

Rev.04/09

Rev.12/19

Rev.6/22

**CEDAR COUNTY, NEBRASKA
ZONING REGULATIONS
RESOLUTION NO. 0009**

ZONING REGULATIONS RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT AND BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARD, COURTS AND OTHER PLACES SURROUNDING THEM; DIVIDING THE COUNTY INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING A MAP OF THE COUNTY SHOWING BOUNDARIES OF DISTRICT AND CLASSIFICATION OF SUCH DISTRICTS; DEFINING CERTAIN OF THE TERMS USED IN SAID REGULATIONS; ESTABLISHING AN APPEALS BOARD; PROVIDING FOR CHANGES AND AMENDMENTS TO SAID REGULATIONS; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS AND REPEALING THE ORIGINAL ZONING RESOLUTION AND AMENDMENTS THERETO.

BE IT RESOLVED by the Governing Body that:

TITLE

SECTION 1. These Regulations shall be known and may be cited as the Zoning Regulations of Cedar County, Nebraska.

INTERPRETATION AND SCOPE

SECTION 1. INTERPRETATION. In the interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Where this regulation imposes a greater restriction upon land, buildings, or structures than is imposed or required by existing provisions of law, contract or deed, the provisions of this regulation shall control.

SECTION 2. SCOPE. These Regulations shall apply to existing uses of buildings and agricultural purposes in accordance with the following State Statutes.

23-173.01. The use of a building, structure, or land existing and lawful at the time of the enactment of a zoning regulation, or at the time of an amendment of regulation, may, except as provided in this section, be continued, although such use does not conform with the provisions of such regulation or amendment, and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. If such nonconforming use is in fact discontinued for a period of twelve (12) months, such right to the nonconforming use shall be forfeited and any future use of the building and premises shall conform to the regulation. The county board may provide in any zoning regulation for the restoration, reconstruction, extension, or substitution or nonconforming uses upon such terms and conditions as may be set forth in the zoning resolution. The county board may, in any zoning regulation, provided for the termination of

nonconforming uses, either by specifying the period or periods in which nonconforming uses shall be required to cease, or providing a formula by which the compulsory termination of nonconforming use may be so fixed as to allow for the recovery or amortization of the investment in the nonconformance.

The Governing Board may approve an extension of the said 12- month deadline upon application of the property owner.

RULES AND DEFINITIONS

SECTION 1. RULES. For the purpose of this Zoning Regulation, the following rules shall apply.

1. Words and numbers used singularly shall include the plural and the plural shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, trustee, receiver, agent or other representative.
3. The word "shall" is mandatory.
4. The word "use", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.

SECTION 2. DEFINITIONS. For the purpose of this Zoning Regulation, certain terms or words used herein will be interpreted or defined as follows, unless the context clearly indicated otherwise.

1. ACCESSORY USE OR BUILDING: A Subordinate building, structure or use that customarily is incidental to and detached from that of the main building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, garages, garden houses, children's play houses, barbecue ovens or grills, covered patios and residential storage sheds.
2. AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES. Agricultural and farm buildings and structures shall mean any building or structure that is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
3. AGRICULTURE: Agriculture shall mean the use of a tract of land for the growing of crops, pasturage, nursery, or the raising of poultry, including the structures necessary for carrying out farming operations, the residence or residences of those owning or operating the premises, a member of the family thereof, or persons employed thereon, and the family thereof, but such use shall not include feedlots. The raising and feeding of livestock and poultry shall be an agricultural or farming venture if the area in which the livestock or poultry is kept is twenty (20) acres or more in area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops and not a "feedlot" as defined herein. (Also see Farm).
4. AGRICULTURAL OPERATIONS: Farmsteads of forty acres or more that produce one thousand dollars (\$1,000.00) or more of farm products each year.
5. ALTERATION: Alteration as applied to a building or structure, is a change or rearrangement

in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered as an alteration.

6. ANIMALS, FARM: Animals, farm shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.
7. BOARD: The Board of Adjustment created by the governing body having jurisdiction that has the statutory authority to hear and determine appeals, exceptions and variances to the zoning regulations.
8. BASEMENT. That portion of a building having more that one-half (1/2) of its height below grade.
9. BEST POSSIBLE MANAGEMENT PRACTICES: Best possible management practices shall mean livestock management techniques and practices as set forth by various agencies, including the Nebraska Department of Environmental Quality, that encourage and protect the environment and public.
10. BUILDING: Any structure designed or intended for the enclosure, shelter or protection or persons, animals, or property.
11. BUILDING HEIGHT: The vertical dimensions measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of the mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.
12. COMMERCIAL FEEDING OPERATIONS: See Livestock Feeding Operations.
13. COMMON OPEN SPACE: An area of land or water or combination thereof planned for passive or active recreations, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
14. CONDITIONAL USE PERMIT: A special use permit is a written permit issued by the Zoning Administrator with the written authorization of the Governing Body. The special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations.
15. DISTRICT: A section or sections of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards and the intensity of use are uniform.
16. DOG: Any canine specie over twelve (12) months of age.
17. DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes, excluding mobile homes.

18. DWELLING, SINGLE-FAMILY: A building having accommodations for or occupied exclusively by one family, excluding mobile homes.
19. DWELLING, TWO-FAMILY: A building having accommodations for or occupied exclusively by two (2) families independently.
20. FARM: shall mean an are containing at least forty (40) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals up to 300 animal units as defined in these regulations
21. FAMILY: One or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, fraternity, or sorority house, club, lodging house, hotel or motel.
22. FORTY ACRE TRACT: Shall mean a governmental subdivision forty (40) acre tract also commonly called a quarter/quarter of a section.
23. GOVERNING BODY: That Body having jurisdiction in the zoning area.
24. HOME OCCUPATIONS: Home occupation shall mean an occupation, profession, activity, or use that is clearly an incidental and secondary use of a residential dwelling unit, carried on by a member or members of the family who occupy the dwelling for living purposes, which does not alter the exterior of the property or affect the residential character of the neighborhood.
25. JUNKYARD: Any area where waste is discarded or salvaged, bought, stored, sold, exchanged, baled, or packed, disassembled or handled including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house-wrecking yards, used lumber storage, inoperable vehicle storage, and places or yards or entirely within a completely enclosed building, nor inoperable farm machinery used with the farming operation.
26. KENNEL BOARDING: Any place, area, building or structures where dogs (including those under one year of age) are boarded, housed, cared for, feed or trained by other that the owner.
27. KENNEL BREEDER: Any place, area, building or structure where more that one dog is kept for purposes of breeding or raising for a fee.
28. LAGOON: Lagoon shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of waste by anaerobic, aerobic or facultative digestion.
29. LIQUID MANURE: Liquid Manure shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons that can be sprayed or injected beneath the surface; provided however, only liquid manure collected in lagoons may be applied by a center

pivot or tow-line irrigation systems. (See definition of Lagoon).

30. LIQUID MANURE STORAGE PITS: Liquid manure storage pits shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production. In no event shall liquid manure that is stored or collected in a Liquid Manure Storage Pit be applied through the use of a center pivot or tow-line irrigation system (See definition of Liquid Manure and Lagoon).
31. LIVESTOCK: (See Animals, Farm).
32. LIVESTOCK FEEDING OPERATION (LFO): Livestock feeding operations shall mean the feeding, farrowing or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where no crops are grown and harvested in any one calendar year. Livestock feeding operations can be one of two types, either (a) open air containment where the animals are not contained in a thermostatically controlled environment or (b) environmentally controlled housing where the animals are contained in a thermostatically controlled environment. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds and related facilities. They shall construct and operate such facilities in conformance with applicable county, state and federal regulations. Two (2) or more LFO's under common ownerships are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock wastes. Animal units (AU) are defined as follows:
- | | |
|----------------|--|
| One (1) A.U. = | One (1) Slaughter, Feeder Cattle; |
| One (1) A.U. = | One Half (.5) Horses; |
| One (1) A.U. = | Seven Tenths (.7) Mature Dairy Cattle; |
| One (1) A.U. = | Two and One Half (2.5) Swine (55 pounds or more); |
| One (1) A.U. = | Twenty Five (25) Weaned Pigs (less than 55 pounds) |
| One (1) A.U. = | Ten (10) Sheep; |
| One (1) A.U. = | One hundred (100) Chickens); |
| One (1) A.U. = | Fifty (50) Turkeys; |
| One (1) A.U. = | Fifty (50) Ducks. |
33. LIVESTOCK WASTES: Livestock wastes shall mean animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, was and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct products.

34. LOT: A parcel of land occupied or intended for occupancy by one main building or a complex of buildings with the accessory structure and including the open spaces and parking required by this regulation, which may include more than one lot of record or meets and bounds described tract having its principal frontage upon a public street or officially approved place.
35. LOT OF RECORD: A lot that is a part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds or a lot described by meets and bounds, the description of which has been recorded in the Office of the Register of Deeds prior to the effective date of zoning.
36. MANUFACTURED HOME: A factory-built structure that 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, which bears a label certifying that it was built according to standards promulgated by the United States Department of Housing and Urban Development.
37. MOBILE HOME: Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks, blocks, horses, shirting or a permanent or temporary foundation or any prefabricated structure that has been or reasonably can be equipped with wheels or other device for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include a trailer home and camp car. Both the definitions shall not apply to any vehicle lawfully operated upon fixed rails.

PERMANENTLY ATTACHED: Attached to real estate enough to require dismantling, cutting away, unbolting from permanent foundation or structural change in such mobile home to relocate it on another site.

PERMANENT FOUNDATION: Base on which building rests to be constructed from either poured concrete or a laid masonry block or brick on a footing to be placed a minimum of 30" below the final ground level.

MODULAR HOME OR MANUFACTURED HOUSING UNIT: (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes moved onto a site in essentially complete constructed conditions, in one or more parts and when completed is a single family unit on a permanent foundation, attached to the foundations with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943. (1976 Supp.) Residential structures that do not meet the above criteria shall be considered a mobile home.

38. MOBILE HOME PARK: Any area, piece, parcel, tract, or plot of ground, equipped as required for support of mobile homes and cabin trailer and offered for use by the owner or

representative for mobile home park purposes and/or ground upon which two or more mobile homes are parked, whether for compensation or not, including all accessory uses thereof. The term mobile home park does not include sales on which unoccupied mobile homes are parked for purposes of inspection and sale.

39. NONCONFORMING STRUCTURE: A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.
40. PUBLIC UTILITY: Any business that furnishes the public (a) telephone service, (b) telegraph service, (c) electricity, (d) natural gas (e) water and sewer, (f) any other business so affecting the public interest as to be subject to the supervision or regulation by any agency of the State.
41. SERVICE STATION: A service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without buildings shall also be included, such service shall not include tire recapping, body repairs or major overhead.
42. SIGN: Any device that shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature or, an advertisement or announcement that directs attention to an object, product, place, activity, person, institution, organization or business but shall not include any display of official notice of official flag.
43. STORY: That portion of a building, other than a basement, included between the surface of any floor and the surface or the floor next above it or if there is no floor above it, then the space between the floor and the ceiling next above it.
44. STREET: A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.
45. STREET LINE: A dividing line between a lot, tract or parcel of land and the contiguous street.
46. 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, driveways and surfacing or public items such as utility poles, street light fixtures and street signs.
47. STRUCTURAL ALTERATION: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders or any complete rebuilding of the roof or the exterior walls.
48. TRAILER: (See Mobile Home).
49. YARD: A space on the same lot with a main building, open, unoccupied, and unobstructed by buildings or structures from the ground upward.

50. YARD, FRONT: A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and building setback line.
51. YARD, REAR: A yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.
52. YARD, SIDE: A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the side yard shall be measured horizontally, between the side lot line and the furthest architectural projection of the structure.
53. ZONE OR DISTRICT: A section of the Zoning Area of which uniform regulation governing the use, height, area, size and intensity of this use of buildings, land and open spaces about buildings are herein established.
54. ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Governing body having jurisdiction to administer the requirements of these zoning regulations.
55. ZONING AREA: The area to be zoned as set out on the Official Zoning Map filed of record.
56. ZONING REGULATIONS: The term zoning regulations or this or these regulations shall mean requirements stipulated in the regulations herewith attached.

SECTION 3. OTHER WORDS AND TERMS. Words or terms not herein defined shall have their ordinary meaning in relation to the context.

APPLICATION OF DISTRICT REGULATIONS

SECTION 1. MINIMUM REGULATIONS. The regulations set by these regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure or land shall hereafter be used or occupied and no building or structure of part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
 - a. to exceed the height or bulk;
 - b. to accommodate or house a greater number of families;
 - c. to occupy a greater percentage of lot area;
 - d. to have a narrower or smaller rear yard, front yard, side yard, or other open spaces than herein required, or in any other manner contrary to the provisions of these regulations.
3. Every building hereafter erected or structurally altered shall be located on a lot and no more than one residential building shall be located on a lot, except as provided herein.

“A-1” AGRICULTURAL - INTENSIVE DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The A-1 Agricultural District regulations are intended to provide for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses: to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization; to provide for the location and govern the establishment and operation of land uses which are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable; to provide for the location and govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to our conflict with other uses which are named as permitted or conditional uses in this district and are appropriate to other property in the area. The nature of the A-1 District and the uses allowed out right or by conditional use precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the A-1 District regulations afford such services, amenities and protection to residential; uses located therein.

SECTION 2. PERMITTED PRINCIPAL USES. The following principal uses are permitted in the Agriculture A-1 District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residence of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - A. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - B. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations.
2. New single family dwellings on lots of eighty (80) acres or more. Existing farmstead with habitable dwelling on lots of no less than twenty (20) acres.
3. Utility substation, pumping stations, water reservoir and telephone exchange.
4. Public parks and recreation areas, playgrounds, community centers, forest and conservation areas, private non-commercial recreation areas including country clubs, swimming pools and golf courses but not including commercial miniature golf, golf driving ranges, motorized cart tracks.

Provided, however, no residence or LFO is permitted within 200 yards of any public hunting area in the A-1 District. Also, no residence, LFO, or water well is permitted within 1,000 feet of any existing public supply well.

SECTION 2. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary:

1. New single-family dwellings on lots no less than forty (40) acres, provided the Intensity of Use and all other requirements of this district are met. Existing farmstead with habitable dwelling on lots of no less than five (5) acres, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road unless by a conditional use permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit.
2. Privately owned parks, playgrounds, golf courses, dude ranches, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges. All uses requiring buildings or structures shall conform to the flood plain regulations.
3. Privately owned cabins and sectional dwellings subject to the flood plain regulations and subdivision regulations.
4. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirement of the Supplementary District Regulations.
5. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.
6. Radio and television towers and transmitters, and commercial signs.
7. Airports.
8. Cemetery.
9. Community sewage disposal facilities.
10. Church, seminary and convents.
11. Public and parochial school.
12. Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than one thousand (1000) feet to a municipal well and/or one (1) mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution.
13. Lawn and Garden Nurseries.
14. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and operated on the

premises.

15. Commercial Kennels and facilities for raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
16. The spreading or stockpiling of sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
17. Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Cedar County Comprehensive Plan.

The following minimum sanitation and odor practices, and those imposed by the Planning Commission and/or County Board of Supervisors in considering the health, safety, and general welfare of the public, including such items as property values, dust, lighting, disposal of waste and dead livestock. The Conditional Use Permit shall be approved after public notice has been given and public hearing conducted as required by law.

- A. Livestock Feeding Operation (LFO) will be classified by type as either open air containment or as environmentally controlled housing and by size in one of five levels according to total number of animal units (A.U.) in the operation at any one time. Levels will include 0-299 animal units; 300-999 animal units; 1,000-3,499 animal units; 3,500-7,499 animal units; and 7,500+ animal units. LFOs which have more than one type feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation.

All existing LFOs that expand within their designated level, as outlined below, shall not require a conditional use permit. All new LFOs and those expanding to the next level shall require a Conditional Use Permit and shall be located as set out on the following grid:

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Size of New or Expanded LFO in AU	Setback Distances in Miles from Existing Residences and LFO's					
	Residence	25 to 299 AU	300 to 999 AU	1,000 to 3,499 AU	3,500 to 7,499 AU	7,500+ AU
25 to 299 AU ECH	1/4	1/4	1/4	3/8	3/8	1/2
25 to 299 AU Open	1/4	1/4	1/4	3/8	3/8	1/2
300 to 999 AU ECH	1/2	1/2	1/2	5/8	3/4	7/8
300 to 999 AU Open	3/8	3/8	3/8	3/8	1/2	3/4
1,000 to 3,499 AU ECH	3/4	3/4	3/4	7/8	1 1/8	1 3/8
1,000 to 3,499 AU Open	5/8	5/8	5/8	3/4	7/8	1
3,500 to 7,499 AU ECH	1 1/8	1 1/8	1 1/8	1 1/4	1 1/2	1 7/8
3,500 to 7,499 AU Open	1	1	1	1	1 1/4	1 1/2
7,500+ ECH	1 1/4	1 1/4	1 3/8	1 5/8	1 7/8	2 1/2
7,500+ Open	1	1	1	1 1/4	1 1/2	2

- (1) The distance requirements may be decreased or waived by a waiver signed by

all of the property owners of non-farm residence or other residence not on the owner's property or LFOs within the distances specified. The property owners shall sign a waiver on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public and filed in the office of the Cedar County Clerk/Register of Deeds. The waiver, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described hereof. Provided, however, waivers involving LFO's of 3,500 AU or more must also be approved by the Planning Commission.

- (2) LFOs having up to 1,000 animal units shall locate 2,640 feet from a platted residential area and LFOs having more than 1,000 animal units shall locate at least one (1) mile from a platted residential area.
- B. Conditional Use Permits shall be approved by the Planning Commission and County Board of Supervisors based upon a proposed site plan and conditions or requirements pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (DEQ) or any other applicable State Agency. The applicant shall file a copy of his/her Operation and Maintenance Plan and Manure Management Plan as filed with the DEQ with the Zoning Administrator, and shall also file a copy of all approved DEQ plans and permits with the Zoning Administrator within thirty (30) days after they are issued by the DEQ.
- C. All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.
- D. In no event shall any manure storage unit or system be constructed in a Flood Plain (as delineated on the Federal Emergency Management Agency's Flood Plain map as adopted by Cedar County) or where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in designated Floodway and flooded areas of standing water shall be prohibited.

SECTION 3. ACCESSORY USES. The following accessory buildings and uses are permitted in the A-1 District.

1. Building and uses customarily incidental to the permitted and conditional uses.
2. Home occupation.
3. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

SECTION 4. LOT REQUIREMENTS AND INTENSITY OF USE. The minimum lot requirements shall be as follows:

1. Minimum Lot Area:
 - A. New single family dwellings - Eighty (80) acres as permitted use including road R.O.W. and forty (40) acres as conditional use including road R.O.W., except as herein exempted or on non-conforming lots of record. (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)
 - B. All other permitted and special uses - No minimum except setbacks and sanitation requirements, or as designated in a Conditional Use Permit.

2. Exemptions:
 - A. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to the agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - B. Existing Farmsteads with single-family dwellings at the time of adoption of these Regulations may be on lots less than forty (40) acres if the lot is a lot of record as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than five (5) acres in area.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these Regulations.

3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
 - A. Minimum lot widths shall be as follows:

Single Family Dwellings	200 feet
Other Permitted Uses	200 feet

 - B. Minimum front yards shall be as follows:

Single Family Dwellings	30 feet
Other Permitted Uses	30 feet

 - C. Minimum side and rear yards shall be as follows:

Single Family Dwellings	Side/15 feet, Rear/25 feet
Other Permitted Uses	Side/15 feet, Rear/25 feet

- D. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway and one hundred thirty-three (133) feet from the road centerlines when such yards are contiguous to intersection of a County road or state highway.
- E. Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.

SECTION 5. SUPPLEMENTARY REGULATIONS.

New non-Farm residences, as defined in these Regulations, shall be located no closer to existing LFO's than the setback distances for LFO's from existing residences on the matrix set out above.

“A-1(a)” AGRICULTURAL - INTENSIVE DISTRICT

Ss 2. CONDITIONAL USES-RURAL AGRICULTURAL REAL PROPERTY.

The Governing Body may pursuant to Ss 23-144RRS etc. Etc, authorize and issue a conditional use permit subject to such conditions as the Governing Body deems just and necessary in the circumstances. The Governing Body, on application for a conditional use permit, shall consider the following standard in deciding whether or not to grant an exception to the general rule:

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The A-1(a) Agricultural District regulations have

1. Traditional rule. A conditional use permit may be granted by the Governing Body to persons making application to construct dwellings on a five (5) acre plot rather than the presently mandated forty (40) acre requirement. As a condition precedent to a granting of the conditional use permit, the applicant or person or personages who will hold legal title shall agree and abide by all directions from existing "setback rights", as determined by the governing body.

the same intent and purpose as the A-1 Agricultural District, but are intended to allow smaller minimum acreage for

A) As a further condition precedent any deviation from existing "set back rights", as residential lots. determined solely by the Governing Body, shall be set forth as a restriction in the Deed of Record.

2. If the Governing Body grants the conditional use permit, to deviate from the forty (40) acre general rule, the following standards apply.

SECTION 2. PERMITTED PRINCIPAL USES. The principal uses are the same as permitted in the Agriculture A-1 District except as follows:

1. New single family dwellings on lots of forty (40) acres or more. Existing farmstead with habitable dwelling on lots of no less than ten (10) acres.

SECTION 2. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize all of the exceptions allowed in the Agriculture A-1 District and the following subject to such conditions as the Governing Body deems necessary:

1. New single-family dwellings on lots no less than twenty (20) acres, provided the Intensity of Use and all other requirements of this district are met. Existing farmstead with habitable dwelling on lots of no less than five (5) acres, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road unless by a conditional use permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit.

SECTION 3. ACCESSORY USES. The accessory buildings and uses are the same as those permitted in the A-1 District.

SECTION 4. LOT REQUIREMENTS AND INTENSITY OF USE. The minimum lot requirements shall be as follows:

1. Minimum Lot Area:
 - A. New single family dwellings - Forty (40) acres as permitted use including road R.O.W. and twenty (20) acres as conditional use including road R.O.W., except as herein exempted or on non-conforming lots of record. (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)
 - B. All other permitted and special uses - No minimum except setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
2. Exemptions:
 - A. More than one (1) dwelling or mobile home may be permitted on an agricultural
 - A) Single - family dwellings to be erected or moved upon an existing 40 acre lots shall meet existing intensity of use requirements of the district, to - wit: The said dwelling shall be the residence of the lessee, inhabitable or person holding legal title, and kept in a habitable condition to endure to the public interest.
 - B) No conditional use permit will be approved and granted where a legal, improved road thereto does not serve access. (county, private or otherwise).
 - C) If the subject real estate tract has access or frontage on an undeveloped or minimum maintenance road, any improvement thereon (county, private or otherwise), the cost of improvements thereon shall be the expense of and borne by the applicant of person holding legal title.
 - D) The Governing Body may, as a condition of granting the conditional use permit, assess improvement expenses of a minimum maintenance or undeveloped primitive road as a cost of said permit, prior to issuance thereof.
vided the residence is an accessory use to the agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - B. Existing Farmsteads with single-family dwellings at the time of adoption of these Regulations may be on lots less than ten (10) acres if the lot is a lot of record as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than five (5) acres in area.

2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these Regulations.
3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings shall be the same as the A-1 District.

SECTION 5. SUPPLEMENTARY REGULATIONS.

New non-Farm residences, as defined in these Regulations, shall be located no closer to existing LFO's than the setback distances for LFO's from existing residences on the matrix set out above.

“A-1(b)” AGRICULTURAL - INTENSIVE DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The A-1(b) Agricultural District regulations have the same intent and purpose as the A-1 Agricultural District, but are intended to allow smaller minimum acreage for residential lots.

SECTION 2. PERMITTED PRINCIPAL USES. The principal uses are the same as permitted in the Agriculture A-1 District except as follows:

1. New single family dwellings on lots of twenty (20) acres or more. Existing farmstead with habitable dwelling on lots of no less than five (5) acres.

SECTION 2. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize all of the exceptions allowed in the Agriculture A-1 District and the following subject to such conditions as the Governing Body deems necessary:

1. New single-family dwellings on lots no less than ten (10) acres, provided the Intensity of Use and all other requirements of this district are met. Existing farmstead with habitable dwelling on lots of no less than five (5) acres, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road unless by a conditional use permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit.

SECTION 3. ACCESSORY USES. The accessory buildings and uses are the same as those permitted in the A-1 District.

SECTION 4. LOT REQUIREMENTS AND INTENSITY OF USE. The minimum lot requirements shall be as follows:

1. Minimum Lot Area:
 - A. New single family dwellings - Twenty (20) acres as permitted use including road R.O.W. and ten (10) acres as conditional use including road R.O.W., except as herein exempted or on non-conforming lots of record. (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)
 - B. All other permitted and special uses - No minimum except setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
2. Exemptions:
 - A.. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to the agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - B. Existing Farmsteads with single-family dwellings at the time of adoption of these

Regulations may be on lots less than ten (10) acres if the lot is a lot of record as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:

2. The lot created shall not be less than five (5) acres in area.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these Regulations.
3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings shall be the same as the A-1 District.

SECTION 5. SUPPLEMENTARY REGULATIONS.

New non-Farm residences, as defined in these Regulations, shall be located no closer to existing LFO's than the setback distances for LFO's from existing residences on the matrix set out above.

“A-2” AGRICULTURAL - TRANSITIONAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The A-2 Agricultural District regulations are intended to recognize the transition between agricultural uses of land and communities; to encourage the continued use of that land that is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

SECTION 2. PERMITTED PRINCIPAL USES. The following principal uses are permitted in the A-2 Agricultural District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residence of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - A. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - B. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations.
2. New single family dwellings on lots of ten (10) acres or more.
3. Utility substation, pumping stations, water reservoir and telephone exchange.
4. Public parks and recreation areas, playgrounds, community centers, forest and conservation areas, private noncommercial recreation areas including country clubs, swimming pools and golf courses but not including commercial miniature golf, golf driving ranges, motorized cart tracks.
5. Churches and publicly owned and operated community buildings, public museums, public libraries
6. Lawn and Garden Nurseries.
7. Cemetery.
8. Community sewage disposal facilities.
9. Public and parochial school.

Section 3. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary:

1. New single-family dwellings on lots no less than five (5) acres, provided the Intensity of Use and all other requirements of this district met. In no case are single-family dwellings permitted on a tract without legal access to an improved road unless by a conditional use

permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit.

2. Privately owned parks, playgrounds, golf courses, dude ranches, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges. All uses requiring buildings or structures shall conform to the flood plain regulations.
3. Privately owned cabins and sectional dwellings subject to the flood plain regulations and subdivision regulations.
4. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirement of the Supplementary District Regulations.
5. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.
6. Radio and television towers and transmitters, and commercial signs.
7. Airports.
8. Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than one thousand (1000) feet to a municipal well and/or one (1) mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution.
9. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and operated on the same premises.
10. Commercial Kennels and facilities for raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, if all buildings and facilities are at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
11. The spreading or stockpiling of sludge, by-products from manufacturing or any processing plant, and/or paunch on agricultural land by municipalities or operations inside or outside the County.

SECTION 4. ACCESSORY USES. The following accessory buildings and uses are permitted in the A-2 District.

1. Building and uses customarily incidental to the permitted and conditional uses.
2. Home occupation.

- 3. Temporary buildings and uses incidental to construction work that shall be removed upon the completion or abandonment of the construction work.

SECTION 5. LOT REQUIREMENTS AND INTENSITY OF USE. The minimum lot requirements shall be as follows:

- 1. Minimum Lot Area:
 - A. Single family dwellings - Ten (10) acres as permitted use and five (5) acres as conditional use, except as herein exempted or on non-conforming lots of record. (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)
 - C. All other permitted and special uses - No minimum except setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
- 2. Exemptions:
 - A. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to and agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - B. Existing Farmsteads with single-family dwellings at the time of adoption of these Regulations may be on lots less than ten (10) acres if the lot is a lot of record as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 - (1) The lot created shall not be less than five (5) acres in area.
 - (2) The lot has legal access to an improved street or county road.
 - (3) The lot contains soil suitable for a septic system or sanitation requirements outlined in these Regulations.
- 3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
 - A. Minimum lot widths shall be as follows:
 - Single Family Dwellings 200 feet
 - Other Permitted Uses 200 feet
 - B. Minimum front yards shall be as follows:
 - Single Family Dwellings 30 feet
 - Other Permitted Uses 30 feet

C. Minimum side and rear yards shall be as follows:

Single Family Dwellings Side/15 feet, Rear/25 feet

Other Permitted Uses Side/15 feet, Rear/25 feet

D. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway and one hundred thirty-three (133) feet from the road centerlines when such yards are contiguous to intersection of a County road or state highway.

E. Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.

"R-1" RESIDENTIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The R-1 district is established for the purpose of low density single-family dwelling control and to allow certain public facilities. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. The intent of this district is to recognize the gradual urbanization near cities and to provide for the proper development and facilities necessary for future growth.

SECTION 2. PERMITTED PRINCIPAL USES. The following principal uses are permitted in the R-1 Residential District.

1. Single-family dwellings.
2. General agricultural operations, but this shall not include or permit:
 - A. Livestock feeding operations.
 - B. The spreading, accumulation, feeding or use of garbage or animal waste in any manner on the open surface of the land.
 - C. A use or activity engaged in within three hundred (300) feet of a residential or retail business structure, if such use or activity results in continuous odor, dust or noise.
 - D. The construction of agricultural buildings or structures closer than sixty (60) feet from the right-of-way.
3. Public parks and recreational areas and community buildings owned and operated by a public agency.
4. Churches, synagogues, and other similar places of worship.
5. Public and parochial schools.
6. Golf courses, pitch and putt golf courses and driving tees. Miniature golf is permitted if it is a part of the total golfing operation.
7. Home occupations.
8. Accessory buildings and uses.

SECTION 3. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions, subject to such conditions as the Governing Body deems necessary:

1. Any public building erected on land used by any department of the City, County, State or Federal Government.
2. Telephone exchange, electric substations, communication towers and structures, regulatory stations or other public utilities.

3. Medical Clinic, hospitals, rest homes, and nursing homes.
4. Vocational, private and business schools.
5. Multi-unit dwellings.
6. New single-family dwellings on lots no less than one (1) acre provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road unless by a conditional use permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit. (Amended 12/16/19).

SECTION 4. LOT REQUIREMENTS. In the R-1 Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows subject to the sanitary requirements of these Regulations: (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)

1. There shall be a front yard of not less than thirty (30) feet.
2. There shall be a side yard on each side of a building not less than eight (8) feet, except on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
3. There shall be a rear yard of no less than twenty-five (25) feet.
4. The minimum width of a lot shall be one hundred (100) feet
5. Every dwelling or accessory building or structure hereafter erected, constructed, reconstructed, moved or altered, shall provide a lot area, excluding road R.O.W., of not less than five (5) acres or not less than one-third (1/3) acre per family subject to the sanitary requirements of these Regulations.
6. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.
7. Height of Buildings.
 - A. Maximum height for principal uses: thirty-five (35) feet, except as part of a multi-unit dwelling maximum height shall be fifty (50) feet.
 - B. Maximum height for accessory uses: twenty (20) feet.

"R-M" MOBILE HOME RESIDENTIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The intent of the R-M 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 interest of the citizens and taxpayers of Cedar County.

SECTION 2. PERMITTED PRINCIPAL USES: The following uses are permitted in the R-M Mobile Home Residential District.

1. Mobile Home Court.
2. Single family dwelling.
3. Public School.
4. Private and public park, playground and recreational facilities.
5. Church, educational facilities and parish house.
6. On-site sign.
7. Multi-unit dwellings.

SECTION 3. ACCESSORY USES:

1. Buildings and uses customarily incidental to the permitted uses.
2. Home occupation.
3. Off-street parking.
4. Nursery or day-care schools.
5. 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).
6. Sewage disposal and water supply and treatment facilities.
7. Campgrounds.
8. Public buildings.

SECTION 4. AREA AND LOT REQUIREMENTS.

1. A mobile home court shall have an area of not less than five (5) acres. No mobile homes or other structures shall be located less than eighty-three (83) feet from the road centerline when

contiguous to or having frontage to a street, County road or state highway. The setback on all other court property lines shall be twenty-five (25) feet. These areas shall be landscaped. The minimum lot width for a mobile home court shall be two hundred (200) feet. (Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)

2. Each lot provided for occupancy of a single mobile home shall have an area of not less than seven thousand five hundred (7,500) square feet, excluding road R.O.W., and a width of not less than seventy (70) feet of an interior lot, eighty (80) feet of a corner lot, or forty-five (45) feet when facing cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
 - A. Side yards shall not be less than eight (8) feet on one side and not less than eight (8) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of twenty-five (25) feet on the side abutting a street/road.
 - B. Front yard of not less than twenty-five (25) feet.
 - C. A rear yard of not less than twenty-five (25) feet.
3. There shall be a minimum liveable floor area of five hundred (500) square feet in each mobile home.
4. Height of Buildings.
 - A. Maximum height for principal uses: thirty-five (35) feet, except as part of a Planned Unit Development maximum height shall be fifty (5) feet.
 - B. Maximum height for accessory uses: twenty (20) feet.

SECTION 5. COMMUNITY FACILITIES.

1. Each lot shall have access to a hard surfaced drive not less than twenty-two (22) feet in width excluding parking.
2. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with these Regulations. The water supply shall be sufficient for domestic use and for fire protection.
3. Service buildings including adequate laundry and drying facilities.
4. Not less than eight percent (8%) of the total court area shall be designated and used for park, playground and recreational purposes.

SECTION 6. 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.

"C-1" COMMERCIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The intent of the C-1 Commercial District shall be to provide for commercial businesses that principally support the buying needs for rural residents of Cedar County.

SECTION 2. PERMITTED PRINCIPAL USES: The following uses are permitted in the C-1 Commercial District.

1. Agricultural implement sales and services.
2. Animal hospitals when all facilities are within an enclosed building.
3. Automobile and truck sales and service.
4. Automotive accessory stores.
5. Boat sales, service and rental.
6. Car washes.
7. Construction equipment rental and sales.
8. Convenience stores.
9. Dance halls and ballrooms.
10. Electric and telephone substations and offices.
11. Hotels and motels including accessory service uses, such as newsstands, swimming pools (for motel guests only), flower and gift shops.
12. Indoor theaters.
13. Lumber and building materials sales yards.
14. Mobile home sales and service.
15. Motorcycle sales, service and rental.
16. Nursery and garden stores.
17. Parks, playgrounds and community buildings owned and operated by public agency.
18. Restaurants including drive-in and carry-out establishments.
19. Service stations or filling stations.

SECTION 3. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary:

1. Signs and billboards.
2. Governmental buildings.
3. Outdoor amusement establishments such as amusement parks, permanent carnival and kiddie parks, miniature golf pitch and putt courses, driving ranges and other similar establishments.
4. Campgrounds.

SECTION 4. HEIGHT AND AREA REGULATIONS. In District C-1 the height of the buildings, the minimum dimensions of lots and yards and the minimum lot area permitted on any lot shall be as follows:

1. Height of Buildings.
 - A. Maximum height for principal uses: sixty (60) feet, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five feet in height.
 - B. Maximum height for accessory uses: twenty (20) feet.
2. The front yard requirements shall be not less than thirty-five (35) feet.
3. The side yard shall not be less than ten (10) feet.
4. The depth of the rear yard shall be at least twenty-five (25) feet. Where an alley of record exists such rear yard may be measured from the centerline of said alley.
5. Minimum lot width shall be at least one hundred fifty (150) feet.
6. Minimum lot area shall be at least one (1) acre excluding road R.O.W.
7. The total coverage of all buildings shall not occupy more than forty (40) percent of the lot area.
8. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway and one hundred thirty-three (133) feet from the road centerlines when such yards are contiguous to intersection of a County road or state highway.

"I-1" INDUSTRIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT. The intent of the I-1 Industrial District shall be to provide for businesses involved in the manufacturing or handling of any industrial materials.

SECTION 2. PERMITTED PRINCIPAL USES: The following uses are permitted in the I-1 Industrial

District, except those which by reason of the emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare. Permitted uses shall include uses such as:

1. Assembly of metal products.
2. Building materials storage and sales yard.
3. Concrete or cement products manufacture.
4. Dyeing and cleaning establishment.
5. Farm and industrial equipment sales.
6. Laboratory.
7. Manufacture and assembly of electrical and electronic appliances.
8. Manufacture of light sheet metal products including heating and ventilation equipment.
9. Machine shop or other metal working excluding drop hammers and other noise producing tools.
10. Painting and publishing business.
11. Stone and monument works.
12. Storage of farm and agriculture products.
13. Truck and freight terminal.
14. Utility substation, pumping station and water reservoir.
15. Warehouses and wholesale business.
16. Any other industrial, manufacturing or commercial agricultural use, except those uses specially permitted as a conditional use in this district.

SECTION 3. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary:

1. Alfalfa dehydrating plant.
2. Asphalt manufacture or refining.

3. Blast furnace or electric furnace.
4. Cement, lime, gypsum or plaster-of-paris manufacture.
5. Fat rendering.
6. Fertilizer manufacture and bone grinding.
7. Forage plant.
8. Iron, steel, brass or copper foundry.
9. Packing house.
10. Plating works.
11. Sausage manufacture.
12. Slaughter house.
13. Smelter.
14. Stock yards.
15. Storage or baling of scrap paper, iron bottles, rags, tires or junk.
16. Tallow, grease or lard manufacture or refining from animal fat.
17. Vehicle wrecking yards, junkyards, salvage yards, and scrap processing yards subject to the following:
 - A. The operation shall be located on a tract of land at least six hundred and sixty (660) feet from a residential district zone.
 - B. The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a solid fence or wall, of uniform height, insure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.
 - C. No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
 - D. Burning of paper, trash, junk, or waste materials shall be permitted only after approval of the Fire Department. The burning, when permitted, shall be done only during daylight hours.
 - E. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
 - F. This use shall not be located on or visible from an arterial or major street or highway.

18. Other uses which may be noxious or offensive by reason of the emission or odor, dust, smoke, gas, noise or vibration or hazardous.

SECTION 4. LOT REQUIREMENTS. The minimum lot requirements shall be as follows:

1. Minimum yard sizes or permitted uses:

Front Yard	35'
Side Yard	10'
Rear Yard	25'

2. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway and one hundred thirty-three (133) feet from the road centerlines when such yards are contiguous to intersection of a County road or state highway. (Road R.O.W to be considered and used as frontage of lots ONLY. Rev.1-20-09)
3. Height of Buildings:
 - A. Maximum height for principal uses: sixty (60) feet, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five (35) feet in height.
 - B. Maximum height for accessory uses: twenty-five (25) feet.
4. Minimum lot width shall be at least one hundred and fifty (150) feet.
5. Minimum lot area shall be at least one (1) acre excluding road R.O.W.
6. The total coverage of all buildings shall not occupy more that fifty (50) percent of the lot area.

"F-P" FLOOD PLAIN OVERLAY DISTRICT AND REGULATIONS

SECTION 1. STATEMENT OF PURPOSE OF DISTRICT. The flood hazard areas of Cedar County are subject to periodic inundations which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. It is the purpose of this regulation to promote the public health, safety and general welfare and to minimize those losses by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in time of flood or cause excessive increases in flood height or velocities.
2. Require that uses vulnerable to floods, including public facilities, which serve such uses, shall be protected against flood damage at the time of initial construction.
3. Protect persons from buying lands, which are unsuited for intended purposes because of flood hazard.

SECTION 2. SUPPLEMENTAL REGULATIONS AND PROVISIONS:

1. Lands to Which Resolution Applies: This ordinance shall apply to all lands within the jurisdiction of the Cedar County identified on the Flood Insurance Rate Map (FIRM), and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones).
2. Compliance: Within identified special flood hazard areas of this County, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this resolution and other applicable regulations.

SECTION 3. PERMITTED USES. The following uses have a low flood damage potential and non-obstructing flood flows shall be permitted within the Floodway Area to the extent that they are not prohibited by the governing district regulations and provided they do not require structures, fill or storage materials or equipment. But no use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
2. Industrial-commercial uses of any open space nature such as loading areas, parking areas, airport landing strips.
3. Private and public recreational uses of an open space nature such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback trails.
4. Open space, non-structural uses such as lawns, gardens, parking areas and play areas.

SECTION 4. SPECIAL USE PERMITS. The following uses, which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted only upon application to the Zoning Administrator and issuance of a Special Use Permit.

1. Uses or structures accessory to open space described in permitted uses above.
2. Circuses, carnivals, and similar temporary transient amusement enterprises.
3. Roadside stands, signs, and billboards.
4. Extraction of sand, gravel, and other materials.
5. Marinas, boat rentals, docks, piers, wharves.
6. Railroads, streets, bridges, dams, utility transmission lines and pipelines.
7. Storage yards for equipment or machinery.

SECTION 5. STANDARDS FOR FLOODWAY SPECIAL USE PERMITS. The following are additional standards for issuance of special use permits.

1. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed as a Special Use which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or increases flood heights. Consideration of the effects of a proposed use shall be based on proof by the developer that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.
2. For uses lined in Section 4, any fill proposed to be deposited in the floodway must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
3. Such fill or other material shall be protected against erosion by rip-rap, vegetative cover of bulkheading.
4. Structures shall not be designed for human habitation.
5. Structures shall have a low flood damage potential.
6. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of floodflow, and
 - b. So far as practicable, structures shall be placed approximately on the same floodflow lines as those of adjoining structures.

7. Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
8. Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood protection elevation for the particular area or floodproofed.
9. The Storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
10. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or demonstrably shown to be readily removable from the area within the time available after flood warning.
11. The degree of flood protection required by this resolution is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood height may be increases by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This resolution does not imply that areas outside the flood plain districts or land uses permitted with such districts will be free from flooding or flood damages. This resolution shall not create liability on the part of the County or any officer or employee thereof for any flood damages that results in reliance on this resolution or any administrative decision lawfully made.

SECTION 6. VARIANCES. A Variance to the flood plain regulations by the Board of Adjustment may be granted should the Board find that sufficient documentation submitted by the applicant demonstrates through a detailed analysis prepared by a registered professional engineer experienced in analyzing and modeling hydrologic and hydraulic data, that:

1. The proposed development will not increase flood heights,
2. That the proposed development is not within a wetland,
3. The proposed development does not require a Corps of Engineers Section 404 permit,
4. That there is no objection from the _____ Natural Resources District,
5. That the proposed development will not create threats to the health, safety, and general welfare of any person,
6. That the proposed development will not cause damage from any form of material which may move downstream from the proposed development which will cause an extraordinary public expense and create nuisances, and
7. That an exceptional hardship exists that is other than economic or financial alone.

“M-R” MISSOURI RIVER RECREATIONAL DISTRICT

The intent of the Missouri River Recreational District shall be to protect water quality and other natural or cultural resources while allowing for residential development, limited agricultural uses, mining operations and recreational activities and preserving the use of this land primarily for such purposes.

SECTION 1. PERMITTED PRINCIPAL USES. The following principal uses are permitted in the Missouri River Recreational District.

1. General agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises with the exclusion of livestock feeding operations, provided all requirements of these Regulations are met.
2. Single Family dwellings on lots of ten (10) acres or more.
3. Utility substation, pumping stations, water reservoir and telephone exchange.
4. Public parks and recreation areas, playgrounds, community centers, forest and conservation areas, private non-commercial recreation areas including country clubs, swimming pools and golf courses but not including commercial miniature golf, golf driving ranges, motorized cart tracks.

Provided, however, no residence or LFO is permitted within 200 yards of any public hunting area in the M-R District. Also, no residence, LFO, or water well is permitted within 1,000 feet of any existing public supply well.

SECTION 2. CONDITIONAL USES. The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary:

1. New single-family dwellings on lots no less than one (1) acre provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road unless by a conditional use permit. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road. The Conditional Use Permit shall include the cost of improving the road as a condition of the permit.
2. Privately owned parks, playgrounds, golf courses, dude ranches, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges. All uses requiring buildings or structures shall conform to the flood plain regulations.
3. Privately owned cabins and seasonal dwellings subject to the flood plain regulations and subdivision regulations.
4. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirement of the Supplementary District Regulations.

5. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, and museums.
6. Radio and television towers and transmitters.
7. Airports.
8. Cemetery.
9. Community sewage disposal facilities.
10. Church, seminary and convents.
11. Public and parochial school.
12. Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than one thousand (1000) feet to a municipal well and/or one (1) mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution.
13. Lawn and Garden Nurseries.
14. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and operated on the premises.
15. Commercial Kennels and facilities for raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
16. The spreading or stockpiling of sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
17. Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Cedar County Comprehensive Plan as fully set out in the regulations for A-1 District.

SECTION 3. HEIGHT AREA AND INTENSITY REGULATIONS (Amended 12-16-19)

1. There shall be a front yard of not less than thirty (30) feet.
2. There shall be a side yard on each side of a building not less than eight (8) feet, except on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
3. There shall be a rear yard of no less than twenty-five (25) feet.
4. When abutting the Missouri River setback is 50 feet from the high-water mark of the river
4. The minimum width of a lot shall be one hundred (100) feet
5. Every dwelling or accessory building or structure hereafter erected, constructed, reconstructed, moved or altered, shall provide a lot area, excluding road R.O.W., of not less than **Three (3)** Acres.
6. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.
7. Height of Buildings.
 - A. Maximum height for principal uses: thirty-five (35) feet.

(Road R.O.W to be considered and used as **frontage** of lots **ONLY**. Rev.1-20-09)

DISTRICTS, BOUNDARIES AND MAPS

SECTION 1. PURPOSE OF DISTRICT. The purpose of this resolution is to encourage the most appropriate use of land, to promote the highest and best use and conserve and stabilize property values, to aid in providing space for public uses, and to promote orderly growth, public health, safety and general welfare.

SECTION 2. This zoning regulation divides the zoning area into districts designated on the zoning map and described in specific articles herein.

SECTION 3. DISTRICT ZONING MAP. The boundaries of the district are shown on the map and/or sections thereof attached hereto and made a part of this regulation, which map is designated as the "Official Zoning Map". The Official Zoning Map and all notations, references and other information shown thereon are a part of this regulation and have the same force and effect as if said map and all the notations, references and other information shown thereon were all fully set forth or described herein. The Official Zoning Map is properly attested and is on file in the office of the Clerk having jurisdiction.

SECTION 4. ANNEXATION RULE. All territory which may hereafter become the zoning jurisdiction of

the County as a result of a city or village jurisdiction boundary change, shall be in the "A-2" Agricultural-Transitional District and be confirmed by amending the Zoning District map following the procedures outlined by these regulations. Should the use of the property not conform to the permitted use in the "A-2" Agricultural-Transitional District, the property shall be considered a legal and non-conforming use and shall remain so until rezoned to the appropriate zoning district following the rezoning procedures outlined in these regulations.

SECTION 5. RULES WHERE UNCERTAINTY MAY ARISE. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this regulation, the following rules apply:

1. The district boundaries are the centerline of either streets or alleys unless otherwise shown.
2. Where the property has been or may hereafter be divided in blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this regulation are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the district unless the boundaries are otherwise indicated on the map.
3. In subdivided property, the district boundary line on the map accompanying and made a part of this regulation shall be determined by the use of the scale appearing on the map.
4. Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.

SPECIAL USE PERMITS

SECTION 1. PROCEDURES: The Governing Body may grant exceptions to the provisions of the zoning regulations but only in those instances where the Governing Body is specifically authorized to grant such exceptions to these zoning regulations. In no event shall exceptions to the provisions of the zoning regulations be granted where the use or exceptions contemplated is not specifically listed as an exception in the Zoning Regulations. Further, under no conditions shall the Governing Body have the power to grant an exception when the conditions of this exception, as established by these regulations, are not found to be present.

Final action on an application for a Special Use Permit shall be taken only after public hearings by the Planning Commission and the Governing Body has been held and a recommendation received from the Planning Commission.

In considering any application for a Special Use Permit hereunder, the Governing Body shall give consideration to the Comprehensive Zoning Plan, the health, safety, morals, comfort and general welfare of the inhabitants of the community including, but not limited to, the following factors:

1. The stability and integrity of the various zoning districts.
2. Conservation of property values,
3. Protection against fire and casualties.
4. Observation of general police regulations.
5. Prevention of traffic congestion.
6. Promotion of traffic congestion.
7. Promotion of the safety of individuals and property.
8. Provision of adequate light and air.
9. Provision of over-crowding and excessive intensity of land uses.
10. Provision of public utilities and schools.
11. Invasion by inappropriate uses.
12. Value, type and character of existing and authorized improvements and land uses.
13. Encouragement of improvements and land uses in keeping with overall planning.
14. Provision for orderly and proper urban renewal, development and growth.

SECTION 2. APPLICATION: The procedure for requesting a hearing for a special use permit are as follows:

1. All applications shall be in writing on forms provided by the Zoning Administrator.
2. A notice of the time, place, and subject of each hearing shall be published in the official newspaper (as designated by the governing body) at least ten (10) days prior to the date fixed for the public hearing. A copy of the notices of public hearings shall be sent to each party of interest.
3. At least ten (10) days prior to the date fixed for the public hearings, the Administrator shall notify the following interested parties by United States mail;
 - a. All neighboring property owners of property located within 1,000 feet of the property in question if said neighboring property is located within county zoning jurisdiction, provided, however, if an LFO is involved, all property owners within the setback areas shown in the setback matrix for LFO's
 - b. All neighboring property owners of property located within 300 feet of the property in question if said neighboring property is located within any municipal zoning jurisdiction.
 - c. Any other interested parties as determined by the Planning Commission, Governing Body and/or Zoning Administrator,
 - d. The applicant shall provide the Board with a list of the names and addresses of all neighboring property owners that are to be notified pursuant to Subparts a and b above. Said list shall be certified by a registered land abstractor.
 - e. The applicant shall submit a statement in writing justifying the Special Use Permit applied for, and indicating under which Article and Section of the Zoning Regulations for the Governing Body is believed to have jurisdiction,
 - f. The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, and points of ingress and egress, driveways and any other information which would be helpful to the Governing Body in consideration of the application.

SECTION 3. PERFORMANCE. The Governing Body may impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property as may be necessary. The Governing Body may require a performance bond to guarantee the installation of improvements such as parking lot surfaces, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvement as determined by the Governing Body and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Governing Body may specify a time limit for the

completion of such required improvements and in the event the improvements are not completed within the specified time, the Governing Body may declare the granting of the application null and void after reconsideration.

ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

SECTION 1. ENFORCEMENT This resolution shall be enforced and administered by a Zoning Administrator who shall be appointed by the County Board and who may be provided with the assistance of such other persons as the County Board may direct in order to carry out the following duties and responsibilities:

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

SECTION 2. BUILDING PERMITS REQUIRED

1. No building or other structure shall be erected, moved, added to, or structurally altered without a required building permit first having been issued by the Zoning Administrator. No required building permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this ordinance and with all other applicable codes, regulations and laws of Cedar County and with all orders, and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (nonresidential) buildings or structures in the AG Agricultural Residential Districts or for improvements which have a value of one thousand dollars (\$1,000) or less. Construction must begin within ninety (90) days of issuance of the permit. The building permit will be valid for a period of two (2) years.

2. All applications for a building permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this ordinance.
3. The Zoning Administrator shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the building 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."
4. An appeal from approval or disapproval of any application shall be made to the Board of Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

SECTION 3 CERTIFICATION OF OCCUPANCY REQUIRED

1. No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a building permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall be issued by the Zoning Administrator in accordance with this resolution.
2. Upon request, the Zoning Administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.
3. All applications for certificate of occupancy shall be made by the owner of his agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this ordinance and all local code and resolutions/ordinances governing building construction. The application and affidavit shall be filed with the Zoning Administrator.
4. Before issuing a certificate of occupancy, the Zoning Administrator shall examine all buildings, structures or sites for which an application has been made for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy. The Zoning Administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.

5. A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

SECTION 4. SCHEDULE OF FEES The schedule of fees shall be established for this Zoning Resolution 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.

BOARD OF ADJUSTMENT

SECTION 1. FORMATION. A Board of Adjustment is hereby created in accordance with State Statutes covering such creation. The word "Board" when used in this Article shall mean Board of Adjustment. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, ordinances, or resolutions. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board and 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 filed in the office of the Board immediately and shall be a public record.

SECTION 2. POWERS AND JURISDICTIONS. The Board shall have the following powers and jurisdictions.

1. Appeals: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.
 - a. Appeals to the Board may be taken by the person aggrieved, or by any officer, department, or Bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the Zoning Administrator and with the Secretary of the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from its taken.
 - b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the Notice of Appeals shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause eminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, or by a court of record on application or notice to the Zoning Administrator on good cause shown.
2. Variance: To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a provision of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.
 - a. The applicant must show that his property was acquired in good faith and whereby reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the District Zoning Regulations or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of his property in the manner similar to that of other property in the zoning district where it is located.

- b. Variances shall include intensity of use, yard and height regulations only and are limited to the following:
 - 1) A yard regulation variance shall not encroach upon the required setback for adjacent buildings.
 - 2) One story in height may be allowed for each one foot of additional building setback provided in addition to that required by the district regulation in which the property is located.
- c. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition and the finding shall be entered in the record,
 - 1) The variance requested arises from such conditions which is unique to the property in question and which is not ordinarily found in the same zone or district, and is not created by an action or actions of the property owner or applicant.
 - 2) The granting of the permit for the variance shall not adversely affect the rights of adjacent property owners or residents.
 - 3) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - 4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
 - 5) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
- 3. Interpretation: To hear and decide, in accordance with the provisions of this regulation requests for the interpretation of any map.
- 4. Conditions of Determination: In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from where the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

A majority of the Board shall constitute a quorum for the transaction of business and a concurring vote of four members of the Board shall be necessary to reverse an order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under any such Regulation, or to affect any variation in such regulation. Upon the hearing, any party may appear in person or by agent or by attorney.

SECTION 3. APPLICATION.

1. The procedure for requesting a hearing before the Board shall be as follows:
 - a. All applications to the Board shall be in writing on forms provided by the Board.
 - b. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the governing body) at least ten (10) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and to the Planning Commission.
 - c. At least ten (10) days prior to the date fixed for the public hearing, the Board shall notify the following interested parties by United States mail:
 - 1) All neighboring property owners of property located within 1,000 feet of the property in question if said neighboring property is located within county zoning jurisdiction.
 6. All neighboring property owners of property located within 300 feet of the property in question if said neighboring property is located within any municipal zoning jurisdiction.
 - 3) Any other interested parties as determined by the Board and/or Zoning Administrator.
 - 4) The applicant shall provide the Board with a list of the names and addresses of all neighboring property owners that are to be notified pursuant to Subparts 1 and 2 above. Said list shall be certified by a registered land abstractor.
 - d. An application shall be accompanied by a filing fee to be established by the Governing Body.
2. In addition to the above requirements, certain applications require additional information as follows:
 - a. Appeals:
 - 1) An application for an appeal shall be filed within 60 days after a ruling has been made by the Zoning Administrator.
 - 2) A copy of the order, requirement, decision or determination of the Zoning Administrator which the appellant believes to be in error.
 - 3) A clear and accurate, written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
 - 4) Where necessary, a plat plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

b. Variance:

- 1) The applicant shall submit a statement, in writing, justifying the variance requested: indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner which it is believed that this application will meet each of the five conditions as set out in Section 2, 2, c. of this Article.
- 2) The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the Board in consideration of the application.

c. Exceptions:

- 1) The applicant shall submit a statement in writing justifying the special use permit applied for, and indicating under which Article and Section of the Zoning Regulations the Board of Zoning Appeals is believed to have jurisdiction.
- 2) The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the Board in consideration of the application.

SECTION 4. PERFORMANCE. In making any decision varying or modifying any provisions of the zoning regulations or in granting an exception to the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.

The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

SECTION 5. WHO MAY APPEAL FROM THE BOARD DECISION. Any person, persons, department or departments of the government jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the Court within 15 days after the date of filing the decision in the office of the Board.

Wind Energy Systems

____.1 Purpose

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

____.2 Definitions

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

- A. 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.
- B. Tower Height shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

____.3 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:

- A. Tower Height
 - 1. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - 2. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
- B. Setbacks
 - 1. 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.
- C. Noise
 - 1. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - 2. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
- D. Approved Wind Turbines
 - 1. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
- E. Compliance with Building and Zoning Codes
 - 1. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - 2. 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.
 - 3. The manufacturer frequently supplies this analysis.
 - 4. Wet stamps shall not be required.
- F. Compliance with FAA Regulations
 - 1. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- G. Compliance with National Electrical Code
 - 1. 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.
 - 2. The manufacturer frequently supplies this analysis.

H. Utility Notification

1. 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.
2. Off-grid systems shall be exempt from this requirement.

____.4 Setbacks

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

Section ____ Commercial/Utility Grade Wind Energy Conversion Systems (CWES)

____.1 **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 Cedar County.

____.2 **Definitions**

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

- A. ADLS Lighting System – A lighting system that provides reliable, continuous 360-degree radar surveillance of the airspace around sites and automatically activates obstruction lighting only when aircraft is detected within outer perimeter area.
- B. 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.
- C. Commercial WECS(CWECS) shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

- D. Church A building that houses a religious organization or congregation that meets specific location with constitution and by-laws and has filed as a 501 (c) 3 organization.
- E. Hub Height shall mean the distance from ground level as measured to the centerline of the rotor.
- F. 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.
- G. 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.
- H. 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.
- I. Non-participating Property Any property that is not the subject of an agreement with the Wind Energy Conversion System Owner or Operator.
- J. Participating Property Any property that is under lease or other property agreement with the Wind Energy Conversion System Owner or Operator.
- K. 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.
- L. Public Conservation Lands shall mean land owned in fee title by the 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.
- M. Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.
- N. 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.
- O. Shadow Flicker The strobe effect that occurs when the sun is horizontal to the rotor blades, which causes repetitive intermittent shadows that can affect people on near-by properties.
- P. Substations shall mean any electrical facility to convert electricity produced by wind turbines to a high voltage for interconnection with high voltage transmission lines.
- Q. 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.
- R. Tower shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.
- S. 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.
- T. 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.

- U. 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.

.3 Application Requirements

Commercial/Utility Grade Wind Energy Systems (CWECS) shall be permitted as a Conditional Use in the A-1, A-1(a), and A-1(b). The following requirements and information shall be met and supplied:

- A. The name(s) of project applicant.
- B. The name of the project owner.
- C. The legal description and address of the project.
- D. A survey map illustrating the following:
 - 1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation;
 - 2. Location and elevation of all components of the proposed CWECS;
 - 3. Location and dimensions of all existing structures and uses on property within a horizontal distance of two (2) times (x) of the total height of the system;
 - 4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or off-site of the proposed CWECS;
 - 5. Location of any overhead utility lines on the property;
 - 6. Location of all known communications towers with two (2) miles of the proposed CWECS;
 - 7. Access roads;
- E. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of 10,560 feet (two miles).
- F. Provide a copy of the Easement Deed or similar recorded document from the Cedar County Register of Deeds Office for each Participating Property.
- G. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- H. Site layout, including the location of property lines, wind turbines, feeder lines, all Transmission Lines connecting to the Substation, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- I. Certification by an Engineer competent in disciplines of WEC's.
- J. Documentation of land ownership or legal control of the property.
- K. 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.
- L. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet for the proposed Wind Energy Conversion System.
- M. An acoustical Analysis that certifies that the noise requirements within this regulation can be met.

- N. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
- O. Compliance with FAA regulations, including any documentation required by the FAA, which shall include Form 7460, certifying approval of each proposed location.
- P. Provide minutes from meeting (s) with the Hartington Airport Authority Board to discuss and review the proposed CWECs site plan.
- Q. Results of Consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring in the CWECs project areas.
- R. Evidence that there will be no interference with any commercial and/or public safety communication towers, with proof that Applicant has designed and mitigated any possible interference and met with communication providers for proper site planning within the CWECs project area.
- S. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed and the effects on the following activities shall also be addressed:
 - a. Existing or proposed tourist or recreation activities;
 - b. Residential activities;
 - c. Industrial activities;
 - d. Agricultural activities;
 - e. Commercial activities.
- T. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
 - a. Grading;
 - b. Construction and drainage of access roads and turbine pads;
 - c. Design features to control dust;
 - d. Design features to maintain downstream water quality;
 - e. Re-vegetation to ensure slope stability;
 - f. Restoring the site after temporary project activities;
 - g. Disposal or storage of excavated materials;
 - h. Protecting exposed soil;
 - i. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
 - j. Maintenance of erosion controls throughout the life of the project.
- U. Applicant shall provide information regarding flora and fauna of the proposed project area including:

- a. Officially listed threatened or endangered species;
 - b. Critical habitat and habitat conditions;
 - c. An avian study based on the U.S. Fish and Wildlife Services, "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines".
- V. A pre-construction noise modeling study shall be conducted in accordance with procedures approved by Standard 61400-11 of the International Electrotechnical Commission (IEC)*; and shall include all property with a dwelling within one mile of a tower support base. The protocol, methodology and noise modeling shall be included in the study. The complete results and full study report shall be submitted to the Cedar County Planning Commission for review at the time of the application.
- W. Projections of the "shadow flicker" on any existing structures located off the property on which the CW ECS will be constructed and shall include the extent and duration of the shadow flicker on these existing structures. Applicant shall submit a modeling report prepared by a qualified third party establishing that no occupied residence will experience more than thirty (30) hours per year or more than thirty (30) minutes per day of shadow flicker at the nearest external wall of residence based on "real world" or "adjusted case" assessment modeling. The owner or resident of an occupied residence may waive the shadow flicker limits, which must be on File with the Cedar County Register of Deeds and included with this application.
- X. Standard drawings of the structural components of the CW ECS, including structures, tower, base and footings.
- Y. Certification by a registered engineer that shows:
- a. There is a substantial need for the proposed use of CW ECS, one hundred (100) kW or greater;
 - b. All applicable local, state and federal building, structural and electrical codes have been followed;
 - c. The site is feasible for a CW ECS; the CW ECS can be successfully operated in the climate found in Cedar County;
 - d. The rotor and over speed control have been designed for the proposed use on the proposed site;
 - e. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
 - f. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.
- Z. Applicant shall submit a view shed study from the Missouri National Recreational River and Lewis and Clark Lake to the Aggregate Project. The study shall show that from any view point of five feet five inches (5.5) above natural ground level anywhere on said River and Lake, no more than one third (1/3) of the turbine blade at maximum height may be seen.
- AA. An escrow account shall be set up when the Applicant applies for a Special Use Permit for a CW ECS. The monetary amount filed by the Applicant with Cedar County shall be in an amount estimated by the Cedar County Board of Commissioners to cover all reasonable costs and expenses associated with the special use zoning review and approval process, which can include but are not limited to fees of the Cedar County Attorney and Cedar County Planning and Zoning Administrator, as well as any reports or studies which the Cedar County Zoning Commission and/or Cedar County Board of Commissioners anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall include regularly established fees. At any point during the zoning review process, the Cedar County Planning and Zoning Commission and/or Cedar County Board of Commissioners shall require that the Applicant place additional monies into the Cedar County escrow in the event funds prove insufficient. If the escrow account needs replenished and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until Applicant makes the required escrow deposit. Any escrow amounts which are more than actual costs shall be returned to the Applicant within (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Cedar County Planning and Zoning Commission and/or Cedar County Board of Commissioners may hire qualified professionals for each and any of the technical fields associated with the Special Use Permit, such as, but not limited to, electrical acoustics, environmental, economics, wildlife, health and land use.
- BB. Applicant shall be required to fund an escrow account for investigation of complaints for but not limited to, shadow

flicker, stray voltage, noise and signal inference, with the amount of funds to be set at the discretion of the Cedar County Board of Commissioners. When the escrow account balance is below \$5,000, Cedar County shall notify the Applicant. The Applicant shall replenish within 45 days of the notification.

CC. Decommissioning Plan as required by this regulation.

DD. Conditional Use Permit application fee of \$15,000.00 and \$1,500.00 per CWES wind turbine.

4. Aggregated Projects

A WECS under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers. CWECs may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CWECs within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project. All individual wind turbine towers of an aggregated project shall comply with all parts of this Section 4 A through E.

- A. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- B. Permits may be issued and recorded separately.
- C. Joint projects will be assessed fees as one project.
- D. Approval of an aggregated project shall give the applicant the approval necessary to begin final site locations, if necessary, within any variations allowed by the Planning Commission and County Board.
- E. Approval of an aggregated project shall provide authorization to the developer to commence on the project unless specific conditions are applied during the review and approval process.

.5 Setbacks

- A. If an aggregated project, setbacks from multiple entities (turbines) shall be two (2) times the total system height windmill.
- B. CWECs shall maintain a minimum setback distance from any property line of two (2) times the total system height of the windmill for nonparticipating property owners. Adjoining property owners participating in the same Aggregated Project shall have no setback requirements between adjoining properties.
- C. CWECs shall maintain a minimum setback distance from any public road or highway of at least one point two (2) times the total system height of the windmill turbine from the public road or highway right-of-way or the turbine manufacturing recommendation or whichever is greater.
- D. In no case shall a CWEC be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by written agreement which shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Cedar County Planning & Zoning Administrator prior to approval of the permit.
- E. CWECs shall have a minimum setback of one (1) mile (5,280 feet) from the turbine to any residence on a Non-participating Property.
- F. CWECs shall have a minimum setback of two (2) times the total height from the turbine to any residence of a Participating Property.
- G. Platted Subdivisions approved through a Conditional Use Permit shall have a minimum of one (1) mile (5,280 feet) setback measured from the turbine to property line of the Platted Subdivision map on record with the Cedar County Register of Deeds.
- H. Platted subdivisions of Towns and Villages within Cedar County, including those that do not have applicable zoning regulations shall have a minimum setback of one (1) mile (5,280 feet) measured from turbine to property line of the Platted Town or Village map on record with the Cedar County Register of Deeds.
- I. CWECs shall have a minimum setback of one (1) mile (5,280 feet) measured from the turbine to a public school property line. At no time shall shadow flicker be observed anywhere on the school property.
- J. CWECs shall have a minimum setback of one (1) mile (5,280 feet) measured from the turbine to a federal, state or local park property line.
- K. CWECs shall have a minimum setback of one (1) mile (5,280 feet) measured from the turbine to a public church property line. At no time shall shadow flicker be observed anywhere on the public church property.
- L. These standards shall apply unless the developer and non-participating landowner provide the county with an approved impact easement.

M. All towers shall adhere to the setbacks as measured from the base established in the following table:

	Wind Turbine – Commercial/Utility WECS (CWECS)	Meteorological Towers
Property Lines non-participating	2 times the total height	2 times the tower height
Neighboring Dwelling Units – Non-participating	1 mile (5280')	2 times the tower height
Road Rights of Way**	2 times the total height	2 times the tower height
Other Rights-of-Way	2 times the total height	2 times the tower height
Public Conservation Lands including wildlife Management Areas and State Recreational Areas	1 mile (5280')	1 mile (5280')
Wetlands, USFW Types III, IV and V	Greater of 2 times the total height or a distance required by any State or Federal agency.	Greater of 2 times the total height or a distance required by any State or Federal agency.
Other structures adjacent to the applicant's sites	2 times the total height	2 times the tower height
Other existing CWECS not owned by the applicant	1 mile	2 times the tower height

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

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

.6 Special Safety and Design Standards

All towers shall adhere to the following safety and design standards:

- A. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
- B. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
- C. All wind turbines, which are part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
- D. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint affecting residences within or immediately adjacent to the project area. Shadow flicker shall not occur more than 30 minutes per day and not more than 30 hours per year from an occupied residence.
- E. Color and finish:
 - a. Structures for wind turbines shall be painted or coated shall be of a non-reflective neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level. Finishes shall be matt or non-reflective.
- F. Lighting:

- a. 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. All lighting will be remotely activated only when necessary, such as approaching aircraft. Red pulsating incandescent lights should be avoided.

G. Other signage:

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

H. Feeder Lines:

- a. All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried. All distribution and/or transmission lines outside of the project distribution system may be above ground.

I. Waste Disposal:

- a. 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.

J. 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 Cedar County Zoning Administrator outlining the steps and schedule for returning the CWECES to service. All CWECES and accessory facilities shall be removed, and this includes all foundations above and 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 CWECES shall have a Decommissioning plan and restoration plan detailing the anticipated means and cost of removing CWECES at the end of their serviceable life or upon being discontinued use and completion of property restoration. The cost estimates shall be made by an independent competent party approved by the Cedar County Board of Commissioners; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning and restoration. The decommissioning and restoration plan and project cost shall be reviewed and updated every five (5) years.
- c. At the end of the aggregated project's useful life, the entire site shall be restored in accordance with the requirements of this condition within eighteen (18) months. The entire site, above and below ground, shall be restored to its original condition. This includes the entire foundation of all structures.
- d. A cash escrow account or surety bond secured by the parent company of the project LLC shall be determined by the Cedar County Board of Commissioners and is required before the permit is approved to guarantee removal and restoration upon discontinuation, decommissioning or abandonment. The amount of the security shall include the current gross cost of decommissioning and restoration. If the security is in an escrow account, it must be funded at a minimum of 10% increments annually until fully funded to satisfy the current projected decommissioning and restoration costs.
- e. Upon transfer of any CWECES permit, the permit holder shall submit proof that the bond has been reassigned, or that a new bond or other security instrument has been obtained for decommissioning. The transfer of a CWECES permit and any assignment of bond and all other or new bonds must be filed with the Register of Deeds and evidence of that filing shall be presented to the Cedar County Planning and Zoning Administrator and Cedar County Board of Commissioners.

K. Noise:

- a. No CW ECS shall exceed 50 dBA 10 minute leq at the nearest structure occupied by humans. In the event of periods of severe weather, as defined by the United States Weather Service, a CW ECS may exceed 50 dBA. Except that a participating landowner may waive a noise limitation by written agreement, which shall be submitted at the time of the application.
 - i. No CW ECS shall exceed 40 dBA during day time and 37 dBA at night (night hours are 10:00 p.m. to 7:00 a.m.) at the nearest residence of a nonparticipating property; or
 1. Five (5) dBA maximum 10 minute leq allowed above ambient noise level.
 2. In the event of periods of severe weather, as defined by the United States Weather Service, a CW ECS may exceed 50 dBA.
 - ii. A non-participating landowner can waive a noise requirement by written agreement. A written waiver shall be submitted at the time of the application. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Cedar County Planning & Zoning Administrator prior to approval of the permit.
- b. All noise complaints regarding the operation of any CW ECS shall be referred, in writing, to the Cedar County Planning and Zoning Administrator and the Cedar County Board of Commissioners.
- c. The Cedar County Planning and Zoning Administrator and the Cedar County Board of Commissioners shall request post-construction noise level measurements at the expense of the CW ECS operator. The testing shall be completed by a licensed, independent acoustical engineer, and the results shall be forwarded to the Cedar County Board of Commissioners.
- d. The Cedar County Board of Commissioners shall determine whether a violation has occurred.

L. Interference:

- a. 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 CW ECS. The applicant shall notify all communication tower operators within five miles of the proposed CW ECS location upon application to the county for permits.

M. Roads: Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting CW ECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CW ECS 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 pre-construction conditions.
- d. The CW ECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation or maintenance of the CW ECS. Any violation of the agreement will incur a fine to the Applicant of an amount set by the Board of Commissioners for every violation occurrence.
- e. Prior to the commencement of construction of any turbine, the Applicant shall enter into an agreement with the County Highway Department regarding use of county roads during construction. Any violation of the agreement will incur a fine to the Applicant of an amount chosen by the Cedar County Board of Commissioners for every violation occurrence.

- N. Located on a lot or parcel of at least Five (5) acres in size.
- O. Each CWECS location must have a 911 address.
- P. All CWECS projects requiring notice to the Federal Aviation Administration (FAA) via 14 CFR, Part 77 and the Obstruction Evaluation Process will be required by Cedar County Zoning to submit to the FAA a request for the Aircraft Detection Lighting System (ADLS). Upon completion of the FAA Marking and ADLS Lighting Study, if FAA has determined that an ADLS is available, Cedar County Planning Commission and the Cedar County Board of Commissioners shall require the ADLS system be installed. Lighting shall be positioned or shielded to avoid visual impact to neighboring properties to the extent possible conforming to FAA rules.