

Kearney County, Nebraska **and** **The Villages of Norman and Heartwell** **Zoning Regulations**

Kearney County

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Amended February 19th, 2013

Norman Ordinance No. 144

Amended and Adopted June 15, 2009

Heartwell Ordinance No. 09-04

Amended and Adopted June 1, 2009

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ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

This Resolution/Ordinance shall be known, referred to, and cited as the Zoning Regulations of Kearney County, Nebraska and the Villages of Norman and Heartwell.

1.2 JURISDICTION

The provisions of these regulations shall apply within the planning jurisdiction of Kearney County and the Villages of Norman and Heartwell as established on the map entitled "The Official Zoning Maps of Kearney County, and Norman and Heartwell, Nebraska." The planning jurisdiction for Kearney County includes the rural and unincorporated areas of the County. The planning jurisdiction for the two Villages include the area within the corporate limits and an area one-mile adjacent the corporate limits.

1.3 PURPOSE

In pursuance of the authority conferred by Section 23-114.03-114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this resolution/ordinance is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Kearney County and the Villages of Norman and Heartwell 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/ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

Excepting non-conforming lot sizes, structures and usages, as set forth in Sections 2.5, 2.51, 2.52 and 2.53 of these regulations, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of these regulations 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 these regulations shall meet the minimum requirements established by these regulations.

2.4 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of these regulations 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 regulation, and

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

2.52 NONCONFORMING STRUCTURES

Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with

the use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

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

Damage of 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 and may be expanded through a special use permit.

Ordinary Repair and Maintenance:

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

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

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 thirty-six (36) 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 these regulations.

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 work “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 these regulations 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 Kearney, Nebraska. The words “County Board” shall mean the Kearney County Board of Supervisors. The word “Village” shall mean the Village of Norman and/or Village of Heartwell. The words “Village Board” shall mean the Village Board of Trustees, for either/or both the Villages of Norman and Heartwell. The words “Planning Commission” shall mean the Planning Commission of Kearney County duly appointed and represented by the governing body of Kearney County and the Villages of Norman and Heartwell.

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

3.3 DEFINITION

For the purpose of these regulations certain words and terms used herein are defined as follows:

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

3.32 ADULT ENTERTAINMENT ESTABLISHMENT: Any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to sexual activities or human genitalia, including, but not limited to, adult cabarets, adult book stores, adult motion picture theaters, adult novelty business, saunas, adult health clubs, adult modeling studios, adult companionship establishments, adult hotel or motel, and adult body painting studios.

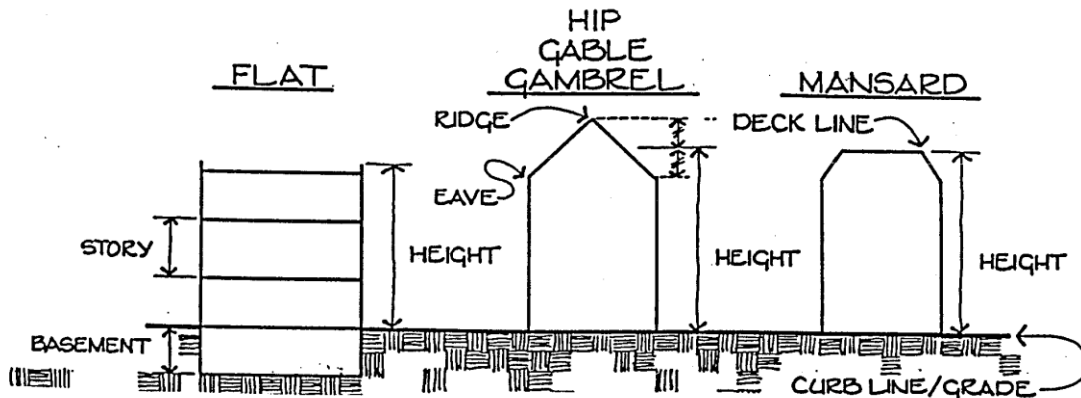
3.33 ADULT CABERET: A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude or semi-nude, including go-go dancers, exotic dancers, strippers, male or female impersonators, or other similar entertainers.

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

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

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

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



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

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

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

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

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

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

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

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

3.45 FLOOD PLAIN: Those lands within the zoning jurisdictions of Kearney County and/or the Villages of Norman and Heartwell which are subject to a one (1) percent or greater chance of flooding in any given year. The regulatory flood plain for these regulations 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 Kearney County Assessor.

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

3.47 LIVESTOCK CONFINEMENT FACILITIES/ OPERATIONS: Shall mean the raising, feeding or management of animals excluding cattle in calving operations for less than ninety days per year, in building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces that are normally not used for raising crops or vegetation or grazing animals, which may exceed any combination of 500 animal units from the following:

1. A.U.'s = 1 x number of Slaughter or Feeder Cows
2. A.U.'s = 1.2 x number of Cow/calf Pairs
3. A.U.'s = 1.4 x number of Mature dairy cows
4. A.U.'s = 0.4 x number of swine 55 lbs and over
5. A.U.'s = 0.04 x number of weaned pigs, less than 55 lbs.
6. A.U.'s = 0.1 x number of Sheep
7. A.U.'s = 2 x number of Horses
8. A.U.'s = 0.01 x number of Chickens
9. A.U.'s = 0.02 x number of Turkeys
10. A.U.'s = 0.2 x number of Ducks

*Amended 7-3-12

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.

Two or more livestock operations under common ownership shall be deemed to be a single livestock facility/operation if they are adjacent to each other or if they utilize a common area or system of disposal of livestock waste.

3.48 LANDFILL: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material overall exposed waste at the end of each operating day.

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

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

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

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

3.53 LOT OF RECORD: A lot of which is part of a sub-division recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been recorded.

3.54 LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

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

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

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

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

3.59 NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to August 21, 2001, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

- 3.60 **NONCONFORMING STRUCTURE:** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- 3.61 **NONCONFORMING USE:** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.
- 3.62 **PARCEL:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
- 3.63 **PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.
- 3.64 **RECYCLING CENTER:** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.
- 3.65 **RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.
- 3.66 **SALVAGE OR JUNK YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage or used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.
- 3.67 **SPECIAL USE PERMIT:** A written permit issued with authorization of the County or Village Board. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.
- 3.68 **STREET:** All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.
- 3.69 **STREET, CENTER LINE:** A line midway between street lines.
- 3.70 **STREET LINE:** A dividing line between a lot, tract, or parcel of line and the contiguous street. The right-of-way line of a street.
- 3.71 **STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.
- 3.72 **STRUCTURAL ALTERATIONS:** Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

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

3.74 VARIANCE: A variance is a relaxation of the terms of the zoning resolution/ordinance 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/ordinance would result in unnecessary and undue hardship.

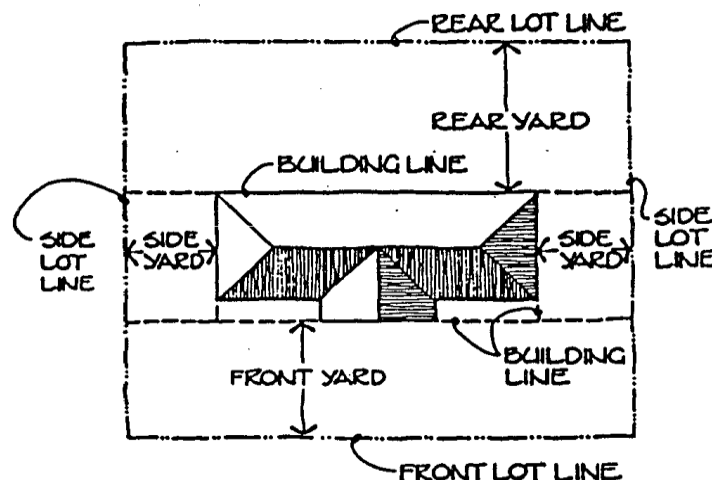
3.75 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

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

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

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

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



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

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

3.81 ZONING DISTRICT: The term “zoning map” means a map or maps officially enacted by the County Board and Village 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 Zoning Administrator, as an official record of the County and the Village.

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 ZONING AND PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board or Village 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 these regulations, there are hereby created zoning districts for Kearney County and the Villages of Norman and Heartwell, as named and described in Article 5 of these regulations.

1. AG-1 - Agriculture District
2. RC - Rural Conservation District
3. AGR - Agricultural Residential District
4. R-1 - Single Family
5. C - Commercial District
6. I - Industrial District
7. FS – Flex Space District
8. R-M – Mobile Home Residential District
9. Highway Corridor Overlay District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the districts are shown upon a map(s), which is made a part hereof by reference, which map(s) is designated as the Kearney County, Village of Norman and Village of Heartwell Zoning Map and adopted herein, and as amended, and signed by the Chairperson of each governing entity and attested by the Clerk of each governing entity 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 these regulations shall be maintained in the office of the County Zoning Administrator for the use and benefit of the public.
3. If in accordance with the provisions of these regulations, 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) indicating the revision date and resolution/ordinance number along with the signature of the Chairperson and attested by the Clerk of the governing entity.

No amendment to these regulations 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 these regulations.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the County or Villages may, by resolution/ordinance, 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 streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following village limits shall be construed as following such village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the railroad right-of-way;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of these regulations the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

ARTICLE 5

ZONING DISTRICTS

5.1 AG-1 - AGRICULTURE DISTRICT

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

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

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/ operations as defined in Section 3.45.
2. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
3. Bulk grain and produce storage, excluding commercial warehouses;
4. Irrigation, flood, erosion and sediment control projects;
5. Non-farm single family, farm and ranch dwellings on an improved all weather county road (above minimum maintenance road), including one additional farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agriculture workers. In addition, single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property;
6. Churches, places of worship and cemeteries.

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.

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

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural

grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;

4. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers in accordance with the Airport Zoning Regulations Article 14 of this document.
5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries;
9. Pre-school and child care centers;
10. Private elementary and high schools;
11. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
12. Veterinary facilities;
13. Dog breeding establishments and kennels;
14. Hospitals, penal institutions and sanitariums;
15. Nursing and care homes;
16. Public and private, including non-profit, charitable institutions; and
17. Recreational motel-lodging;
18. Disposal of paunch animal waste;
19. Greenhouses and garden centers;
20. Bed and breakfast.
21. Commercial/Utility Grade Wind Energy Systems.
22. Manufacturing, commercial and/or Industrial operations, except salvage yards.

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

5.16 MINIMUM LOT REQUIREMENTS

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

Single Family Dwellings Lot Size:

- A. 5 acres, with the placement of a maximum of four single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road).
- B. Any farm residence existing as of August 7th, 2001, the date of the adoption of zoning in Kearney County, that has had continuous use as a farm residence to date of lot size exemption application, on a parcel of land that did not have a lot previously created and platted prior to August 7th, 2001, may apply for an exemption from the 5 acres minimum lot size under the following conditions
 - Farm residence shall not be less than one(1)acre in size
 - Site shall be sufficient enough in size to ensure compliance with the Nebraska Department of Environmental Quality standards and regulations.

To obtain this Zoning exception, an application for Lot Size Exemption must be filed prior to surveying the lot and verified with documents to confirm eligibility and shall be provided by applicant for approval by the Planning and Zoning Administrator.

Verifying documents shall include but not be limited to the following:

- Proof of farm residence lot size as use as of 2001
- Proof of continuous accommodations to support a family
- Proof of compliance of NDEQ regulations

*Amended 7-3-2012

5.17 MINIMUM YARD REQUIREMENTS

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

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

Rear Yard: No limitations; unless abutting a R-1 Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side Yard: No limitations; unless abutting a R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.18 MAXIMUM HEIGHT: In accordance with Article 14.

5.19 PARKING & SIGN REQUIREMENTS: See Article 7.

5.110 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Section 8.7.

5.2 RC - RURAL CONSERVATION DISTRICT

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

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

1. Non-farm, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), and one additional on farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agriculture workers. In addition, single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property.
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.45.
3. Flood, erosion and sediment control projects

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

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

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

1. Sewage disposal and water systems;
2. Public and private uses including parks, playgrounds, golf courses, recreation uses, riding stables, public utilities, and utility distribution system;
3. Bed and breakfast establishments;
4. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
5. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
6. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers in accordance with the Airport Zoning Regulations Article 14 of this document;

7. Commercial and Industrial Uses, without outside storage of materials and equipment.
8. Commercial/Utility Grade Wind Energy Systems.

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

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

5.27 MINIMUM LOT REQUIREMENTS:

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

Single Family Dwellings Lot Size:

- A. 5 acres, with the placement of a maximum of four (4) single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road).
- B Any farm residence existing as of August 7th, 2001, the date of the adoption of zoning in Kearney County, that has had continuous use as a farm residence to date of lot size exemption application, on a parcel of land that did not have a lot previously created and platted prior to August 7th, 2001, may apply for an exemption from the 5 acres minimum lot size under the following conditions
 - Farm residence shall not be less than one(1)acre in size
 - Site shall be sufficient enough in size to ensure compliance with the Nebraska Department of Environmental Quality standards and regulations.

To obtain this Zoning exception, an application for Lot Size Exemption must be filed prior to surveying the lot and verified with documents to confirm eligibility and shall be provided by applicant for approval by the Planning and Zoning Administrator.

Verifying documents shall include but not be limited to the following:

- Proof of farm residence lot size as use as of 2001
- Proof of continuous accommodations to support a family
- Proof of compliance of NDEQ regulations

*Amended 7-3-2012

5.28 MINIMUM YARD REQUIREMENTS:

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

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

Rear Yard: No limitations; unless abutting a R-1 Residential District then the

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

Side Yard: No limitations; unless abutting a R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.29 MAXIMUM HEIGHT: In accordance with Article 14.

5.210 PARKING & SIGN REQUIREMENTS: See Article 7.

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

5.3 AGR - AGRICULTURAL RESIDENTIAL DISTRICT

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

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

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.45.
2. Single family, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property;
3. Irrigation and flood control projects;
4. Public parks and recreational areas;
5. Community buildings and/or facilities owned and/or occupied by public agencies;
6. Public and/or private schools; and
7. Churches, places of worship, and cemeteries.

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

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

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

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Pre-school and child care centers;
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind generating systems;
7. Commercial kennels;
8. Public and private charitable institutions;
9. Greenhouses and nurseries;
10. Animal clinics, animal hospitals and veterinarian services;
11. Rural subdivisions with individual parcels may be reduced to one acre if they are in accordance with the Nebraska Environmental Quality - Title 124 and Department of Health and Human Services Regulations.

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

5.36 MINIMUM LOT REQUIREMENTS:

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

Single family dwellings Lot Size:

- A. 5 acres. Dwellings shall be adjacent to an improved all weather county road (above minimum maintenance road).
- C. Any farm residence existing as of August 7th, 2001, the date of the adoption of zoning in Kearney County, that has had continuous use as a farm residence to date of lot size exemption application, on a parcel of land that did not have a lot previously created and platted prior to August 7th, 2001, may apply for an exemption from the 5 acres minimum lot size under the following conditions
 - Farm residence shall not be less than one(1)acre in size
 - Site shall be sufficient enough in size to ensure compliance with the Nebraska Department of Environmental Quality standards and regulations.
To obtain this Zoning exception, an application for Lot Size Exemption must be filed prior to surveying the lot and verified with documents to confirm eligibility and shall be provided by applicant for approval by the Planning and Zoning Administrator.

Verifying documents shall include but not be limited to the following:

- Proof of farm residence lot size as use as of 2001
- Proof of continuous accommodations to support a family
- Proof of compliance of NDEQ regulations

*Amended 7-3-2012

5.37 MINIMUM YARD REQUIREMENTS:

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

2. Yard requirements:

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

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

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

5.38 MAXIMUM HEIGHT: In accordance with Article 14.

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

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

5.4 R-1 - RESIDENTIAL DISTRICT

5.41 INTENT: This district is intended for use in un-incorporated communities, the Villages of Norman and Heartwell, and residential developments in the county along hard surfaced roads to provide for low density residential uses consisting of single family and two-family detached dwelling units and accessory structures.

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

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

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

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

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purpose in the R-1 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics;
2. Mortuaries;
3. Child care center;
4. Museum and art galleries;
5. Nursing homes;
6. Public and private golf courses;
7. Retirement homes;
8. Bed and breakfast homes;
9. Multifamily dwellings.

5.45 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Residential District.

5.46 HEIGHT AND AREA REGULATIONS: The minimum area regulations shall be as follows:

1. General Requirements:

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

* Unless more regulated by state or federal authorities Height Regulations in accordance with Article 14.

2. There shall be a required front yard setback of twenty-five (25) feet on each street side of a corner lot;
3. Building on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages; and designate remaining yards as one rear and one side yard; and
4. The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one (1) hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

5.47 PARKING & SIGN REGULATIONS: Parking within the R-1 Residential Ordinance District shall be in conformance with the provisions of Article 7 of this ordinance.

5.48 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Section 8.7.

5.5 C - COMMERCIAL DISTRICT

5.51 INTENT: The 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 PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

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

5.53 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 special uses.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C Commercial District if a special use permit for such use has been obtained

in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna;
4. Recycling centers;
5. Campgrounds.
6. Small Wind Energy Systems.
7. Adult Entertainment Establishment

5.55 SCREENING REQUIREMENTS:

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

5.56 PROHIBITED USES:

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

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

General Requirements:

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

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

** Unless more regulated by state or federal authorities. Height Regulations in accordance with Article 14.

5.58 PARKING & SIGN REGULATIONS: Parking within the C Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

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

5.6 I - INDUSTRIAL

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. 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
40. Small Wind Energy Systems.

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

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

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include oil wells, sand and gravel extraction and strip mine operations and quarries; and
4. Airport.
5. Commercial/Utility Grade Wind Energy Systems.
6. Adult Entertainment Establishment

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

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

1. General Requirements:

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

* Unless more regulated by state or federal authorities.

5.67 PARKING & SIGN REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of these regulations.

5.68 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Section 8.7.

5.69 HEIGHT REGULATIONS IN ACCORDANCE WITH ARTICLE 14.

5.7 FS - FLEX SPACE DISTRICT

5.71 INTENT: This district is established to provide space for a range of commercial, office, light industrial, and production facilities. The Flex Space District is also intended to provide support uses, including complimentary office and retail use complementing the general land use pattern of the county and assisting the implementation of the adopted goals and policies of Kearney County.

5.72 PERMITTED USES.

The following principal uses are permitted in the FS District:

1. Commercial use.
 - a. Commercial uses include: gas stations, general retail, restaurants, malls, lodges, motels, farm equipment sales, automobile sales, seed dealerships.
2. Office buildings.
 - a. Office building uses include: medical, veterinary, professional, and service.
3. Technology Parks.
4. Public Schools and Community colleges, colleges, or other post-secondary education facilities.
5. Private schools.
6. Nonprofit religious, educational and philanthropic institutions.
7. Farming and the sale of farm produce.

5.73 SPECIAL USES.

The following uses are subject to any conditions listed in these regulations and are subject to other conditions relating to the placement of said use on a specific tract of ground in the FS District as recommended and approved by the Planning Commission:

1. Commercial uses, including shops, nightclubs, and commercial recreational activities.
2. Warehouse and distribution.
3. Storage facilities.
 - a. Self-storage and storage of recreational vehicles, automobiles, boats;
4. Truck stop facilities with complete truck services.
5. Trucking terminals.
6. Recreation Vehicle Park and campground.
7. Heliports and airports.
8. Production, manufacturing, assembly, processing, or transportation of goods and materials, **except**:
 - a. The refining, distillation, or manufacture of:
 - i. Acids or alcohols.
 - ii. Chemicals.
 - iii. Petroleum products.
 - iv. Cement, lime, gypsum, or plaster of paris.
 - v. Fertilizer.
 - b. The operation of:
 - i. Blast furnaces, coke ovens, smelting or ore reduction works.
 - ii. Boiler works.
 - iii. Forges.
 - iv. Rolling mills.
 - v. Yeast plants.
 - c. Production, manufacture, processing, or transportation of toxic, radioactive, flammable, or explosive materials.
 - d. Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl rendering fat; distillation of bones, coals, or wood.
 - e. Dumping or reduction of garbage, offal, or dead animals.
 - f. Mining, quarrying, stone willing, or rock crushing.
 - g. Extraction of sand, gravel, or soil.

h. Small Wind Energy Systems.

5.74 PERMITTED TEMPORARY USES:

Temporary Uses require a zoning permit from Kearney County and shall be valid only for a specific amount of time as indicated on said permit. All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two weeks per use, except as provided for hereafter.

1. Temporary greenhouses.
2. Temporary structures as needed for outdoor sales events.
3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
4. Temporary structure for festivals or commercial events.

5.75 PERMITTED ACCESSORY USES:

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking, Signs, and Landscaping.

5.76 HEIGHT AND LOT REQUIREMENTS:

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	7,500	100'	1	2	2	45'	70%
Permitted Special Uses	7,500	100'	1	2	2	45'	70%

1. There shall be a minimum front yard of not less than 75 feet from property line along a state highway and at least 75 feet from the road right-of-way along a county road.
2. The side yard shall be seven (7) feet and rear yard shall be twenty (20) feet where the lot line abuts other flex space, commercial or industrial district lot lines. In any instance where a side or rear lot line abuts a residential district, the minimum side yard shall be 15 feet and rear yard 20 feet. In addition, a landscape screen as defined in these regulations shall be provided. Such landscape screen shall be located no closer than ten feet to any residential structure.

5.77 USE LIMITATIONS:

1. When adjacent to residentially zoned land, no parking drives or signs shall be allowed in any required yard within 15 feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property.
2. A landscape buffer of at least 15 feet in depth shall be provided adjacent to the front property line along a highway or a road classified as an arterial. When a lot frontage abuts a road that is classified as a collector, county road, or private road, a landscape buffer at least ten feet in depth shall be provided at the front property line.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public road.

5.78 PERFORMANCE STANDARDS FOR INDUSTRIAL USES:

1. **Physical Appearance**
All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a road. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles

for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

2. **Fire hazard**

No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the Kearney County.

3. **Noise**

No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent road at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line or right-of-way line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

4. **Sewage and Liquid Wastes**

No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

5. **Air Contaminants**

a. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted

b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

c. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

6. **Gasses**

The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.

7. **Vibration**

All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zoning district.

8. **Glare and heat**

All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

5.79 PARKING & SIGN REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of these regulations.

5.710 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Section 8.7.

5.711 HEIGHT REGULATIONS IN ACCORDANCE WITH ARTICLE 14.

5.8 R-M - MOBILE HOME RESIDENTIAL DISTRICT

5.81 INTENT THE intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of Kearney County.

5.82 PERMITTED USES

The following principal uses are permitted in the R-M Mobile Home Residential District.

1. Mobile home dwellings.
2. Single family dwelling.
3. Public school.
4. Private and public park, playground and recreational facilities.
5. Church, educational facilities and parish house.
6. Multi-unit dwellings provided such use is part of a Clustered/Mixed Use District.

5.83 SPECIAL USES

The following uses are subject to any conditions listed in these regulations and are subject to conditions relating to the placement of said use on a specific tract of ground in the R-M Mobile Home Residential District

1. Buildings and uses customarily incidental to the permitted uses.
2. Mobile Home Park, subject to regulations in Sections 5.95 through 5.97 herein.
3. Nursery or daycare schools.
4. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
5. Sewage disposal and water supply and treatment facilities.
6. Campgrounds.
7. Public buildings not including schools, parks and recreation facilities.

5.84 ACCESSORY USES

The following accessory buildings and uses are permitted in the R-M District.

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

5.85 AREA AND LOT REQUIREMENTS

1. A mobile home park shall have an area of not less than five acres. No mobile homes or other structures shall be located less than 75 feet from the road right-of-way when contiguous to or having frontage to a County road and 120 feet from the right-of-way line when contiguous to or having frontage along a federal or state highway. The setbacks internally are listed below.
2. Open areas along entrances and contiguous to county road, federal highways, or state highways shall be landscaped.
3. The minimum lot width for a mobile home court shall be 200 feet.

4. Each lot provided for occupancy of a single mobile home shall meet the following minimum standards:

Uses	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
Permitted Uses	7,500	70 ¹	30	25	8	25	35
Special Uses	7,500	70 ¹	30	25	8	25	35
Accessory Uses	-	-	30	5	8	10	20

¹ When a lot is located on a cul-de-sac the minimum frontage shall be 45 feet at the property line.

5. There shall be a minimum livable floor area of 500 square feet in each mobile home.

5.86 COMMUNITY FACILITIES

1. Each lot shall have access to a hard surfaced private interior drive not less than 22 feet in width excluding parking.
2. Community water and community sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.
3. Service buildings including adequate laundry and drying facilities and toilet facilities for mobile homes which do not have these facilities within each unit.
4. Not less than 8% of the total court area shall be designated and used for park, playground, and recreational purposes.
5. Storm shelters shall be required and shall meet the following criteria:
 - a. Shelter space equivalent to two persons per mobile home lot,
 - b. Designed in conformance with “National Performance Criteria for Tornado Shelters” by FEMA and any other referenced material by FEMA,
 - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.

5.87 PLAN REQUIREMENTS

A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

5.88 OTHER APPLICABLE PROVISIONS

No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 75 feet from the R.O.W. of a County road.

5.89 PARKING & SIGN REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of these regulations.

5.810 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Section 8.7.

5.811 HEIGHT REGULATIONS IN ACCORDANCE WITH ARTICLE 14.

5.9 HIGHWAY CORRIDOR OVERLAY DISTRICT

5.91 INTENT: Kearney County has established basic site and building development criteria to be implemented within the boundaries of this overlay district. The Highway Corridor Overlay District has been established in order to implement the policies developed in the Comprehensive Development Plan. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and road development. The purpose for regulating these issues is to provide for a cohesive and properly developed corridors and entrance into the Kearney County from the north (Interstate-80). Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the county, by providing quality design and construction which will also aid in the protection of past and future investment in the corridor. The regulations in the overlay district are in addition to those of the underlying zoning district for the property.

5.92 PURPOSE:

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of Kearney County. Pertinent to appearance is the design of the site, building and structures, planting, signs, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the county, preserve taxable values, and promote the public health, safety and welfare.

5.93 GEOGRAPHIC AREA:

The Highway Corridor Overlay District extends generally 660 feet (1/8 mile) from the right-of-way line on either side of U.S. Highway 6 east and west of Minden, State Highway 44 north of Highway 6, State Highway 10 north of Minden and along Highway L50A between Highways 10 and 44; and outside the jurisdictions of the individual communities. Entrance nodes should also be recognized at the intersection of Highways 10 and L50A and near the intersection of Highways 44 and L50A. If a site is partially covered by said overlay district, then the entire portion of the site facing the Highway Corridor is to be covered by these regulations. For a graphically defined area, see the Official Zoning Map.

5.94 CRITERIA FOR APPLICATION:

1. All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section. This does not apply to farm buildings or single family dwellings.
2. All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar developments.

5.95 CRITERIA FOR APPEARANCE

1. Relationship of Buildings to Site.
The site shall be planned to accomplish a desirable transition with the roadway and to provide for adequate planting and parking areas.
 - a. Site planning in which setbacks and yards are in excess of standard commercial or industrial zoning restrictions is encouraged to provide an interesting relationship between buildings.
 - b. Parking areas shall be treated with building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways.

- c. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
 - d. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground where feasible.
2. Relationship of Buildings and Site to Adjoining Area (Outside Of Subdivision or developments).
- a. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
 - b. Attractive landscape transitions shall be designed to be compatible to adjoining properties.
 - c. Harmony in texture, lines, and masses is required. Monotony shall be avoided.
3. Landscape and Site Treatment.
Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.
- a. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
 - b. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
 - c. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
 - d. Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used.
 - e. Parking areas and road ways shall be enhanced with landscaped spaces containing trees or tree groupings.
 - f. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer.
 - g. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.
 - h. All fencing within this Overlay shall not exceed six (6) feet in height.
 - i. Fencing within the District and as part of an Industrial Development may be required to be a solid fence.
4. Building Design.
- a. Architectural design and style are not restricted, however architectural style should be consistent throughout the development and/or subdivision. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
 - b. Buildings shall have good scale and be in harmonious conformance with any permanent neighboring development.

- c. The primary building material of all portions of the structures shall be negotiated with the county, and include but not be limited to materials of high quality, such as brick (clay), stucco, wood, glass, split faced concrete masonry units (CMU) with integrated color pigmentation and stone material native to Nebraska. The materials shall be similar and compatible throughout the entire development. The county staff may allow other primary building designs (of good architectural character i.e. CMU, poured-in-place concrete, vinyl) for portions of the building not visible from public areas. Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
- d. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
- e. Materials shall be of durable quality.
- f. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
- g. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationships to one another.
- h. Colors shall be harmonious and shall use only compatible accents.
- i. Colors shall be of “low reflectance, subtle, neutral, or earth tones” and shall not be of high-intensity or metallic colors unless the colors are true to the materials beings used.
- j. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
- k. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.
- l. Refuse and waste removal areas, service yards, storage yards, loading areas, and exterior work areas shall be oriented to the rear of the building away from public right-of-way or properly screened from view from public ways, using materials as stated in criteria for equipment screening.
- m. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and sitting shall be used to provide visual interest. In multiple building projects, variable sitting of individual buildings may be used to prevent a monotonous appearance.
- n. Building orientation shall be toward the highway, unless it is demonstrated that this would not be feasible.

5. Factors for Evaluation.

The following factors and characteristics, which affect the appearance of a development, will govern the evaluation of a design submission:

- a. Conformance of regulations and the Building Design Criteria.
- b. Logic of design.
- c. Exterior space utilization.
- d. Architectural character.
- e. Attractiveness Material selection.
- f. Harmony and compatibility.
- g. Circulation-vehicular (and pedestrian).
- h. Maintenance aspects.

6. Process.
 - a. Pre-application Conference: A pre-application conference with county staff to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.
 - b. Design Review: Kearney County staff will review the submittal documents for compliance with regulations and intent of the overlay district.
 - c. Certificate of Occupancy Permit: After the zoning permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.
 - d. Maintenance of Design requirements: The Applicant needs to maintain the design requirements for the life of the project. In the event that they fail to do so the county may revoke the Occupancy Permit.

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL

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

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County or Village Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County or Village. 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 or Village Board, within thirty (30) days. Upon hearing, the County or Village Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County or Village 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 or Village 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 or Village Board, one time at least ten (10) days prior to such hearing. (Ref. 23-164 R.S. Neb.). Appeals of any County Board decision must be made within 15 days after the decision.

In addition to the publication of the notice herein prescribed, a notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County or Village Board, or Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas. Addresses will be obtained from the County Assessors Office.

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

1. Not be a matter which should require re-zoning of the property, and
2. Be compatible with the stated intended and permitted uses of the district, and
3. Not change the character of the district, and
4. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent to the parcel on the side and in the rear thereof extending one hundred

(100) feet, there from, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the governing Board.

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the Industrial zoning district under the following conditions:

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

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

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations as defined by Section 3.45 shall only be allowed by special permit in the AG-1 and RC under the following conditions:

1. Distance requirements: Any new or expanding livestock facilities/operation, as defined in Section 3.45, shall be 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, Commercial/Industrial/residences that are inside the minimum distance requirements of the LCF at the time of adoption of these regulations are exempt from the distance requirements for the LCF setback of that facility size.

Expansion of an existing livestock facility/operation is defined as such when capacity of the

facility is increased to the point where the total animal units is defined as a larger class. Expansion over the animal unit number as licensed by the Nebraska Department of Environmental Quality in a Confinement Facility D requires a special use permit. See minimum distance requirements in the following table.

MINIMUM DISTANCE REQUIREMENTS

	<u>Confinement Facility A</u>	<u>Confinement Facility B</u>	<u>Confinement Facility C</u>	<u>Confinement Facility D</u>
Total Animal Units Allowed (Section 3.45)	500 to 1,000	1,001 to 5,000	5,001 to 10,000	10,001 and Above
Minimum Distance Required	1 / 2 Mile	1 / 2 Mile	3 / 4 Mile	1 Mile

The Setback will be measured from the furthest protruding eve of the residence closest to the pen of the confined feeding operation.

2. Facility with a lagoon liquid waste management system located on a tract of land at least one-half (1/2) mile from any residence or commercial or industrial facility, or church or 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. However, the minimum distance may be increased as determined by the County. All lagoons existing inside the minimum distance requirements at the time of adoption of this regulation are exempt from the distance requirements.
3. Applicants must comply with all NDEQ, EPA and other licensing requirements after a special use permit is obtained.
4. Paunch waste disposal shall only be allowed in AG-1 District in conformance with a Special Use Permit process.
5. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health, safety and welfare of the residents of Kearney County.
6. All existing nonconforming structures and uses may be continued (are grandfathered) as long as they are lawful as of the date of this regulation and may be expanded through the special use permit.

6.5 ADULT ENTERTAINMENT ESTABLISHMENT

Adult Entertainment establishments as defined in Section 3.31.1 shall only be allowed by special permit in Commercial and Industrial zoning districts under the following conditions:

1. An Adult Entertainment Establishment shall not be located within 1,000 feet of any other Adult Entertainment Establishment, or within 1,000 feet of any residence, residential zoning, church, school, park or playground, educational or recreational building, or any other area where large numbers of individuals under the age of 18 regularly attend or congregate. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest

point on the property lines of applicant's premises to the nearest point on the property line of the residence, school, church, park or playground.

2. No adult entertainment establishment shall be open for business between the hours of 1 a.m. and 8:00 a.m.

3. The proposed location, design, construction, and operation of the particular use adequately safeguard the health, safety, and general welfare of persons residing or working in adjoining or surrounding property, and shall comply with all local, state, and federal regulations.

4. No adult entertainment business shall be conducted in any manner that permits the observation of models or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which is prohibited by this code or any laws of the state or the United States.

5. An adult entertainment business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This section shall not be construed to prohibit the owner from establishing an older age limitation for entering the premises.

6. Such use shall not diminish or impair established property values in adjoining or surrounding property.

7. Such use shall be in accord with the intent, purpose, and spirit of these Regulations and the Comprehensive Development Plan of Kearney County, Nebraska.

8. All off-street parking areas and buildings entries serving the adult entertainment business shall be illuminated during all hours of operation.

9. All interior portions of the adult entertainment business shall be illuminated during all hours of operation.

10. All indoor areas of an adult entertainment business within which patrons are permitted, except restrooms, shall be open to view by the management at all times. Individual viewing booths for public use in adult oriented businesses may be enclosed on three sides only and the open side shall be 100 percent open. The visibility of the inside of the booths shall not be obstructed. Not more than one person shall occupy any individual booth at one time.

11. Applications for adult entertainment businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.

12. Prohibited Activities of Adult Businesses are as follows:

- a. No adult business shall employ any person less than eighteen (18) years of age.
- b. No Adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
- c. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

ARTICLE 7

SUPPLEMENTAL REGULATIONS

7.1 PARKING

7.11 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Regulation shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Regulation shall be located on the same lots as the use it serves.
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.

7.12 OFF-STREET PARKING REQUIREMENTS

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

	<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1.	Residential Single family, two-family dwelling	1 per dwelling unit
2.	Mobile Home Trailer Park	1 per trailer unit
3.	Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4.	Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5.	Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, Adult entertainment establishment, etc.	1 per every four persons
6.	Bowling Alley	2 for each alley
7.	Retails sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8.	Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9.	Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.13 OFF-STREET LOADING REQUIREMENTS

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

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

7.2 SIGNS

7.21 SIGNS, GENERAL

1. All signs and sign structures shall be kept in good repair and in proper state of presentation. Signs which are abandoned shall be removed within 30 days following abandonment and restored to a condition free from refuse and rubbish.
2. Flashing, animated, neon, digital, video, mechanical, and mobile signs shall be prohibited, except for time, date, temperature, or weather signs. However, they may be allowed only upon approval of the County Board, provided it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles.
3. If any non-conforming sign is damaged and the damage exceeds two-thirds of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance of nonconforming signs.
4. Any Commercial or Industrial District may be allowed on-premise and advertising structures related to the activity conducted on the premises, but no sign area shall exceed 12 feet in the vertical direction or 50 feet in the horizontal direction and not exceed 30 feet in height and not be spaced closer than 1,000 feet.

7.22 SIGNS, STANDARD OF MEASUREMENT

1. The total area of all signs permitted on a lot shall include:
 - a. The total area of the faces of all permanent exterior signs visible from a public way, plus
 - b. The area of permanent signs placed upon the surface of windows and doors, plus
 - c. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
2. A building or use having frontage on a second street/road may include 20% of the length of the lot facing the second street/road.

7.23 SIGNS, TYPE

1. Real Estate: Not more than two signs per lot may be used as a temporary sign no larger than six square feet (except, "AG-1" or "RC" may be up to 32 square feet and setback a minimum of five feet from the R.O.W.) and set back 20 feet from the road right of way or road easement boundary. In no case shall these signs obstruct the visibility at any intersection or driveway.
2. Business: Small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.

3. Wall: A sign or sign flat against a building wall when appertaining to a nonconforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.
4. Name plate: One nameplate not exceeding two square feet for each dwelling.
5. Billboard: Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
 - a. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 - b. No billboard, signboard, or similar advertising signs shall be located within 100 feet of any lot in a residential district.
 - c. No billboard, signboard, or similar advertising signs shall exceed 500 square feet in area.
 - d. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property and not within 1,000 feet to another billboard.
6. Low Profile or Ground: Ground signs at least five feet from any lot line with a maximum height of six feet.
7. Projecting or Pole: One free standing or projecting sign for each enterprise on the premises of not more than 100 square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceed the maximum height from the established grade level for said Zoning District. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.
8. Subdivision: Not more than one sign per entrance into the subdivision. No sign shall be greater than 50 square feet in size and shall not be higher than 42 inches in height. All signs shall have a six foot height maximum.
9. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

7.24 SIGN SCHEDULE

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

Zoning District	AG-1	RC	AGR	R-1	R-M	C	FS	I
Sign Type								
Real Estate	+	+	+	+	+	+	+	+
Business	+	+	+	-	-	+	+	+
Wall	+	+	+	-	-	+	+	+
Name Plate	+	+	+	+	+	+	+	+
Billboard	-	-	-	-	-	+	+	+
Subdivision	-	-	S	S	S	S	+	+
Projecting	-	-	-	-	-	+	+	+
Pole	-	-	-	-	-	+	+	+
Ground or Low Profile	+	+	+	+	+	+	+	+
+ Permitted - Prohibited S Special Use Permit required								

7.25 SIGN PERMITS

All signs, except Real Estate signs advertising the sale of property where the sign is located and up to one business sign for the authorized business being conducted on the property where the sign is located, shall require a building permit from the Zoning Administrator prior to installing any new sign. Election signs shall be exempt so long as they do not interfere with the safety and well being of the public.

7.3 WIND ENERGY SYSTEMS

7.31 SMALL WIND ENERGY SYSTEMS

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.

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

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

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

1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Noise
 - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
3. Approved Wind Turbines
 - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
4. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
 - c. Wet stamps shall not be required.
5. Compliance with FAA Regulations
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
6. Compliance with National Electrical Code
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The manufacturer frequently supplies this analysis.
7. Utility Notification
 - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - b. Off-grid systems shall be exempt from this requirement.
8. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
9. All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	
River Bluffs		

* 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.

7.32 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS

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

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

1. **AGGREGATE PROJECT** shall mean projects that are developed and operated in a coordinated fashion, but which have 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.
2. **COMMERCIAL WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. **HUB HEIGHT** shall mean the distance from ground level as measured to the centerline of the rotor.
4. **FALL ZONE** shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.
5. **FEEDER LINE** shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
6. **METEOROLOGICAL TOWER** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
7. **PROPERTY LINE** shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.
8. **PUBLIC CONSERVATION LANDS** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not

limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

9. **ROTOR DIAMETER** shall mean the diameter of the circle described by the moving rotor blades.
10. **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.
11. **SUBSTATIONS** shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.
12. **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.
13. **TOWER** shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.
14. **TOWER HEIGHT** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
15. **TRANSMISSION LINE** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
16. **WIND ENERGY CONVERSION SYSTEM** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
17. **WIND TURBINES** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

Requirements: Commercial/Utility Grade wind energy systems shall be permitted as a Special Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Certification by an Engineer competent in disciplines of WEC's.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.

11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
14. Evidence that there will be no inference with any commercial and/or public safety communication towers.
15. Decommissioning Plan is required by this regulation.

Aggregated Projects:

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

Setbacks:

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	600 feet	600 feet
Wetlands, USFW Types III, IV, and V	600 feet	600 feet
Other structures and cemeteries adjacent to the applicant's sites	One times the tower height.	One times the tower height.
Other existing WECS not owned by the applicant.	6,000 lineal feet	
River Bluffs	1,320 feet	

* 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.

Special Safety and Design Standards: All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.

5. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
7. Other signage: All other signage shall comply with the sign regulations found in these regulations.
8. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
9. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
10. Discontinuation and Decommissioning:
 - a. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.
 - b. Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
11. Noise: No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use occupied by humans.
12. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.
13. Roads: Applicants shall:
 - a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
 - c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
14. Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

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.

Accessory buildings shall not occupy more than thirty (30) percent of the required area for the rear yard. Any accessory building shall have a minimum setback of three (3) feet and all garage entrances must have ten (10) feet from the access street or alley. Attached garages are considered part of principal building.

8.2 HOME OCCUPATIONS

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

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

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

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

8.4 YARD REGULATIONS:

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

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

Where forty (40) percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the

required, new buildings shall not be erected closer to the street than the nearest building on the block.

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

8.5 **EXCEPTIONS TO HEIGHT REGULATIONS:** The height limitations contained in the permissible heights for the various district regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

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

8.7 **RURAL RIGHT-OF-WAYS:** All buildings and sight impairing or “solid” fences, walls and hedges shall have a minimum set back of twenty-five (25) feet measured from rural right-of-ways. Furthermore, all buildings, fences, walls, retaining walls, diversions, walkway structures or planting of trees, shrubbery, or similar uses are prohibited within the right-of-ways of rural roads or state and federal highways. Planting of shelter belts shall have a minimum set back of thirty (30) feet measured from the rural or highway right-of-way (front lot line or property line).

ARTICLE 9

COUNTY/VILLAGE BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

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

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

Said Board shall consist of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one (1) of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

The Board of Trustees of each Village can serve as the Village Board of Zoning Adjustment.

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 or Village Clerk and shall be a public record.

9.3 INTERPRETATIONS AND VARIANCES

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

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution/ordinance, 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 author-

ized 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.

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.

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

9.4 PROCEDURES FOR REQUESTING A VARIANCE

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

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any county officer or department. The appeal filed in writing shall define the appeal being requested and the grounds 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.

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

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the County, may seek review of such decision by the district court for the County in the manner provided by the laws of the State and particularly by Section 23-168.04 within 15 days of when the minutes are filed with the County Clerk.

ARTICLE 10

ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

10.1 ENFORCEMENT

10.11 ZONING ADMINISTRATOR.

These regulations 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 when compliance is made with these regulations.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
3. Receive, file and forward to the County or Village Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Resolution/ordinances 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/ordinances and amendments thereto, including all amendments adopted through the preceding twelve (12) months; and
 - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding twelve (12) months.
6. Whenever the Zoning Administrator shall find that any of the provisions of these regulations 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 these regulations 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 these regulations and with all other applicable codes, regulations and laws of Kearney 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 these regulations.

10.23 APPROVAL OR DISAPPROVAL OF PERMIT.

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

10.24 APPEALS 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 Planning Commission hears the application.

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

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

10.4 SCHEDULE OF FEES

10.41 The schedule of fees shall be established for this Zoning Resolution/ordinances 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 or Village Board may from time to time supplement, change or generally revise the boundaries or regulations contained in these regulations amendment. A proposal for such amendment may be initiated by the County or Village Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the County or Village 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 these regulations, 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/ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half ($\frac{1}{2}$) 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 or Village Board, if it approves such recommendation, may either adopt such recommendation by resolution/ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County or Village Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County or Village 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/ordinance 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/ordinance incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County or Village Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County or Village Board.

ARTICLE 12

COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of these regulations 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 these regulations.

12.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of these regulations 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 V misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

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

12.3 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of these regulations the appropriate authorities of the County or Village 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 these regulations be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of these regulations 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 these regulations.

13.3 REPEAL OF CONFLICTING RESOLUTION/ORDINANCES

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

13.4 EFFECT DATE

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

ARTICLE 14

KEARNEY COUNTY AIRPORT ZONING REGULATIONS

14.1 LOCATION, BOUNDARIES, ZONES AND HEIGHT RESTRICTIONS.

SUBDIVISION 1. HAZARD AREA DESCRIPTION.

The Hazard Area consists of Operation Zones, Approach Zones Turning Zones and Transition Zones. The outer boundary of the Hazard Area is a horizontal distance of three (3) statute miles from the existing airport property line.

SUBDIVISION 2. ZONING DESCRIPTIONS

- A. The Operation Zone is longitudinally centered on each existing runway.
 - 1. Length. For paved runways, the operations zone begins and ends 200 feet beyond each runway end. For turf runways, the operation zone begins and ends at the runway ends.
 - 2. Width. For instrument runways, the operation zone is 1,000 feet wide. For all other runways, the operation zone is 500 feet wide.
 - 3. Height. The height of the operation zone is the same as the height of the runway or surface of the ground.
- B. The Approach Zone extends from the end of each operation zone and is centered along the extended runway centerline. The zones' dimensions are:
 - 1. Visual Runways
 - a. Length and Width. The approach zone extends 6,000 feet from the operation zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end nearest the runway and 1,700 feet wide at the far end.
 - b. Height. The approach zone begins at the elevation of the operation zone and rises one (1) foot vertically for every 40 feet horizontally (40:1). Thus, the elevation of the far end is 150 feet above the operations zone.
- C. The Transition Zones extends outward at right angles to the runway centerline and upward at a rate of one (1) foot vertically for every seven (7) feet horizontally (7:1). This zone begins at the edge of the Operation Zones and the Approach Zones. This zone ends when it reaches a height of 150 feet above the airport elevation.
- D. The Turning Zone is all portions of the Hazard Area not contained in the Operation Zones, Approach Zones, or Transition Zones. The outer limits of the Turning Zones shall be a horizontal distance of three (3) statute miles the existing property line. The Turning Zone has a height limit of 150 feet.

SUBDIVISION 3. HEIGHT RESTRICTION.

No building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object or natural growth be allowed to grow, above the height described in above in Subdivision 2.

14.2 LOCATION SKETCH AND ZONING MAP.

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Zoning Map that accompanies and is hereby made a part of these regulations. A copy of the zoning shall at all times be on file in the office of the Kearney County Planning Commission, Kearney County, Nebraska.

14.3 PERMIT REQUIRED AND EXCEPTIONS.

Kearney County, Norman & Heartwell Zoning Regulations – Amended 2009

SUBDIVISION 1. PERMIT REQUIRED.

It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires or any other structure or appurtenance within the Hazard Area without first obtaining a “permit” from the Administrative Agency. It shall also be unlawful to plant or replant any tree or other Object of natural growth without the necessary “permit”.

SUBDIVISION 2. EXCEPTION.

Within the Turning Zones, no permit shall be required for any construction or Planting that is not higher than seventy-five (75) feet above the airport elevation.

SUBDIVISION 3. DECOMMISSION CLAUSE

Permit will have a decommission clause established for removal and cleanup of Non-use or abandoned structure.

14.4 NON-CONFORMING STRUCTURES

Within the hazard area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow to a height above the heights permitted by these regulations, if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80 percent or more of their original condition, or abandoned for a period of twelve months or more. Transmission lines and communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.

14.5 MARKING OF NON-CONFORMING STRUCTURES.

Whenever the Administrative Agency determines that a specific structure or object exceeds the height restrictions and existed prior to the enactment of these regulations, the owner (s) and the lessor(s) of the premises on which the structure of object is located shall be notified in writing by the Administrative Agency. The owner (s) and lessor (s) shall within one year of the adoption of this regulation, have marking and lighting of the structure or object. The Administrative Agency shall specify the required marking and lighting, based on the recommendations of the Nebraska Department of Aeronautics. The cost of marking or lighting shall not be assessed against the owner or lessor of said premise.

SUBDIVISION 1. LIGHTING.

Red flashing lights during nighttime and strobes during daylight hours, on all Structures 75 ft. AGL (Above Ground Level) or higher, no exceptions.

14.6 STRUCTURE LOCATIONS.

- A. Encourage the use or co-use of existing structure when possible.
 - 1. Provide letter of denial for use of existing structures.
- B. Encourage structure locations into patterns or corridors when possible.

14.7 PRIVATE AIRPORT PROTECTION.

The Kearney County Airport Zoning Commission suggest that these guidelines be put in the place to protect private airports in Kearney County Nebraska that are “registered” with the Nebraska Department of Aeronautics.

14.8 VARIANCES

Variations for the land owner or owners and others for the established requirements can be obtained from the County Board of Adjustment for approval.