purpose

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

2. Definitions

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

Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

Fall Zone shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

Meteorological Tower: A tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.

Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

Tower shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

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

Wind Energy Conservation System: An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid

Wind Turbines: Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

3. Requirements

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within the noted districts. Permanent Meteorological towers shall be considered part of the system. Temporary meteorological towers may be permitted by a Zoning (Building) Permit and limited to two years or less. The following requirements and information shall be met and supplied:

- A. The name(s) of project applicant.
- B. The name of the project owner.
- C. The legal description and address of the project.
- D. A description of the project of the project including; Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.
- E. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- F. Engineer's certification.
- G. Documentation of land ownership or legal control of the property.
- H. Proof of Liability Insurance for each turbine.
- I. The latitude and longitude of individual wind turbines.
- J. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System not owned by the applicant, within 10 rotor distances of the proposed Wind Energy Conversion System.
- K. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
- L. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
- M. FAA permit
- N. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System.
- O. Decommissioning Plan

- P. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
4. **Aggregated Projects**
- A. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
 - B. Permits may be issued and recorded separately.
 - C. Joint projects will be assessed fees as one project.
 - D. Setbacks to property lines, not road rights-of way, may be less when adjoining property owners are within the same aggregate project, unless an impact easement is granted by an adjacent property owner.
5. **Setbacks**

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

| | WECS Wind Turbine – Commercial/Utility WECS | Meteorological Towers |
|---|--|---|
| Property Lines | Diameter plus applicable building setback; however, setback may be less when two adjoining property owners are within the aggregate project. | One times the total height |
| Right angle corner property lines | 2,000 feet | One times the total height |
| Neighboring Dwelling Units* | One times the total height | One times the total height |
| Road Rights-of-Way** | One times the total height | One times the total height |
| Other Rights-of-Way | One times the total height | One times the total height |
| Public Conservation Lands Including Wildlife Management Areas and State Recreation Areas | 600 ft. or a distance established by any state or Federal agency. | 600 ft. or a distance established by any state or Federal agency. |
| Wetlands, USFW Types III, IV, and V | 600 ft. or a distance established by any state or Federal agency. | 600 ft. or a distance established by any state or Federal agency. |
| Other structures not on the applicant's site | One times the total height | One times the total height |
| River Bluffs of over .15 feet | One times the total height | |

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.
 ** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-way is known.

6. **Special Safety and Design Standards**
- All towers shall adhere to the following safety and design standards:
- A. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
 - B. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted at the entrance to the site with the 911 address and emergency contact information.
 - C. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
 - D. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
 - E. *Color and finish*
 All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black

in order to facilitate deicing; Finishes shall be matte or non-reflective.

F. *Lighting*

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

G. *Other signage*

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

H. *Feeder Lines*

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

I. *Waste Disposal*

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

J. *Discontinuation and Decommissioning*

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

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

K. *Noise*

No Commercial/Utility WECS shall exceed 60 dBA at the nearest structure occupied by humans. Exception: a Commercial/Utility WECS may exceed 60 dBA during periods of severe weather as defined by the US Weather Service.

L. *Interference*

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

M. *County Roads*

In regard to roads applicants shall:

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

N. *Drainage System*

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

O. *Permit Fees*

Applicant shall remit an application fee set by the Board of Commissioners.

ARTICLE 7: PARKING REGULATIONS

7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section..
2. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-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:

| Use | Minimum Number of Parking Spaces |
|--|---|
| Residential | 1 per dwelling unit |
| Single family, two-family dwelling | |
| Multifamily | |
| Efficiency and one-bedroom | 1 per dwelling unit |
| Two-bedrooms | 1 ½ per dwelling unit |
| Three or more bedrooms | 2 per dwelling unit |
| Mobile Trailer Park | 1 per trailer unit |
| Hotel and Motel | 1 per rental unit plus 1 for every 4 employees |
| 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 |
| Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc. | 1 for every four persons |
| Bowling Alley | 2 for each individual lane or alley |
| Retails sales department stores, restaurants, taverns, grocery stores, etc. | 1 per 200 square feet of floor area as determined by exterior wall dimensions |
| Professional office establishments | 1 per 500 square feet of floor area as determined by exterior wall dimensions |
| 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 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

| Number | Loading Area | Gross Floor Area |
|--------|-----------------|--|
| One | 500 square feet | For every 5,000 to 20,000 square feet |
| One | 500 square feet | For every 20,000 square feet or fraction thereof |

ARTICLE 8: ACCESSORY USES

8.1 ACCESSORY BUILDING

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

8.2 HOME OCCUPATIONS

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

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

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. No equipment or machinery shall be used in such activities that are 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 meet the following standards:

- 8.31 The home shall have no less than nine hundred (900) square feet of floor area.
- 8.32 The home shall have no less than an eighteen (18) foot exterior width.
- 8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run.
- 8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- 8.35 The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- 8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 8.38 The home must meet building code requirements adopted by the County.

8.4 YARD REGULATIONS:

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

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

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

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

8.5 EXCEPTIONS TO HEIGHT REGULATIONS:

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

8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS:

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

ARTICLE 9: COUNTY BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

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

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

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

9.2 MEETINGS

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

9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23168.03 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a

variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:

- a. The strict application of the regulation would produce undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
 - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
- 9.32 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
- 9.33 In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

9.4 PROCEDURES FOR REQUESTING A VARIANCE

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

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

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

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

ARTICLE 10: ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

10.1 ENFORCEMENT

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

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

10.2 ZONING PERMITS

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

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

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

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

10.25 NOT REQUIRED Building permits are not required for buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year. (RS. Neb. 23-114.03)

10.26 ZONING PERMITS. Zoning permits are required for all buildings and the use of land, both agricultural and non-agricultural. No zoning permit is required for portable buildings of 500 square feet or less.

10.27 The Zoning Administrator may issue a zoning permit to a lessee in a Lake Recreational Area provided that after October 10, 2000, a licensed surveyor has surveyed and platted such area into lots, and the survey has been filed with the County Clerk of Polk County, Nebraska. The size of the lots shall be sufficient so that any intended structural use of such lots would comply with the setback requirements of paragraph 5.47.

10.3 SCHEDULE OF FEES

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

The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable 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 boundaries or regulations contained in this resolution amendment. A proposal for such amendment may be initiated by the County Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the County Board is required for each application to be considered by the Planning Commission.

11.2 SUBMISSION TO PLANNING COMMISSION

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

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

11.3 AMENDMENT CONSIDERATION AND ADOPTION

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

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one (1) mile therefrom, or of those directly opposite thereto extending one (1) mile from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board.

ARTICLE 12: COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

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

12.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of this resolution has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class III misdemeanor as provided in Nebraska Revised Statute §23-114.05 (Reissue 2007), as amended. Each and every day that such violation continues, after the zoning administrator gives notification by certified letter of such violation to the appropriate person or persons, shall constitute a separate offense.

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

Class III misdemeanor shall be defined as provided in Nebraska Revised Statute §28-106 (1) Reissue 2008), as amended. (Nebraska Statutes §23-114.05, Chapter 23, County Government and Officers, 1. General Provisions. 23-101 to 23-186).

12.3 REMEDIES

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

ARTICLE 13: LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

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

13.2 PURPOSE OF CATCH HEADS

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

13.3 REPEAL OF CONFLICTING RESOLUTIONS

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

13.4 EFFECT DATE

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