

Kimball County

Zoning and Subdivision Regulations

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TABLE OF CONTENTS

Regulations	Page
Section 1. Title	7
Section 2. Purpose and Intent	7
Section 3. Authority and General Provisions	
3.01 Authority	8
3.02 Jurisdiction	8
3.03 Scope	8
3.04 Districts	8
3.05 District Boundaries & Official Map	8
3.06 Changes to Official Map	8
3.07 Disincorporation	8-9
3.08 Rules Where Uncertainty May Arise	9
3.09 Exemptions	9
3.10 Interpretation	9
3.11 Severability	10
3.12 Amendments	10
3.13 Repeals	10
3.14 Lot Size in Agriculture Districts	10
3.15 Setback and Lot Size Reduction Prohibited	10
3.16 Disclaimer of Building and Other Codes and County Liability	10
Section 4. Rules & Definitions	
4.01 Rules	11
4.02 Definitions	11-21
Section 5. "A-1" Agricultural Zoning District	
5.01 Intent	22
5.02 Permitted Uses	22
5.03 Conditional Uses	22-23
5.04 Performance Standards	23
Section 6. "A-2" Agricultural Zoning District	
6.01 Intent	24
6.02 Permitted Uses	24
6.03 Conditional Uses	24-25
6.04 Performance Standards	25
Section 7. "RE" Residential Estate District	
7.01 Intent	26
7.02 Permitted Uses	26
7.03 Conditional Uses	26
7.04 Performance Standards	26
Section 8. "C" Commercial District	
8.01 Intent	27
8.02 Permitted Uses	27
8.03 Conditional Uses	27
8.04 Performance Standards	27-28

Section 9. "IC" Interstate Highway Commercial District		
9.01	Intent	28
9.02	Permitted Uses	28
9.03	Conditional Uses	28
9.04	Performance Standards	28-29
Section 10. "I" Industrial District		
10.01	Intent	29
10.02	Permitted Uses	29
10.03	Conditional Uses	30
10.04	Performance Standards	30
Section 11. "WPO" Wellhead Protection Overlay District		
11.01	Intent	31
11.02	Prerequisite Requirement for Application	31-32
11.03	Limitation on Application	32
11.04	Prohibited Uses and Structures	32
11.05	Wellhead Area Protection Requirements	32-33
11.06	Minimum Lot Area Requirements	33
11.07	Minimum Lot Width & Frontage Requirements	33
11.08	Minimum Building Setback Requirements	33
11.09	Maximum Height	33
Section 12. "AHO" Airport Hazard Area Overlay District		
12.01	Intent	34
12.02	Definitions	34-35
12.03	Airport Hazards; public nuisance; prevention	35
12.04	Establishment of Airport Hazard Area Zones	35-36
12.05	Height Limitation	36
12.06	Use Restriction; New or Changed Structure; Permit Required	37
12.07	Non-Conforming Uses and Structures; Permit Required	37
12.08	Variances; Board of Adjustment	38
12.09	Judicial Review; Petition; Grounds	38
12.10	Administration	38
12.11	Violation; Penalty; Injunctions	38
Section 13. Supplemental District Regulations		
13.01	Home Occupations	39
13.02	Temporary Uses	39
13.03	Salvage Yard or Scrap Metal Processor	40
Section 14. Sign Regulations		
14.01	Sign/Billboards	40
Section 15. Concentrated Animal Feeding Operation Regulations		
15.01	Operating Permit	41
15.02	Permit Validity	41
15.03	Concentrated Animal Feeding Operation Standards	42
15.04	Exclusion	42

Section 16. Communication Facility Regulations	
16.01 Intent	43
16.02 Definitions	43-45
16.03 General Standards	45
16.04 Exception	46
16.05 Application Requirements	46
Section 17. Sexually Oriented Business	
17.01 Purpose and Intent	47
17.02 General Standards	47
Section 18. Wind Energy Systems	
18.01 Wind Energy Installation	48
18.02 Off Grid Wind Energy Systems	48
18.03 Commercial Wind Energy Systems	
1. Purpose	49
2. Definitions	49-51
3. Applicability and Permit Requirement	51
4. Site Plan Procedure	51-53
5. Design and Installation	53-55
6. Use of Public Roads	55
7. Noise Levels and Shadow Flicker	55
8. Compliance with Additional Laws and Regulations	55
9. Wind Energy Permit Procedure	56
10. Operation	57-58
11. Liability Insurance	58
12. Discontinuation and Decommissioning Security	58
Section 19. Motor Sport Facility	
19.01 Purpose	59
19.02 Definitions	59
19.03 Applicability and Requirements	59
19.04 Site Plan Procedure and Requirements	60-61
19.05 Design	61
19.06 Setbacks and Access	61-62
19.07 Soil Erosion and Water Quality	62
19.08 Vehicle Noise Emission Levels	62
19.09 Compliance with Additional Laws and Regulations	62
19.10 Operation	62-63
19.11 Liability Insurance	63
19.12 Discontinuation	63
Section 20. Solar Energy Systems	
20.01 Purpose	64
20.02 Definitions	64-65
20.03 Off-Grid Solar Energy Systems	65
20.04 Commercial Solar Energy Systems	65-69
Sections 21,22,23, and 24 intentionally left blank	

Section 25. Non-Conforming Uses		
25.01	General	70
25.02	Non-Conforming Lots of Record	70-71
25.03	Non-Conforming Structures	71
25.04	Non-Conforming Uses of Land and Building or Structure	71-72
25.05	Non-Conforming Uses of Land	72-73
Section 26. Conditional Uses		
26.01	Conditional Use Permits	74-75
26.02	Application Requirements for Conditional Use Permit	75
26.03	Minimum Requirements	76
26.04	Additional Requirements	76
26.05	Conditional Use Decisions, Appeals	76
Section 27. Board of Adjustment		
27.01	Board of Adjustment Membership	77
27.02	Board of Adjustment Meetings	77
27.03	Board of Adjustment Duties	77-78
27.04	Applications	78-79
27.05	Variances	79
27.06	Appeals	79
27.07	Board of Adjustments Decisions, Appeals	80
Section 28. Amendments to Zoning Resolution Map		
28.01	Amendments to Zoning Resolution Text and Map	81
28.02	Planning Commission Public Hearing	81-82
28.03	Board of Commissioners Public Hearing	82
28.04	Amending Official Zoning Map	83
28.05	Effective Date of Approved Amendments	83
28.06	Similar Amendments	83
Section 29. Administration		
29.01	Administrative Procedures	84
29.02	Permit Fees	84
29.03	Liability for Damages	84
Section 30. Notices		
30.01	References to Notice Requirements	85
30.02	Method of Giving Notice	85
30.03	Exceptions to Notice Requirement	85
Section 31. Enforcement		
31.01	Zoning Violations	86
31.02	Violations and Penalties	86
31.03	Enforcement Procedures	86
31.04	Attorney	86
31.05	Civil Action	87
31.06	Failure to Comply	87

Section 32. Subdivision Regulations	
32.01 Intent	88
32.02 Purpose	88
32.03 Definitions	88
32.04 Applicability	88
32.05 Procedure	89-92
32.06 Design Guidelines	92-94
32.07 Required Improvements	94-95
32.08 Public Lands	95
32.09 Operation and Maintenance	95
32.10 Variance of Requirements	95
32.11 Final Plat Development Requirements	95
Section 33. Miscellaneous	
33.01 Invalidity in Part	96
33.02 Conflicting Resolutions	96
33.03 Effective Date	96
33.04 Publication	96
Appendix	97-100

RESOLUTION NO. 2010-20

A RESOLUTION OF KIMBALL COUNTY, NEBRASKA, ESTABLISHING LAND USE ZONING AND SUBDIVISION STANDARDS WITHIN THE UNINCORPORATED AREAS OF KIMBALL COUNTY; ESTABLISHING ZONING DISTRICTS; ADOPTING MAPS OF SAID AREAS AND ZONING DISTRICTS THEREIN; REGULATING THE USE OF LAND ITS DEVELOPMENT INCLUDING BUT NOT LIMITED TO THE USE, SETBACK, LOT AREA, LOT WIDTH, YARDS, AND HEIGHT OF BUILDING; PLATTING, DIVISION, IMPROVEMENTS REQUIRED, DESIGN STANDARDS; PROVIDING FOR THE ADMINISTRATION, ADJUSTMENT, ENFORCEMENT AND AMENDMENT THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND REPLACING ALL RESOLUTIONS IN CONFLICT HEREWITH.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF KIMBALL COUNTY, NEBRASKA THAT THIS RESOLUTION SHALL APPLY TO THE UNINCORPORATED AREAS WITHIN KIMBALL COUNTY, NEBRASKA; AND DISTRICTS AND THEIR RELATED STANDARDS SHALL BE ESTABLISHED AS DEFINED HEREIN AND THE ZONING MAP ADOPTED AND MADE PART HEREOF:

SECTION 1. TITLE

1.01. A Comprehensive Zoning Code and Subdivision Regulations for Kimball County are established as set out in this Resolution. This Resolution and any later amendments to it shall be known as the "Kimball County Zoning and Subdivision Resolution" and may be cited by that name.

SECTION 2. PURPOSE AND INTENT

2.01. This Zoning Resolution is intended to provide a unified regulatory system for land use in Kimball County. The Zoning Resolution is designed to serve the following purposes:

1. To promote the health, safety, comfort and general welfare of the present and future residents of Kimball County;
2. To secure safety from fire, flood, and other dangers;
3. To preserve and protect property values throughout Kimball County;
4. To protect the tax base of Kimball County;
5. To preserve quality agricultural lands;
6. To regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population;
7. To create zoning districts within the unincorporated areas of Kimball County;
8. To regulate the location and use of buildings and land within each district or zone;
9. To enforce and maintain the objectives and policies of the Kimball County Comprehensive Plan;
10. To encourage the most appropriate use of land;
11. To promote such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply and other public requirements;
12. To secure economy in government expenditures;
13. To preserve, protect, and enhance historical buildings, places, and districts; and,
14. To develop the livestock and crop production and processing sector of Kimball County's economy.
(Resolution 2013-4, May 21, 2013)

SECTION 3. AUTHORITY AND GENERAL PROVISIONS

3.01. Authority: Kimball County is authorized by law to regulate zoning, planning, subdivision of land, and buildings by virtue of Neb. Rev. Stat. §Section 23-114 as amended, and is hereby declared to be in accordance with all provisions of these statutes.

3.02. Jurisdiction: This Resolution shall apply to the unincorporated areas within the boundaries of Kimball County, Nebraska not located within the zoning jurisdiction of any municipality as set forth by Nebraska law, and as may be amended when necessary.

3.03. Scope: Except as may hereinafter specified, no building, structure or land shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with all the terms of this Resolution for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 25.

3.04. Districts: In order to carry out the purpose and intent of this Resolution, the unincorporated area of Kimball County, Nebraska is hereby divided into the following zoning district classifications:

- A-1 Agriculture One District;
- A-2 Agriculture Two District;
- RE Residential Estate District;
- C Commercial District;
- IC Interstate Highway Commercial;
- I Industrial District;
- WPO Wellhead Protection Overlay District; and, (Resolution 2012-02, April 3, 2012)
- AHAO Airport Hazard Area Overlay District. (Resolution 2013-6, November 19, 2013)

3.05. District Boundaries and Official Map: The boundaries of the zoning districts are indicated upon the Official Zoning Map of Kimball County, Nebraska, which map is made a part of this Resolution by reference hereto. The Official Zoning Map and all the notations, references, and other matters shown thereon shall be as much a part of this Resolution as if the notations, references and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be on file in the Kimball County Courthouse and shall bear the signature of the Chairperson of the Board of Commissioners attested by the County Clerk, under the certification that this is the Official Zoning Map of the Kimball County Zoning Resolution.

3.06. Changes to Official Zoning Map: If in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matters portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the County Clerk on the Official Zoning Map. The County Board may from time to time adopt a new Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original Zoning Resolution or any subsequent amendment thereof.

3.07. Disincorporation: All territory which may hereafter become part of the unincorporated area of Kimball County, Nebraska which is regulated by this Resolution by the disincorporation of any city or village, or any part thereof, shall automatically be classified as lying and being in the RE Residential

Estate District until such classification shall have been changed by amendment of this Resolution as provided by law.

3.08. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts the following rules apply:

1. The district boundaries are the centerline of roads, alleys, waterways, or other public right-of-way, unless otherwise indicated; and where the designation of a boundary line coincides with the location of roads, alleys, waterways, or other public right-of-way, the centerline of the roads, alleys, waterways, or other public right-of-way shall be construed to be the boundary line of the district;
2. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with platted lot-lines, the lot-line shall be construed to be the boundary of the district;
3. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with section lines, quarter lines, quarter section lines, or quarter - quarter section lines, the section lines, quarter lines, quarter section lines, or quarter - quarter section lines shall be construed to be the boundary of the district; and,
4. Boundaries following railroad lines shall be construed to be midway between the main tracks.

3.09. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations: (Resolution 2020-25, July 7, 2020)

1. The regulations provided for under this Resolution regulate, restrict, or prohibit the erection, construction, reconstruction, and/or alteration of non-farm buildings or structures. Non-farm buildings are all buildings except those buildings utilized for agricultural purposes. Nothing in this exemption shall preclude non-farm buildings from meeting basic setbacks from a county road or highway, and/or state and/or federal highway.

3.10. Interpretation: In the interpretation and application of the provisions of this Resolution, the following regulations set forth below shall govern:

1. **Minimum Requirements:** In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare;
2. **Overlapping or Contradicting Regulations:** Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted;
3. **Private Agreements:** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern; and,
4. **Unlawful Uses:** The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

3.11. Severability: It is hereby declared to be the intention of Kimball County that the provisions of these regulations are severable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgment shall not affect any other provisions of these regulations; and,
2. If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property or structure, the judgment shall not affect the application of the provisions to any other property or structure.

3.12. Amendments: Any provision of this Resolution from time to time may be amended, supplemented, changed, modified, or repealed by the county commissioners according to law; provided, however, that such amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after the study and report by the Planning Commission.

3.13. Repeals:

1. All Resolutions of the County inconsistent herewith to the extent of such inconsistency, and no further, are hereby repealed;
2. The repeal of any of the above mentioned does not revive any other Resolutions or portions thereof repealed by said Resolutions; and,
3. Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to repeal.

3.14. Lot Size in Agriculture Districts: A lot shall be considered to meet the minimum lot size requirement if the lot would otherwise meet the minimum lot size requirements if the lot size was not reduced because of public right-of-ways or other extenuating circumstances.

3.15. Setback and Lot Size Reduction Prohibited: No setback, lot or tract existing at the time of adoption of this Resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Setbacks, lots or tracts created after the effective date of the Resolution shall meet or exceed the minimum requirements established by this Resolution.

3.16. Disclaimer of Building and Other Codes and County Liability: This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or other code which would regulate the design and construction of any building or structure within the jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements of this Resolution are solely for the purpose of assuring compliance with the land usage regulations set forth in this Resolution for the purposes set forth in Section 2 of this Resolution. Kimball County assumes no liability and shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit, or other form of land usage approval may have been issued nor shall Kimball County assume any liability for any non-compliance with any Federal, State or other code, regulation or requirement.

SECTION 4. RULES AND DEFINITIONS:

4.01 Rules:

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:

- A. Words used in the present tense shall include the future tense;
- B. Words in the singular number include the plural number and words in the plural number include the singular number;
- C. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for";
- D. The word "shall" is mandatory; the word "may" is permissive;
- E. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities;
- F. Unless otherwise specified, all distances shall be measured horizontally;
- G. The word "County" means Kimball County, Nebraska;
- H. In the event that there is any conflict or inconsistency between the heading of a section, subsection or paragraph of this Resolution and the context thereof, the headings shall not be deemed to affect the scope, meaning or intent of the context;
- I. The words "County Board" shall mean the Kimball County, Nebraska Board of Commissioners; and,
- J. The words "Planning Commission" shall mean the Kimball County Planning Commission duly appointed by the County Board.

2. Any word or phrase which is defined in this section, and used within this Resolution, shall have the meaning as so defined whenever the word or phrase is used, unless the definition is expressly limited in its meaning or scope.

4.02. Definitions: For the purpose of this Zoning Resolution, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

1. Accessory Structure: A structure detached from a principal building located on the same lot and customarily incidental to that of the main building.

2. Accessory Use: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of land or buildings and located on the same lot as the principal use. A use incidental, related, appropriate and clearly subordinate to the main use of the land or building which accessory use does not alter the principal use of the subject land or affect other properties in the district.

3. Acreage: The number of acres in a piece of land: acres collectively. (Resolution 2012-02, April 3, 2012)

4. Adjacent: When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line were it not for the separation caused by a street/road or any other public right-of-way.

5. Adult entertainment center: An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast, or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.
6. Adults-only bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
7. Adults-only motion picture theater: An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse for observation by patrons therein.
8. Agriculture: The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, pasturing of buffalo, elk and other animals, dairying, raising and management of poultry, fish, bees and other animals, truck farming, forestry or orchards, the non-commercial storage and processing of agricultural products produced on the premises and use of the land for fee hunting, including accessory uses customarily associated with these activities in Kimball County. Agriculture includes farming.
9. Alleys: Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting a street/road.
10. 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 an alteration.
11. Bed and Breakfast: Any place of lodging that provides rented rooms to ten or fewer people that is the personal residence of the owner, that is occupied by the owner at the time of rental, and in which the only meal served to renters is breakfast. §81-2,242. (Resolution 2012-02, April 3, 2012)
12. Billboard: A sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located.
13. Borrow Pit: An area of land where the overburden, consisting of unconsolidated rock, glacial debris, and other earth material overlying bedrock is extracted from the surface. Extraction occurs on a one-time only basis or only intermittently as need occurs, for use as fill materials by the extracting party in the form in which it is extracted. No milling is involved, except for the use of a scalping screen to remove large rocks, wood and trash. The material is used by the extracting party more for its bulk than its intrinsic qualities on land which is relatively near the borrow pit. (*Interagency Agreement between the Mine Safety and Health Administration, U.S. department of Labor and the Occupational Safety and Health Administration*). (Resolution 2017-15, May 2, 2017)
14. Building: Any structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

15. Building Area: The area of a lot remaining after the minimum yard open space requirements of the zoning resolution has been met.
16. Building Height: The vertical dimension from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between eaves and the ridge level for gable, hip and gambrel roofs. Mechanical equipment, chimneys, spires and similar appurtenances not intended for human habitation are not subject to the height limitations contained in the District Regulations.
17. Commercial Use: The purchase, sale, or transaction involving the disposition of any article, substance commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit including renting of rooms, business offices and sales display. (Resolution 2017-15, May 2, 2017)
18. Communication Tower: Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
19. Compatible Use: A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other. (Resolution 2012-02, April 3, 2012)
20. Comprehensive Plan: The officially adopted document intended to guide the long range development of the county.
21. Concentrated Animal Feeding Operation: An operation that stables or confines animals specified in any of the categories defined in the Livestock Waste Control Regulations and is required to obtain an Operating Permit by the Nebraska Department of Environmental Quality. The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.
22. Conditional Use: A land use that would not be generally compatible with other permitted land uses in a zoning district, but which if controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote health, safety, convenience and general welfare. (Resolution 2012-02, April 3, 2012)
23. Conditional Use Permit: A permit issued stating that the conditional use meets all conditions set forth in local resolutions. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioners. (Resolution 2012-02, April 3, 2012)
24. Convenient Store: A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase on a relatively few items (in contrast to a "supermarket."), it is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Resolution 2012-02, April 3, 2012)
25. Developer: The legal or beneficial owner or owners of any of the land proposed to be included in a given development or the authorized agent therefore, including the holder of the option or contract to purchase, or other individual having an enforceable legal interest in such land.
26. Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and a use or extension of use of land.

27. District: A part, zone, or geographic area within the county within which certain uniform zoning or development regulations apply.
28. Dwelling: A building or portion thereof, designed and used for residential purposes, but not including recreational travel trailers or motor homes not used as a permanent residence.
29. Dwelling, Accessory: A dwelling located on the same lot as the principal or primary dwelling.
30. Dwelling, Agriculture: A dwelling occupied by a person or persons which is directly associated with an agricultural operation.
31. Dwelling, Non-farm: A dwelling occupied by a person or persons in which either the head of the household or the spouse of the head of household are not engaged in agriculture.
32. Dwelling, Single Family: A dwelling having accommodations for and occupied exclusively by one family, including code compliant mobile homes, and intended to be occupied by not more than one family. A single family dwelling includes a townhouse or condominium.
33. Dwelling, Two-Family: A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.
34. Dwelling, Multiple-Family: A dwelling having accommodations for and occupied exclusively by more than two families.
35. Dwelling Unit: One room or rooms including at least one single kitchen; designed for or occupied as a unit by one family, for living and cooking purposes, located in a one family or multiple-family dwelling.
36. Easement: A grant by the property owner to the public, a corporation, or persons of the use of tract of land for a specified purpose or purposes.
37. Excavation: The removal of clay, soil, limestone, sandstone, sand or gravel from the earth by excavating, stripping, leveling or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit or normal farming practices. Stone milling shall include the crushing, cutting, grinding or otherwise processing when associated with an excavation operation. Not all of the operations will apply to pre-existing, long term excavation sites. (Resolution 2017-15, May 2, 2017)
38. Family Entertainment Center: A commercially operated center that offers various forms of entertainment, such as arcade games, carousels, roller coasters, and performers, as well as food, drink, and souvenirs. These centers are permanently located entertainment complexes, open either all year or seasonally every year. (Resolution 2012-02, April 3, 2012)
39. Farm: An area of agricultural and horticultural land which is primarily used for agricultural or horticultural purposes. Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes includes the following uses of land: 1) land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the land or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and 2) land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.

40. Grandfather Rights: The use of a building or structure, land and a building or structure or land existing and lawful at the time of the adoption or amendment of these regulations, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations. When a nonconforming use of land is discontinued or abandoned for a period of twelve consecutive months that use shall not be re-established or resumed. See Section 25 Non-Conforming Uses. (Resolution 2017-16, May 2, 2017)
41. Guest House: An accessory use designed for the temporary lodging of guests in a unit not having a kitchen or kitchen appliances.
42. Hazardous Waste: Any waste product generated which is listed as a hazardous material by the United States Environmental Protection Agency. (Resolution 2012-02, April 3, 2012)
43. Home Occupation: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes. (Resolution 2012-02, April 3, 2012)
44. Hotel or Motel: A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether the establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court tourist cabin, tourist court, or other similar designations.
45. Industrial: A) Heavy- Any industrial, manufacturing, fabrication, warehousing, or processing which emits noxious smoke, odor, dust or noise. B) Medium-Any industrial, manufacturing, fabrication, warehousing, or processing which might emit noxious smoke, odor, dust or noise. C) Light- Any industrial, manufacturing, fabrication, warehousing or processing which does not emit noxious smoke, odor, dust or noise. All processing, fabrication, manufacturing, assembly and disassembly takes place wholly within an enclosed building. (Resolution 2012-02, April 3, 2012)
46. Junk: Old scrap; copper; brass; iron; steel; rope; rags; batteries; paper; trash; rubber debris; waste; dismantled or wrecked automobiles, or parts thereof; and other old scrap or ferrous or nonferrous materials.
47. Kennel: A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.
48. Livestock: All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
49. Lot: A parcel of land occupied or designed to be occupied by one or more buildings, structures, or uses, together with such open areas as are required by this Resolution.
50. Lot, Area: The total horizontal area within the lot lines of a lot. See diagram on page 20.
51. Lot Line, Front: The property line dividing a lot from a street/road. On a corner lot only one street/road line shall be considered as a front lot line. See diagram on page 20.
52. Lot line, Rear: The line opposite the front lot line. See diagram on page 20.
53. Lot Line, Side: Any lot lines other than front lines or rear lines. See diagram on page 20.

54. Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air condition, and electrical systems contained in the structure, except that manufactured home includes an structure that meets all of the requirements other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such as existed on September 1, 2001, 42, U.S. C. 5401 et seq. (Neb Rev Stat §71-4603).

55. Manufactured Housing: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec.5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.

56. Manufacturing: Uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer. (Resolution 2012-02, April 3, 2012)

57. Mining: The act of recovering mineral, sand, gravel, quarry, coal or other resources from the ground. Mining shall include, but not be limited to, recovery of the resources by processing on site (including "in-situ," solution, and other extractive methods), open pit excavation, wet or dry pit excavation and subterranean excavation. (Resolution 2012-02, April 3, 2012)

58. Mobile Home: A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. (Neb Rev Stat §76-1463)

59. Mobile Home Park: A parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. (Neb Rev Stat §71-4621)

60. Motor Sport Facility: A building, structure or place consisting of a circumscribed area of land laid out for motor sports. Designed and created to serve a particular function for motor sports. (Resolution 2012-02, April 3, 2012)

61. Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

62. Nonconforming Structure: A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

63. Nonconforming Use: A use or activity that was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

64. Nursery: The use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold. (Resolution 2012-02, April 3, 2012)

65. Oil and Gas Production: The drilling, development, production and abandonment of oil and gas as defined by the Nebraska Oil and Gas Conservation Commission. Nebraska Revised Statute §57-903 Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casing-head gas. Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil. (Resolution 2012-02, April 3, 2012)

66. Overlay District: A district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change. (Resolution 2012-02, April 3, 2012)

67. Owner: One or more persons, including corporations, who have title to the property, building or structure in question. (Resolution 2012-02, April 3, 2012)

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

69. Principal Use or Structure: The predominate use of land or structures as distinguished from an accessory use.

70. Public Use Area: An area of land or water, whether publicly or privately owned, which is designed for and used by 10 or more unrelated persons, on at least a quarterly basis, for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas, public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not be construed to include any cemeteries, rights-of-way for streets or roadways or privately owned land used for hunting and/or fishing. (Resolution 2012-02, April 3, 2012)

71. Public Uses: Including but not limited to public parks, playgrounds, golf courses and recreational facilities; fire stations; schools; publicly owned or operated airports; and public utilities and utility distribution systems; excluding governmental landfill operations. (Resolution 2012-02, April 3, 2012)

72. Recreational Facilities: Facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming or golf. Recreational facilities shall include country clubs and athletic clubs. It shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include areas or stadiums used primarily for spectators to watch events. (Resolution 2012-02, April 3, 2012)

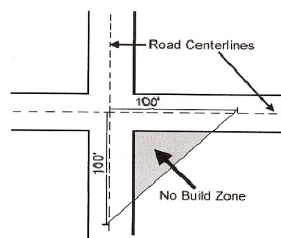
73. Recreational Purposes: Includes, but is not limited to, any one or any combination of the following: Hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, waterskiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, or otherwise using land for purposes of the user; and operated on a commercial basis by the paying public. (Resolution 2012-02, April 3, 2012)

74. Recycling: The process by which recovered waste materials are transformed into new products in such a manner that the original products may lose their identity.
75. Relative, direct: A person's mother, father, son, or daughter.
76. Restaurant: A public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building. (Resolution 2012-02, April 3, 2012)
77. Restaurant, Drive-In: An establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises. (Resolution 2012-02, April 3, 2012)
78. Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers. (Resolution 2012-02, April 3, 2012)
79. Retail Trade: Uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption. (Resolution 2012-02, April 3, 2012)
80. Right-of-way: An area dedicated to the public use which provides access to adjacent properties.
81. Salvage or wrecker dealer: Any person who acquires one or more motor vehicles or trailers for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap.
82. Salvage Yard: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales.
83. Scrap Metal Processor: Any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license.
84. Screened: Construction and maintenance of fences, earth berms or the use of landscaping materials or other materials used to lessen the noise, light, or visual impacts of a land use on surrounding land uses.
85. Self-Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products. (Resolution 2012-02, April 3, 2012)
86. Service Stations: Buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair. (Resolution 2012-02, April 3, 2012)
87. Sewer & Waste Water Treatment Operation: Pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal. (Resolution 2012-02, April 3, 2012)

88. Setback: The horizontal distance between any building and the lot line.

89. Sexually oriented business: An adult entertainment center, adults-only bookstore, adult novelty store, adult video store, nudist camp, or adults-only motion picture theater whose inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement.

90. Sight Triangle: An area at a street intersection in which no buildings shall be erected or placed and not trees, bushes or shrubs shall be planted in a manner which impedes vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of inter-section of the centerline of the streets, 50 feet in each direction along the centerline of the streets. At the intersection of major arterial streets, the 50-foot distance shall be increased to 100 feet for each leg of the intersection.



91. Solar Energy System (SES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)

92. Solid Waste: Any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923. (Resolution 2012-02, April 3, 2012)

93. Storage: The keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days. (Resolution 2012-02, April 3, 2012)

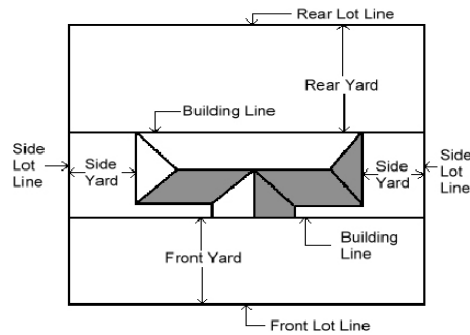
94. Structure: Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street-light fixtures, and street/road signs.

95. Structure, Farm: A structure that is utilized for and directly associated with an agricultural operation.

96. Structure, non-farm: Any structure that is not utilized for and directly associated with an agricultural operation.

97. Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or in the dimension or configurations of the roof or exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration: A) Attachment of new facade where structural supports are not changed; B) Addition of fire escapes where structural supports are not changed; C) New windows or doors; and, D) Repair or replacement of non-structural members.
98. Subdivider: The owners, developers, or agents of persons or corporations affecting subdivision.
99. Subdivision: The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership, building development, or, if a new street/road is involved, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
100. Truck Wash Services: A facility to wash and clean interior and exterior of semi-truck tractors, large trucks and small vehicles, together with trailers. (Resolution 2012-02, April 3, 2012)
101. Variance: A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment in accordance with Nebraska State Statutes.
102. Wastes: Sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state. (Resolution 2012-02, April 3, 2012)
103. Wind Energy System (WES): A Wind Energy System is 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. Equipment that converts and then stores or transfers energy from the wind into usable forms of electrical energy and includes any base, blade, foundation, generator, nacelle, accessory building, rotor, tower, transformer, turbine, vane, wire, or other components used in the system. Accessory facilities, including but not limited to: power lines, transmission lines, transformers, substations and meteorological towers. The WES is designed to provide energy to off-site users or export to the wholesale market. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)
104. Wholesale Trade: The sale of goods or merchandise to retailers; to industrial, commercial, institutional, or other professional business users; or to other wholesalers and related subordinated services. (Resolution 2012-02, April 3, 2012)
105. Yard: That portion of the area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the District in which the lot is located.
106. Yard, Front: A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the closest point of the primary building.
107. Yard, Rear: A yard extending across the full width of the lot, the depth of which is the distance between a rear lot line and the closest point of the primary building.

108. Yard, Side: A yard extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principle building.



109. Zoning Administrator(s): The person or persons authorized and empowered by the County Board to administer the requirements of these zoning regulations.

110. Zoning Regulations: The term zoning regulations shall mean the requirements stipulated in this Resolution and any amendments to it.

SECTION 5. "A-1" AGRICULTURAL DISTRICT

5.01 Intent: The intent of this district is to maintain agricultural crop and livestock production which is in balance with the natural environment and promote new forms of agricultural production which is compatible with existing ranch and farm uses and the environment. The intent is also to encourage soil and water conservation, preserve water quality, prevent contamination of the natural environment within the County and to preserve and protect ranch and farm operations from conflict with non-agricultural uses. Uses, if allowed to develop would be or could become incompatible with the agricultural character of the County. (Resolution 2012-02, April 3, 2012)

5.02 Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution;
2. One or more single-family dwellings per lot/parcel that is directly associated with the agricultural operation;
3. One non-farm single-family dwelling per lot/parcel;
4. Home Occupations in accordance with Section 13.01;
5. Bed and Breakfasts;
6. Apiaries;
7. A non-commercial borrow pit for personal uses. (Resolution 2017-15, May 2, 2017)
8. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted.
9. Oil and Gas Production: (Resolution 2012-02, April 3, 2012)
10. Electric public utility transmission lines and substations; and, pipeline and pipeline facility as defined by 49CFR192 and 49CFR195. (Resolution 2014-9, July 1, 2014)
11. Concentrated Animal Feeding Operations of 2499 Animal Units or under; (Resolution 2018-21, April 17, 2018)
12. Off-grid Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
13. Off-grid Wind Energy Systems (in accordance with Section 18); (Resolution 2018-21, April 17, 2018)
14. Offices incidental to the operation of the listed permitted uses; and,
15. Accessory buildings and uses customarily incidental to a permitted use.

5.03 Conditional Uses: The following conditional uses may be permitted in the "A-1" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 26.

1. Concentrated Animal Feeding Operations of 2500 Animal Units and over (in accordance with Section 15); (Resolution 2018-21, April 17, 2018)
2. Place of Worship; (Resolution 2012-02, April 3, 2012)
3. Nurseries; (Resolution 2012-02, April 3, 2012)
4. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;

- I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;
 - K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities;
5. Airports and landing strips;
 6. Billboards (in accordance with Section 14);
 7. Communication towers (in accordance with Section 16);
 8. Commercial trailer washout;
 9. Fairgrounds;
 10. Wind Energy Systems (in accordance with Section 18);
 11. Kennels;
 12. Sewage and wastewater treatment operations;
 13. Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. (Resolution 2012-02, April 3, 2012)
 14. Mining using excavation techniques; (Resolution 2017-15, May 2, 2017)
 15. Asphalt or concrete batch plant;(Resolution 2017-15, May 2, 2017) and,
 16. Motor Sport Facility if adjacent to A-2 District (in accordance with Section 19).
(Resolution 2012-02, April 3, 2012)
 17. Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
 18. Offices incidental to the operation of the listed conditional uses;
(Resolution 2018-21, April 17, 2018) and,
 19. Accessory buildings customarily incidental to a conditional use.
(Resolution 2018-21, April 17, 2018)

5.04. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
(Resolution 2012-02, April 3, 2012)
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.
6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 6. "A-2" AGRICULTURAL DISTRICT

6.01. Intent: The intent of this district is to provide low-density residential development in selected areas along paved roadways. This district is located near urban and built-up areas with reasonable reach of fire protection and hard surfaced roads. (Resolution 2012-02, April 3, 2012)

6.02 Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution
2. One (1) primary single-family dwelling per lot/parcel;
3. Home Occupations in accordance with Section 13.01;
4. Bed and Breakfasts;
5. Apiaries;
6. A non-commercial borrow pit for personal uses; (Resolution 2017-15, May 2, 2017)
7. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted;
8. Oil and Gas Production; (Resolution 2012-02, April 3, 2012)
9. Electric public utility transmission lines and substations; and, pipeline and pipeline facility as defined by 49CFR192 and 49CFR195; (Resolution 2014-9, July 1, 2014)
10. Off-grid Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
11. Off-grid Wind Energy Systems (in accordance with Section 18); (Resolution 2018-21, April 17, 2018)
12. Offices incidental to the operation of the listed permitted uses; and,
13. Accessory buildings and uses customarily incidental to a permitted use.

6.03 Conditional Uses: The following conditional uses may be permitted in the "A-2" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 26.

1. Place of Worship; (Resolution 2012-02, April 3, 2012)
2. Nurseries; (Resolution 2012-02, April 3, 2012)
3. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;
 - I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;
 - K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities.
4. Billboards (in accordance with Section 14);
5. Communication towers (in accordance with Section 16);
6. Commercial trailer washout;
7. Fairgrounds;
8. Wind Energy Systems (in accordance with Section 18);

9. Kennels;
10. Salvage yard or Scrap Metal Processor (in accordance with Section 13);
(Resolution 2012-02, April 3, 2012)
11. Sewage and wastewater treatment operations;
12. Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. (Resolution 2012-02, April 3, 2012)
13. Mining using excavation techniques; (Resolution 2017-15, May 2, 2017)
14. Asphalt or concrete batch plant; (Resolution 2017-15, May 2, 2017)
15. Motor Sport Facility (in accordance with Section 19). (Resolution 2012-02, April 3, 2012)
16. Solar Energy Systems (in accordance with Section 20); (Resolution 2018-21, April 17, 2018)
17. Offices incidental to the operation of the listed conditional uses; and,
(Resolution 2018-21, April 17, 2018)
18. Accessory buildings customarily incidental to a conditional use.
(Resolution 2018-21, April 17, 2018)

6.04. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.
6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 7. "RE" RESIDENTIAL ESTATE DISTRICT

7.01 Intent: The intent of this district is to provide the present and future residents of Kimball County with low-density residential subdivisions in rural areas.

7.02 Permitted Uses:

1. One (1) single family dwelling unit per lot;
2. Home Occupations in accordance with Section 13.01;
3. Bed and Breakfasts;
4. Utility service facilities;
5. Off-grid Solar Energy Systems; (in accordance with Section 20)
(Resolution 2018-21, April 17, 2018)
6. Off-grid Wind Energy Systems; (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018) and,
7. Accessory buildings and uses customarily incidental to a permitted use.

7.03 Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in Section 26 of this Resolution:

1. Keeping, raising, boarding of livestock;
2. Communication towers (in accordance with Section 16); and,
3. Accessory buildings and uses customarily incidental to a conditional use.
(Resolution 2018-21, April 17, 2018)

7.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.

2. **Minimum lot size for non farm housing development:** 10 acres
(Resolution 2012-02, April 3, 2012)

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 8. "C" COMMERCIAL DISTRICT

8.01 Intent: The intent of this district is to serve only those business uses which are frequently found near interchanges and busy highways. This district is not intended to serve all business activity since it then could detract from established business centers. This district should be used at interchanges and on limited locations within established communities on main highways. Tourist related businesses are the prime customers in this district. (Resolution 2012-02, April 3, 2012)

8.02 Permitted Uses:

1. Convenience Stores;
2. Self-Service Stations; (Resolution 2012-02, April 3, 2012)
3. Offices;
4. Restaurants;
5. Stores and shops which provide personal services;
6. Retail or wholesale trade; (Resolution 2012-02, April 3, 2012)
7. Motels, hotels and other places which provide temporary lodging;
8. Public, Semi-Public, or Governmental buildings, office, and facilities;
9. Public Parks;
10. Off-grid Solar Energy Systems; (in accordance with Section 20) (Resolution 2018-21, April 17, 2018)
11. Off-grid Wind Energy Systems; and, (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018)
12. Accessory uses and buildings that are clearly incidental to the permitted use.
(Resolution 2018-21, April 17, 2018)

8.03 Conditional Uses: The following conditional uses may be permitted in the "C" District subject to approval procedures outlined in Section 26 of this Resolution:

1. Warehousing and storage of items not displayed for purchase;
2. Communication towers (in accordance with Section 16);
3. Contractor office and equipment storage;
4. Grain Elevators;
5. Light manufacturing or fabrication establishments;
6. Ready-mix concrete and asphalt batch plants;
7. Sign painting and manufacturing;
8. Truck and rail terminals;
9. Welding and blacksmith shops;
10. Automobile repair facilities;
11. Family Entertainment Center; and, (Resolution 2012-02, April 3, 2012)
12. Accessory uses and buildings that are clearly incidental to the conditional use.

8.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
- C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 9: "IC" INTERSTATE HIGHWAY COMMERCIAL DISTRICT

9.01 Intent. The purpose of this zoning district is to provide and preserve the high access areas to provide services to Interstate Highway travelers.

9.02 Permitted Uses. In the "IC" Interstate Highway Commercial District, buildings, structures and land shall be used only for the following purposes.

- 1. Restaurants, cafes, drive-in restaurants and other dining establishments;
- 2. Motels, hotels and other places which provide temporary lodging;
- 3. Service stations, truck stops and other vehicle service stations; (Resolution 2012-02, April 3, 2012)
- 4. Retail shops that cater primarily to travelers or tourists;
- 5. Parks, Playgrounds and rest areas;
- 6. Off-grid Solar Energy Systems (in accordance with Section 20)
(Resolution 2018-21, April 17, 2018)
- 7. Off-grid Wind Energy Systems; (in accordance with Section 18) and,
(Resolution 2018-21, April 17, 2018)
- 8. Accessory uses and buildings that are clearly incidental to the permitted use.

9.03 Conditional Uses. The following conditional uses may be permitted subject to approved procedures outlined in Section 26 of this Resolution:

- 1. Structures used for wholesale distribution;
- 2. Family Entertainment Center; and, (Resolution 2012-02, April 3, 2012)
- 3. Accessory uses and buildings that are clearly incidental to the permitted use.
(Resolution 2018-21, April 17, 2018)

9.04 Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

A. No fence shall be constructed which will constitute a traffic hazard.

B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.

C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 10. "I" INDUSTRIAL DISTRICT

10.01 Intent: The intent of this district is to provide for those activities which due to their nature require distance separation from more urbanized and/or residential land uses, or which must be located outside of urban areas due to special land volume and/or transportation access needs.

10.02 Permitted Uses:

1. Public or private incinerators;
2. Activities which are normally associated with a railroad operation, such as rail car repair;
3. Commercial storage units;
4. Contractor equipment storage yard;
5. Fertilizer plant;
6. Grain elevators;
7. Grain storage facilities;
8. Light indoor manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke;
9. Livestock auction facilities;
10. Manufacturing or storage of bulk oil or gas;
11. Offices;
12. One dwelling unit is permitted for use exclusively by a watchman or custodian;
13. Public utility and public service uses;
14. Ready-mixed concrete and asphalt mix plants;
15. Sign painting and manufacturing;
16. Truck Terminal;
17. Off-grid Solar Energy Systems; (in accordance with Section 20)
(Resolution 2018-21, April 17, 2018)
18. Off-grid Wind Energy Systems; and, (in accordance with Section 18)
(Resolution 2018-21, April 17, 2018)
19. Accessory uses and buildings that are clearly incidental to the permitted use.
(Resolution 2018-21, April 17, 2018)

10.03 Conditional Uses: The following conditional uses may be permitted in the “I” District subject to approval procedures outlined in Section 26 of this Resolution:

1. Billboards (in accordance with Section 14);
2. Communication towers (in accordance with Section 16);
3. Kennels;
4. Manufacturing or fabrication establishments which are not allowed as a permitted use;
5. Salvage Yard or scrap metal processor (in accordance with Section 13);
6. Sexually Oriented Businesses; and, (In accordance with Section 17)
7. Accessory uses and buildings that are clearly incidental to the permitted use.

10.04. Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').

5. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

A. No fence shall be constructed which will constitute a traffic hazard.

B. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.

C. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-90.

SECTION 11. WPO WELLHEAD PROTECTION OVERLAY DISTRICT

(Resolution 2012-02, April 3, 2012)

11.01 Intent

The intent of this district is to overlay any of the primary zoning districts herein established in order to assist municipalities that maintain and operate public water wells in the county serving municipalities within or adjoining the county. In order to provide protection for such wells, the regulation of land uses having the potential for contamination of the groundwater source(s) is necessary near and adjacent to said wells. The intent of this district is also to protect existing and future agricultural uses which are in balance with the natural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of public water supply system wells, from over-regulation by said municipalities with regard to wellhead protection.

11.02 Prerequisite Requirements for Application of this District

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

1. Delineation of the Wellhead Protection Area based upon a 20 year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality.
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality.
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area(s), including identification of abandoned wells.
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area(s).
5. Formulation, adoption and enforcement of land use control regulations for those portions of the wellhead area within the corporate limits and zoning jurisdiction area of the municipality which are appropriated to minimize the potential for contamination to the water supply of the municipality.
6. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program.
7. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area(s).
8. The municipality shall execute an inter-local agreement with Kimball County for the administration and enforcement of the regulations of the lands within this Wellhead Protection District. In such agreement, the municipality shall agree to accept the regulations set forth in this District, agree to pay any administrative fees to the County which the parties involved agree, agree to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, and agree to hold the County harmless from any liability related

to the requirements of this district, except for proper administration and enforcement of the requirements of this district by the county, together with other terms and conditions which are acceptable to the parties involved in such agreement.

11.03 Limitation on Application of This District

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

11.04 Prohibited Uses and Structures

All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use is prohibited. These shall include both new and expanding uses. Furthermore the following uses and/or structures shall be specifically prohibited:

1. Concentrated animal feeding operations.
2. Waste handling facilities.
3. Landfills and refuse recycling centers.
4. Commercial or industrial uses that utilize or generate any materials determined by the United States Department of Environmental Protection, as hazardous materials, which store petroleum products or anhydrous ammonia or other fertilizers in excess of 50 gallons.
5. Domestic, irrigation and any other water wells closer than 1,000 feet to the water wells being protected in this Wellhead Protection Agricultural District(s).
6. Sanitary Landfills
7. Storage of Hazardous Waste

11.05 Wellhead Area Protection Requirements

The following restrictions shall apply to all uses within any land areas on which this Wellhead Protection Overlay District is applied:

1. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Titles 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or other land area, in excess of one thousand one hundred (1,100) gallons shall be prohibited, except when a conditional use for a commercial or industrial use is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Titles 126 and 159.
2. Fuel storage associated with any irrigation well engine shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.
3. Fuel storage, except when associated with a commercial or industrial use authorized as a conditional use and except for any fuel storage associated with any irrigation well engines shall not be permitted within one thousand (1,000) feet of any well protected under this wellhead protection overlay district.
4. Storage of fertilizers, herbicides, pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except for the

seasonal storage of quantities of such materials on a farm which are limited to quantities of such materials to be utilized on such farm per growing season and except when a conditional use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 119, 126, 128, 159 and 198, administered by the Nebraska Department of Environmental Quality and other agencies.

5. No septic tank, tile field or other on-site sewage disposal system, associated with any residential, commercial, industrial or other type of land use, shall be located within one thousand (1,000) feet of any public well protected under this wellhead protection overlay district, provided that existing septic tanks, tile fields or other on-site sewage disposal system may continue to be used and may be replaced, and further provided that if a lot of record exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) septic tank and tile field or other on-site sewage disposal system may be established, provided such tank, tile field or other system complies with the requirements of Title 123, 124 and 125 of the Nebraska Department of Environmental Quality.

6. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet of any public well protected under this wellhead protection overlay district, provided that if a lot of record exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) residential well may be established, provided such well shall be constructed in accordance with the rules and requirements of Title 178.

7. Any application of fertilizers, pesticides, or herbicides to the land through an irrigation system (chemigation) shall comply with the requirements of Title 195.

8. If any land area contained within a wellhead protection overlay zoning district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resources District(s).

11.06 Minimum Lot Area Requirements

The minimum lot area for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

11.07 Minimum Lot Width and Frontage Requirements

The minimum lot width and frontage for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

11.08 Minimum Building Setback Requirements

The minimum setback for all regulated structures and buildings in this overlay district shall be set forth in the primary district(s) on which this district is overlain, provided that the minimum setback requirements from protected wells shall also be complied with.

11.09 Maximum Height

The maximum height of any building or structure this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

SECTION 12 AHAO AIRPORT HAZARD AREA OVERLAY DISTRICT (Resolution 2013-6, November 19, 2013)

12.01 Intent

This district is established as an overlay district for application over all of the zoning districts from the adjacent boundaries of the Kimball Municipal Airport which are within the planning and zoning jurisdictional area of Kimball County, Nebraska. The intent is to prevent airport hazards and protect the public investment and utility of the airport, which is located in Section 18, Township 14 North, Range 55 West of the 6th P.M. in Kimball County, Nebraska. These regulations are adopted pursuant to the Airport Zoning Act (*Neb. Rev. Stat. §3-301 to 3-333*). In the event of any conflict between this district regulation and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall apply.

12.02 Definitions

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

1. *Airport* means an area of land or water that is used or intended to be used for the landing and takeoff of aircraft and includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.
2. *Airport hazard* means any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone.
3. *Airport hazard area* means any area of land or water upon which an airport hazard might be established if not prevented as provided in this section, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.
4. *Airport layout plan* means a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.
5. *Approach zone* means a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.
6. *Electric facility* means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Nebraska Revised Statute §70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.
7. *Existing runway* means an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.
8. *Instrument runway* means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or nonprecision instrument approaches reflected on the airport layout plan.
9. *Operation zone* means a zone that is longitudinally centered on each existing or proposed runway.
10. *Person* means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.
11. *Proposed runway* means an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.
12. *Runway* means a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.
13. *Structure* means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

14. *Transition zone* means a zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally.
15. *Tree* means any object of natural growth.
16. *Turning zone's outer limit* means the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone.
17. *Visual runway* means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

12.03 Airport Hazards; public nuisance; prevention

1. It is hereby found that an airport hazard endangers the lives and property of the users of an airport and occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein.

2. Accordingly, it is hereby declared that (a) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question, (b) it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented, and (c) the prevention of airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation.

3. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

12.04 Establishment of Airport/Hazard Area Zones

In order to carry out the provision of this district, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, operation surfaces, transition surfaces and turning surfaces as they apply to the Kimball Municipal Airport. Such zones are shown on the Kimball County Zoning Map (Overlay) which is hereby made part of these Regulations. An area located in more than one of the zones is considered to be located only in the zone with the more restrictive limitation. The airport hazard area consists of Approach Zones, Operation Zones, Transition Zones and Turning Zones.

1. The **Approach Zone** dimensions are as follows:

A. For an existing or proposed instrument runway.

- 1) An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand feet wide at the end of the zone nearest the runway and expands uniformly to sixteen thousand eight hundred forty feet wide at the farthest end of the zone; and
- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway and elevation within three miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally and continues to the ten-mile limit.

B. For an existing or proposed visual runway.

- 1) An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is five hundred feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is three thousand seven hundred feet wide; and
- 2) The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every forty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at that runway end.

2. The **Operation Zone** dimensions are as follows:

- A. For existing and proposed paved runways, the operation zone extends two hundred feet beyond the ends of the runways. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends.
- B. For existing and proposed instrument runways, the operation zone is one thousand feet wide, with five hundred feet on either side of the runway centerline.
- C. For all other existing and proposed runways, the operation zone is five hundred feet wide, with two hundred fifty feet on either side of the runway centerline.
- D. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.

3. The **Transition Zone** dimensions are as follow:

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

4. The **Turning Zone** dimensions are as follows:

- A. The outer limits is the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone.
- B. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

12.05 Height Limitation

1. Except as otherwise provided in this regulation, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this regulation to a height in excess of the applicable height herein established for such zone.
2. All new structures that exceed a height of one hundred fifty feet (150') above the surface of the ground at point of installation must comply with all FAA and Nebraska Department of Aeronautics regulations.

12.06 Use Restriction; New or Changed Structure; Permit Required

1. No use may be made of land or water within any zone established by this regulation in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft or in any other manner constitute an airport hazard to anyone intending to use the airport.
2. Before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed, altered, or repaired, a conditional use permit shall be required.
3. Each application for a conditional use permit shall be accompanied by a determination from the FAA and the Nebraska Department of Aeronautics as to the effect of the proposed use or new structure on the operation of air navigation facilities, the safe, efficient use of navigable airspace and will not create an airport hazard.
4. In addition, no application for a conditional use permit may be considered unless a copy of the application has been furnished to the airport owner for recommendation.

12.07 Non-Conforming Uses and Structures; Permit Required

1. Before any nonconforming land use, structure or tree may be constructed, replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a conditional use permit authorizing any land use, construction, replacement, alteration, repair, reconstruction, growth, or replanting must be secured. A conditional use permit shall be granted if the applicant shows that the use, construction, replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted.
2. For nonconforming structures other than electric facilities, no conditional use permit shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent (60%) of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of these regulations may, without a conditional use permit, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a conditional use permit. The conditional use permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.
4. Marking of Nonconforming Structures
 - a. The owner and the lessee or lessor of the land on which such existing nonconforming structure or tree is located and such structure or tree constitutes an airport hazard shall within a reasonable time install, operate and maintain suitable lights or other signals designated and recommended by the Nebraska Department of Aeronautics. Such markers and lights shall be at the expense of the owner and lessee or lessor.

12.08 Variances; Board of Adjustment

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with these regulations may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the Board of Adjustment makes the same findings for the granting of variances generally as set forth in Section 27 Board of Adjustment.
2. Except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the Board of Adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of these regulations.
3. The Kimball County Board of Adjustment shall be designated as and shall exercise the power of the Board of Adjustment for airport zoning regulations as required by this section.
4. Each application for a variance shall be accompanied by a determination from the FAA and the Nebraska Department of Aeronautics as to the effect of the proposed use or new structure on the operation of air navigation facilities, the safe, efficient use of navigable airspace and will not create an airport hazard.
5. In addition, no application for a variance may be considered unless a copy of the application has been furnished to the airport owner for recommendation.

12.09 Judicial Review; petition; grounds

Any person aggrieved or taxpayer affected by any decision of the Board of Adjustment, which is of the opinion that a decision of the Board of Adjustment is arbitrary or capricious, illegal, or unsupported by evidence, may obtain judicial review of such decision by filing a petition in error in the district court of the county in which the structure or tree that is the subject of the decision is located. The filing of and proceeding on the petition in error shall be in accordance with Nebraska Revised Statute §25-1901 to §25-1937.

12.10 Administration

1. The Kimball County Planning Commission shall be designated as and shall exercise the power of the Airport Zoning Commission for airport zoning regulations as required by this section.
2. The Kimball County Zoning Administrator shall administer and enforce the airport zoning regulations in accordance with Section 29 Administration.

12.11 Violation; penalty; injunctions

Each violation of the Airport Zoning Act or any provisions of the Kimball County Airport Zoning Regulations shall constitute a Class IV misdemeanor. Each day a violation continues to exist shall constitute a separate offense. In addition, the County may institute, in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of the airport zoning regulations adopted or any order or ruling made in connection with the administration or enforcement of these regulations. The court in such proceedings shall adjudge to the County such relief by way of injunction, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of these regulations adopted and orders and rulings made pursuant thereto.

SECTION 13 SUPPLEMENTARY DISTRICT REGULATIONS

13.01 Home Occupations: Home occupations, where permitted, shall be subject to the following:

1. Restrictions and Limitations:

- A. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling unit or accessory structure in the case of a home business; (Resolution 2012-02, April 3, 2012)
- B. No outdoor storage of materials or equipment used in the home occupation shall be permitted; (Resolution 2012-02, April 3, 2012)
- C. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure or accessory building; (Resolution 2012-02, April 3, 2012)
- D. No equipment shall be utilized that creates a nuisance due to noise or electrical interference; and,
- E. Parking needs generated by the conduct of a home occupation shall be provided off-street/road. (Resolution 2012-02, April 3, 2012)

13.02 Temporary Uses: The following temporary uses shall be permitted:

- 1. Seasonal Sales: Seasonal sales of farm produce. Structures incidental to the sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used. All permanent structures must comply with the front yard requirements;
- 2. Christmas Tree Sales: Christmas tree sales for a period not to exceed sixty (60) days;
- 3. Construction: Contractor's offices and equipment sheds accessory to an on-site construction project and to continue only during the duration of the project; and,
- 4. Garage, Yard, Rummage Sales: The sale of tangible personal property consisting of household goods and personal effects by an individual at his or her residence, or if more than one individual's property is involved, at the residence of one of the individual's, not occurring at any residence for more than ten (10) days during the calendar year, and none of the individuals conduct or engage in a trade or business in which similar items are sold, and when such property was originally acquired for and used for personal use.

13.03 Salvage Yard or Scrap Metal Processor: Salvage yard or scrap metal processor operations and related facilities shall only be allowed by conditional use permit under the following conditions.

1. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
2. No materials shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.

SECTION 14 SIGN REGULATIONS

14.01. Signs/Billboards: All signs/billboards erected after the adoption of this Resolution shall comply with the following regulations:

1. Signs/Billboards shall only be allowed as a conditional use in the Agricultural, Commercial and Industrial Districts;
2. All signs/billboards along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads;
3. Outdoor advertising signs/billboards shall be located no closer than one-eighth mile to any other on-site or outdoor advertising sign;
4. No sign/billboard shall be erected without a conditional use permit from the County Board. The County Commissioners shall consult the recommendation of the Planning Commission when issuing a conditional use for a billboard;
5. Agricultural and recreational directional signs and non-commercial informational signs are allowed without a permit;
6. Any sign/billboard that is not kept in good condition shall either be repaired or removed at owner's expense; and,
7. The County Board may implement conditions upon a sign/billboard to minimize the environmental or scenic impact of a billboard.

SECTION 15 CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

15.01 Intent

It is the purpose of this section to regulate concentrated animal feeding operations to promote the health, safety and general welfare of the citizens of the county, and to establish reasonable and uniform standards within the county. (Resolution 2018-21, April 17, 2018)

15.02 Definitions The following are defined for the specific use of this section. (Resolution 2018-21, April 17, 2018)

1. Animal Units (A.U.):

One A.U. = One Cow/Calf combination;

One A.U. = One Slaughter, Feeder Cattle;

One A.U. = One-half Horse;

One A.U. = Seven Tenths Mature Dairy Cattle;

One A.U. = Two and One-half Swine (55 pounds or more);

One A.U. = 10 Swine (less than 55 pounds);

One A.U. = 10 Sheep;

One A.U. = 55 Turkeys;

One A.U. = 30 Chickens-Laying hens, broilers with liquid manure system;

One A.U. = 82 Chickens-Laying hens with no liquid manure system;

One A.U. = 125 Chickens-Broilers with no liquid manure system.

For animals not listed, one animal unit is equal to the average weight of the animal divided by 1,000 lbs, then multiplied by the number of animals.

- 2. Feeding Operation** shall be the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities.
- 3. Nebraska Animal Feeding Operation Siting Matrix** shall mean the adopted matrix by the Nebraska Department of Agriculture. This matrix is a quantifiable result based on the scoring of objective criteria according to an established value scale. (Matrix can be found on county zoning website)
- 4. DEQ** shall mean the Nebraska Department of Environmental Quality.
- 5. Setback** shall mean the separation distance between the footprint of the concentrated animal feeding operation production facilities (e.g. buildings, open confinement lots, waste containment) and any occupied dwelling or public places.
- 6. Occupied Dwelling** shall mean a dwelling not of the same ownership and not on the same premises as the concentrated animal feeding operation and shall be interpreted to mean that such dwelling is an occupied dwelling at least 120 days continuously prior to: 1) the submission of the inspection application to the DEQ; and, 2) the initial Planning Commission meeting in which the proposed Conditional Use is an agenda item.

15.03 Concentrated Animal Feeding Operation Development Standards: All new or newly expanded concentrated animal feeding operations shall conform to the following development standards: (Resolution 2018-21, April 17, 2018)

1. Any concentrated animal feeding operation shall submit the Nebraska Animal Feeding Operation Siting Matrix with the Conditional Use Permit Application.
2. Any concentrated animal feeding operation, as defined in this Resolution may not expand or locate within one-half mile of any residential estate zoning district or commercial zoning district, school, or public recreation area;
3. All concentrated animal feeding operations shall meet the environmental standards established by the DEQ.
4. All concentrated animal feeding operations shall be constructed and operated in conformance with applicable county, state, and federal regulations.
5. Setback shall be 1/8 mile.
 - a. Separation distances shall be measured from the concentrated animal feeding operation to the nearest eave of the occupied dwelling.
 - b. The owner of the proposed concentrated animal feeding operation that proposes to build closer than the allowed setback shall be required to obtain a Distance Waiver signed by all of the record title owners of the real estate where the occupied dwelling is located. The Distance Waiver shall be acknowledged before a Notary Public and filed in the office of the Kimball County 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 separation distance.
 - c. New occupied dwellings shall comply with the separation requirements from an existing concentrated animal feeding operation, except for the dwelling of the owner or operator of the CAFO, employee, or working tenant on the same property as the CAFO.

15.04 Exclusion: The following operations shall not be subject to the development standards:

1. The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.
2. Agricultural Operations of 2,499 A.U. and under do not require a Conditional Use Permit. (Resolution 2018-21, April 17, 2018)
3. Application of waste which in solid form to the surface of the land, the application of composted waste or the injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified. (Resolution 2018-21, April 17, 2018)

The Nebraska Animal Feeding Operation Siting Matrix can be found on the County's Zoning Page.

SECTION 16 COMMUNICATION FACILITY REGULATIONS

16.01 Intent (Resolution 2013-4, May 21, 2013)

The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. The County recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to the County and its residents.

This Section is intended to regulate telecommunication towers, facilities and antennas within the zoning jurisdiction of the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services; to avoid potential damage to property caused by telecommunication towers, facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.

16.02 Definitions: All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings: (Resolution 2020-25, July 7, 2020)

Antenna shall mean communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services. (§86-1204)

Antenna support structure shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving electromagnetic radio frequency signals.

Array shall mean a set of antenna for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

Cell on Wheels (COW) shall mean a portable mobile cellular site that provides network and wireless coverage.

Collocate or collocation means to install, mount, maintain, modify, operate, or replace small wireless facilities on or adjacent to a wireless support structure or utility pole. Collocate or collocation does not include the installation of a new utility pole or new wireless support structure in the right-of-way. (§86-1210)

Communications facility means the set of equipment and network components including wires, cables, and associated facilities used by a cable operator as defined in 47 U.S.C. 522(5), as such section existed on January 1, 2019, a telecommunications carrier as defined in 47 U.S.C. 153(51), as such section existed on January 1, 2019, a provider of information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, or a wireless services provider, to provide communications services, including cable service as defined in 47

U.S.C. 153(8), as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153(24), as such section existed on January 1, 2019, wireless services, or other one-way or two-way communications service. (§86-1211)

Communications network means a network used to provide communications service. (§86-1212)

Communications service means a cable service as defined in 47 U.S.C. 522, as such section existed on January 1, 2019, an information service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, a telecommunications service as defined in 47 U.S.C. 153, as such section existed on January 1, 2019, or a wireless service. (§86-1213)

Communications service provider means a cable operator as defined in 47 U.S.C. 522, a provider of information service as defined in 47 U.S.C. 153, or a telecommunications carrier as defined in 47 U.S.C. 153, as such sections existed on January 1, 2019. Communications service provider includes a wireless provider. (§86-1214)

Equipment Enclosure shall mean a structure, shelter, cabinet or vault to house and protect electronic equipment necessary for processing wireless communication signals and associated equipment.

Fall Zone shall mean the area on the ground within a prescribed radius from the base of the communications facility within which there is a potential hazard from falling ice, debris or collapsing material. This area is 1.1 times.

Height shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

Small wireless facility means a wireless facility that meets each of the following conditions: (1) The facilities (a) are mounted on structures fifty feet or less in height including the antennas or (b) are mounted on structures no more than ten percent taller than other adjacent structures; (2) each antenna associated with the deployment is no more than three cubic feet in volume; (3) all other equipment associated with the structure, whether ground-mounted or pole-mounted, is no more than twenty-eight cubic feet in volume; (4) the facilities do not require antenna structure registration under 47 C.F.R. part 17, as such regulation existed on January 1, 2019; (5) the facilities are not located on tribal lands, as defined in 36 C.F.R. 800.16(x), as such regulation existed on January 1, 2019; and (6) the facilities do not result in human exposure to radio frequency radiation in excess of the applicable safety standards specified in 47 C.F.R. 1.1307(b), as such regulation existed on January 1, 2019. (§86-1226)

Wireless facility, defined.

(1) Wireless facility means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (a) equipment associated with wireless communications and (b) radio transceivers, antennas, coaxial or fiber-optic cable, regular power supply, and small back-up battery, regardless of technological configuration. Wireless facility includes small wireless facilities.

(2) Wireless facility does not include (a) the structure or improvements on, under, or within the equipment which is collocated, (b) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to, or directly associated with, a particular antenna, or (c) a wireline backhaul facility. (§86-1229)

Wireless services means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether mobile or at a fixed location, provided to the public using wireless facilities. (§86-1232)

Wireless support structure means a structure such as a guyed or self-supporting tower, billboard, building, or other existing or proposed structure designed to support or capable of supporting wireless facilities other than a structure designed solely for the collocation of small wireless facilities. Wireless support structure does not include a utility pole. (§86-1234)

Wireline backhaul facility means an above-ground or underground facility used to transport communications services from a wireless facility to a communications network. (§86-1235)

16.03 General Standards: The following minimum standards shall apply to all communication facilities when seeking a conditional use permit:

1. The height of a communication facility shall not exceed the distance between the base of a tower and any permanent structure, utility line or road (fall zone); (Resolution 2013-4, May 21, 2013)
2. Communication facilities shall be located and designed to minimize any significant adverse effect on the adjoining property. (Resolution 2020-25, July 7, 2020)
3. Communication facilities shall not contain transmitters which interfere with public safety, commercial or residential radio or television signals; (Resolution 2013-4, May 21, 2013)
4. All communication facilities shall be in compliance with the standards, rules and regulations of other federal or state agencies that may regulate communication facility height, safety, location, structural design and construction; (Resolution 2013-4, May 21, 2013) (Resolution 2020-25, July 7, 2020)
5. All communication facilities must comply with FAA regulations
6. All communication facilities must comply with FCC regulations; (Resolution 2013-4, May 21, 2013)
7. All communication facilities must comply with the Nebraska Department of Transportation – Aeronautics Division; (Resolution 2020-25, July 7, 2020)
8. All communication facilities shall at its sole cost and expense, indemnify and hold harmless the County, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the facility; (Resolution 2020-25, July 7, 2020)
9. All communication facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage for the duration of the Conditional Use Permit in the amount of at least \$5 million per occurrence and \$5 million in the aggregate; and (Resolution 2020-25, July 7, 2020)
10. All communication facilities must comply with Section 26. (Resolution 2013-4, May 21, 2013)

16.04 Exceptions: The following exceptions shall apply when seeking a conditional use permit. All exceptions shall comply to the general standards. (Resolution 2013-4, May 21, 2013)

1. Small Wireless Facility. All Small Wireless Facilities must complete the Kimball County Application for permit to occupy Right-of-way and be approved by the Kimball County Board of Commissioners. (Resolution 2020-25, July 7, 2020)
2. Cell on Wheels used up to one year for: a) during special event where a large number of people will converge on one area; b) during an emergency if structure has been damaged; or c) while a permanent communication facility is being built in conjunction with the conditional use permit application. If use is over one year, a conditional use permit is required. (Resolution 2020-25, July 7, 2020)

16.05 Application Requirements: All applications for a conditional use permit for a communication facility shall contain the following items:

1. A vicinity map showing all permanent structures, roads, and utility lines within a one (Resolution 2013-4, May 21, 2013) mile radius of the proposed facility; and,
2. Written evidence that the communication facility meets the requirements listed in Section 16.02 or satisfactory proof that Section 16.03 Exception applies. (Resolution 2013-4, May 21, 2013)

SECTION 17 SEXUALLY ORIENTED BUSINESSES

17.01 Purpose and Intent.

It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the county. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to sexually oriented entertainment to their intended market, unless otherwise restricted by law.

17.02 General Standards

1. A sexually oriented business shall not be permitted to operate within one thousand (1,000) feet of:

- A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
- B. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- C. A residential district;
- D. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land;
- E. Auditoriums, convention centers, fairgrounds, visitor centers, tourist information areas, museums, art or music centers, and theaters;
- F. Other sexually oriented businesses;
- G. Commercial businesses that tend to cater to youth and adolescents including but not limited to fast food restaurants, hotels, convenience stores, and clothing stores; and,
- H. An established residential subdivision.

2. All sexually oriented businesses shall comply with the following sign requirements.

- A. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises; and,
- B. No merchandise or pictures of the products or entertainment on the premises shall be displayed on on-site or off-site signs or displays.

SECTION 18 WIND ENERGY SYSTEMS

18.01 Wind Energy Installation

A wind energy permit may be granted to allow wind energy systems, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section.

18.02 Off-Grid Wind Energy Systems

1. Purpose

It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of off-grid wind energy systems installed to reduce the on-site consumption of utility supplied electricity; and, 2) promote the supply of wind energy in support of increasing energy production from renewable energy sources.

2. Definitions

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

Off-Grid Wind Energy System shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics that is not connected to an electric circuit served by an electric utility company. This system is accessory to the principal land use, designed to supply energy for the principal use. (Resolution 2018-21, April 17, 2018)

3. Requirements

Off-grid wind energy systems may be a permitted accessory use in the zoning districts. Certain requirements as set forth below shall be met:

A. Tower Height

Tower Height shall not exceed 80 feet. (Resolution 2018-21, April 17, 2018)

B. Setbacks

The center of the base of each WES shall be located no less than 1.1 times the total height (hub height + rotor diameter) from the adjacent property lines, public roads and road right-of-way, third party transmission lines and communication towers. (Resolution 2018-21, April 17, 2018)

C. Noise

1. Wind energy systems shall not exceed 50 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. Applicable Industry Standards

Wind energy systems shall conform to applicable industry standards, including the American Wind Energy Association.

E. Compliance with Building Codes

All components shall conform and be maintained in compliance with all federal, state and local requirements. (Resolution 2018-21, April 17, 2018)

F. Compliance with FAA Regulations

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

G. Utility Notification

No off-grid 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.

18.03 Commercial Wind Energy Systems

1. Purpose

It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of commercial wind energy systems; 2) facilitate economic opportunities for local residents; and 3) promote the supply of wind energy in support of increasing energy production from renewable energy sources within Kimball County.

2. Definitions

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

- A. *Decommissioning Security* shall mean a security instrument that is posted or given within 90 days of Board approval of the wind energy permit by the owner to ensure sufficient funding is available for removal of a wind energy system and reclamation at the end of the useful life of such a system. (Resolution 2018-21, April 17, 2018)
- B. *Fall Zone* shall mean the area, defined as the furthest distance from the tower base, in which a guyed or un-guyed tower will collapse in the event of a structural failure. This area is 1.1 times (hub height + rotor diameter).
- C. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the 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 system.
- D. *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 System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
- E. *Nonparticipating Property* shall mean real property on which there is no Wind Energy System or real property on which a WES is located but is owned, operated and managed separately on adjacent properties. (Resolution 2018-21, April 17, 2018)
- F. *Operator* shall mean the person, persons or entities responsible for the day to day operation and maintenance of any WES or Wind Farm, including any third party subcontractors.
- G. *Owner* shall mean the entity or entities with an equity interest in the WES, including their respective successors and assigns. Owner does not refer to the property owner from whom land is leased to locate WES, unless the property owner has an equity interest in the WES.
- H. *Participating Property* shall mean real property on which the WES is located or real property under lease for the purpose of locating WESs in a Wind Farm. (Resolution 2018-21, April 17, 2018)
- I. *Public Conservation Lands* shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands

upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

- J. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades.
- K. *Shadow Flicker* shall mean shadows on the ground and surrounding structures that may emanate from the rotating blades of a wind turbine.
- L. *Site Plan* shall mean documents, including a scale diagram describing the purpose, scope and details of a proposed Wind Energy System and/or Wind Farm. Requirements for the Site Plan are set forth in of this regulation. A Site Plan is intended as a general document that provides the County an overview of a proposed WES or Wind Farm. More specific information is required with the Wind Energy Permit.
- M. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines for interconnection with high voltage transmission lines.
- N. *Total Height* shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy System.
- O. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
- P. *Tower Height* shall mean the total height of the Wind Energy System exclusive of the rotor blades.
- Q. *Transmission Line* shall mean the electrical power lines that carry voltages and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- R. *Wetlands* shall mean the type as identified on the National Wetlands Inventory Mapper Legend. (Resolution 2018-21, April 17, 2018)
- S. *Wind Energy System (WES)* 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. Equipment that converts and then stores or transfers energy from the wind into usable forms of electrical energy and includes any base, blade, foundation, generator, nacelle, accessory building, rotor, tower, transformer, turbine, vane, wire, or other components used in the system. Accessory facilities, including but not limited to: power lines, transmission lines, transformers, substations and meteorological towers. The WES is designed to provide energy to off-site users or export to the wholesale market. The energy may be used on-site or distributed into the electrical grid. (Resolution 2018-21, April 17, 2018)
- T. *Wind Energy System Project* shall mean all necessary devices that together convert wind energy into electricity, including but not limited to any wind energy system, towers, substations, rotors, nacelles, generators, electrical components, foundations, transformers, electrical cables, transmission poles and lines, roads, operation and maintenance buildings, and all other and associated or related support facilities.
- U. *Wind Energy Permit*: shall mean a document issued by the County Board that approves the specific construction of large wind energy conversion systems. Requirements for the Wind Energy Permit are set forth in Section 9 of this regulation.

V. *Wind Farm* shall mean multiple large wind energy conversion systems under a single operational control or ownership designed for the primary purpose of sale, resale or offsite use of energy produced. A Wind Farm may be located on more than one property.

W. *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. Applicability and Permit Requirement

This Regulation applies to all commercial wind energy systems, wind farms and/or substations that generate electricity to be sold to wholesale or retail markets. Each commercial wind energy system, wind farm and/or substation shall require both a site plan and a wind energy permit. Permanent Meteorological towers shall be considered part of the system. Temporary meteorological towers are exempt from this section.

WES Project facilities shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the WES Project is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the Planning Commission or the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations. (Resolution 2018-21, April 17, 2018)

4. Site Plan Procedure

Applicant intending to construct and operate a commercial wind energy system, wind farm and/or substation shall submit a site plan as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval.

The Site Plan Approval is meant to consider the land use from a local zoning and land use perspective and puts Kimball County, adjacent counties, neighboring property owners and the general public on notice that a property is under consideration for a potential WES, wind farm and/or substation.

A. Site Plan Approval

The site plan must meet the requirements of the Site Plan Application. No wind energy permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the site plan, the Zoning Administrator shall have ten (10) business days to determine if the site plan is complete. An incomplete site plan shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Site Plan to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the site plan application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

B. The Site Plan Approval shall comply with all Federal, State and local regulations. A site plan approval shall expire three (3) years from the date of approval by the Board unless construction of the WES has been initiated. A site plan approval may be extended for a period of one (1) year upon written application filed at least 90 days prior to the expiration date.

C. The site plan approval shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A general description of the project including an overview of the project; the project location; the equipment manufacturer; the number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines. A summary description of the developer, applicant, owner and operator, including their respective business structures.
4. A general description showing the location of the property lines, existing utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project.
5. A general description of the proposed WES, including the estimate of total number of systems, lighting and estimate of total height of each WES.
6. A general location of each proposed wind turbine, electrical collection system, transmission/interconnection facility, substation and any related accessory buildings.
7. Identification of proposed county or municipal roads to be used for the purpose of transporting WES, substation parts, cement, and/or equipment for construction, operation or maintenance of the WES.
8. A general plan showing setback lines and layout of proposed structures and their distance from all property lines and existing structures.
9. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within the geographical boundaries of the proposed Wind Energy System. (Resolution 2018-21, April 17, 2018)

D. The following documents shall be provided with the Site Plan.

1. Documentation of land ownership or legal control of the property.
2. Statement that each WES will be installed in compliance with manufacturer's specifications.
3. Statement that the Owner will construct and operate each WES or Wind Farm in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.
4. Preliminary construction documents describing general plans for appropriate drainage, erosion control and infrastructure improvements. A preliminary stormwater pollution prevention plan shall be included. (Resolution 2018-21, April 17, 2018)
5. Decommissioning plan in accordance with of this Regulation and with all applicable State and Federal Regulations.
6. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.

7. An analysis on potential shadow flicker on any occupied structure on a nonparticipating property with direct line-of-sight to the WES. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at those locations from sun-rise to sun-set over the course of a year. The analysis shall include a mitigation plan.
 8. Certification that Applicant has provided the Kimball Airport Authority a copy of the site plan submitted to the County and a copy of the submitted FAA form for approval.
 9. A proposed phasing plan showing areas or location of WES for the purposes of permitting.
 10. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the site plan submitted to the County.
 11. A complete copy of the submitted FAA form(s) for approval. (Resolution 2018-21, April 17, 2018)
- E. Approval of the Site Plan shall not constitute approval of the Wind Energy Permit. Rather, it shall be deemed an expression of approval or conditional approval of the submitted site plan a guide for the preparation of the Wind Energy Permit. Any modifications to the Site Plan must be reported to the Zoning Administrator immediately.

5. Design and Installation

- A. Design Safety Certification
WESs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and National Electrical Commission ("NEC"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.
- B. Prior to granting of a Wind Energy Permit under these Regulations, a Professional Engineer licensed in the State of Nebraska shall certify, as part of the Zoning Certificate application, prior to construction that the foundation and tower design of the WES is within accepted professional standards, given local soil and climate conditions.
- C. All wind turbines shall be installed with a tubular, monopole type tower.
- D. Controls and Brakes
All WES shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- E. Electrical Components
All electrical components of the WES shall conform to applicable state, and national codes, and international standards.
- F. Color and finish
All wind turbines and towers that are part of a commercial/utility WES shall be white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
- G. Clearance
Clearance of rotor blades or airfoils must maintain a minimum of 25 feet of clearance between their lowest point and the ground.

H. Lighting

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.

I. Climb Prevention

All WES towers must be unclimbable by design or protected by anti-climbing devices such as: 1) fences with locking portals at least six feet high; or 2) anti-climbing devices 15 feet vertically from the base of the WES tower.

J. Safety Signs

All WES 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 and at the entrance to the site with the 911 address and with emergency contact information. A plainly visible warning sign regarding voltage be placed at the base of all pad-mounted transformers and substations. No other signage or logos of any type shall be installed on the towers except for signs related to safety, warning, emergency contact, and manufacturer's name or logo.

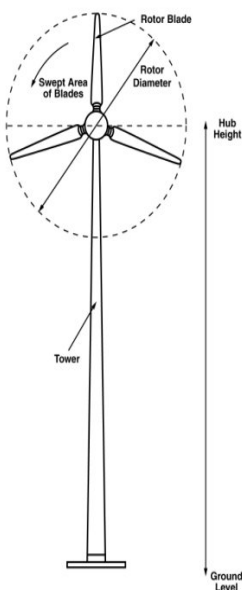
K. Height

The total height shall comply with all Federal, State and local regulations, including FAA guidelines. Applicants are strongly encouraged to contact the Kimball County Airport and the Nebraska Department of Transportation Aeronautics Division concerning airport operations and approaches to flying safety and airspace conflicts prior to submitting an application. Applicants must adhere to the Airport Hazard Overlay District found in Section 12 of these regulations. (Resolution 2018-21, April 17, 2018)

L. Feeder Lines

All communications and feeder lines installed as part of a WES shall be buried, where feasible.

M. Setbacks



1. The center of the base of each WES and permanent meteorological tower shall be located no less than 1.1 times the total height (hub height + rotor diameter) from the adjacent property lines, public roads and road right-of-way, third party transmission lines, and communication towers.
2. All WES towers shall be set back at least 1,000 feet from any occupied dwelling.
3. The setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).
4. The setback shall be measured from any future road or right-of-way if a planned change or expanded road or right-of-way is known.
5. The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial wind energy system.

- N. Soil Erosion and Water Quality
 - 1. The applicant shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the WES. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
 - 2. The applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.
- O. Federal Aviation Administration
The Applicant(s) for the WES shall comply with all applicable FAA requirements.
- P. Nebraska Department of Transportation Aeronautics Division
The applicant(s) shall comply with all applicable requirements. (Resolution 2018-21, April 17, 2018)

6. Use of Public Roads

Applicant shall:

- A. Identify all county roads to be used for the purpose of transporting WES, substation parts, cement, and/or equipment for construction, operation or maintenance of the WES 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 facility.
- C. If during construction the road(s) and/or bridge(s) become unsafe for the posed speed limit or applicable weight limit, construction shall cease and applicant shall be responsible for restoring the road(s) and/or bridge(s) to preconstruction conditions.
- D. Be responsible for restoring the road(s) and bridge (s) to preconstruction conditions.
- E. A County Road Use, Repair & Maintenance Agreement shall be signed at the time of the wind energy permit is approved. (Resolution 2018-21, April 17, 2018)

7. Noise Levels and Shadow Flicker

- A. No commercial WES shall exceed 50 dBA at the nearest occupied dwelling.
- B. Shadow flicker on any occupied structure on a nonparticipating property shall not exceed thirty (30) minutes per day and thirty (30) hours per year.
- C. The Applicant, as part of the site plan approval application process, shall appropriately demonstrate compliance with the above noise and shadow flicker requirements.

8. Compliance with Additional Laws and Regulations

Nothing in these regulations is intended to preempt other applicable State and Federal laws and regulations.

9. Wind Energy Permit Procedure

Upon approval of the site plan, the Owner may submit a wind energy permit application to the Zoning Administrator. No wind energy permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the permit application, the Zoning Administrator shall have ten (10) business days to determine if the application is complete. An incomplete application shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Wind Energy Permit Application to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the permit application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

A. The wind energy permit application shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A narrative description of the project including an overview of the project; the project location; the equipment manufacturer; the number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines. A summary description of the developer, applicant, owner and operator, including their respective business structures, shall be included.
4. A final site plan for the installation of the wind energy systems, showing the location of property lines, utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project. The final site plan shall show the location, layout and setback lines of each tower, guy lines, and anchor base where required, electrical collection system, transmission/interconnection facility, substation, construction area and all related accessory structures within the geographical boundaries of the project. Identification of roads for construction access shall be included. All temporary and permanent accessory buildings and/or ancillary equipment shall be included. This site layout shall include distances and be drawn to scale.
5. A narrative description of the WES, including the estimate of total number of systems, lighting and estimate of total height of each WES.
6. Certification by a professional Engineer competent in disciplines of WES regarding the safety of the design, specifications and compatibility of the tower structure with the rotors and other components of the WES.
7. Certification by a professional Engineer for the footing design for the towers.
8. The latitude and longitude of the individual WES. Included will be an area or zone in close proximity and meets the required setbacks.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WES not owned by the applicant, within 10 rotor distances of the proposed Wind Farm or WES.
10. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within the geographical boundaries of the proposed WES. (Resolution 2018-21, April 17, 2018)

11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
12. Evidence that there will be no interference with any commercial and/or public safety communication towers. A copy of the letter(s) notifying all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the proposed WES location or Wind Farm. A list of all recipients of the letter shall be included. (Resolution 2018-21, April 17, 2018)
13. A Copy of a “letter of intent to interconnect” or interconnection agreement signed by the utility company.
14. Decommissioning Security and Plan as required by this regulation and with all applicable state and federal regulations.
15. Analysis that certifies that the shadow flicker requirements within this regulation can be met. (Resolution 2018-21, April 17, 2018)
16. Final Stormwater Pollution Prevention Plan approved by the Nebraska Department of Environmental Quality. (Resolution 2018-21, April 17, 2018)
17. A complete copy of approval from the FAA. (Resolution 2018-21, April 17, 2018)
18. A complete copy of permit to build from the Nebraska Department of Transportation Aeronautics Division. (Resolution 2018-21, April 17, 2018)
19. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

10. Operation

A. Interference

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WES. The applicant shall notify all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the proposed WES location upon application to the county for permits.

B. Coordination with Local Fire Department

The Applicant, Owner or Operator shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and/or the Emergency Management Coordinator, the Owner or Operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WES shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

2. All hazardous materials related to the construction, operation and maintenance of the WES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.

11. Liability Insurance

The Owner or Operator of the WES Project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$10 million in the aggregate. The Applicant shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the WES shall provide proof of insurance to the County Board annually. (Resolution 2018-21, April 17, 2018)

12. Discontinuation and Decommissioning Security

- A. Each Commercial WES shall have a Decommissioning plan outlining the anticipated means and cost of removing WES at the end of their serviceable life or upon being discontinued use. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment.
- B. The Decommissioning Plan shall include:
 1. All WES and accessory facilities shall be removed to 4 feet below ground level within 180 days of the discontinuation of use.
 2. Roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
 3. Owner shall post, at the time of the wind energy permit approval, a Decommissioning Security in an amount determined by the County Board. The Security may be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the County Board. (Resolution 2020-25, July 7, 2020)
- C. A WES shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WES to service.

SECTION 19 MOTOR SPORT FACILITY (Resolution 2012-02, April 3, 2012)

19.01 Purpose

It is the purpose of this regulation to: 1) promote the health, safety, comfort and general welfare of the present and future residents of Kimball County; 2) promote the safe, effective and efficient land use of all motor sport facilities; and, 3) to protect neighboring land from impacts such as noise, dust, traffic, safety concerns and environmental damage.

19.02 Definitions

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

1. *Drag Strip* shall mean the site of a drag race. A short, straight course or track for drag racing. A strip of pavement with a racing area.
2. *Facility* shall mean a building, structure or place consisting of a circumscribed area of land laid out for motor sports. Designed and created to serve a particular function for motor sports.
3. *Motorcross racing* shall mean a form of motorcycle or similar vehicles racing in which cyclist competes on a closed course or track marked out over natural or simulated rough terrain.
4. *Motor sports* shall include autocross, drag racing, motorcross, motorcycle racing, speedways, stock car racing, drag strip racing, scrambling, rally cross, off road, track racing, land speed racing, go karting, dirt biking, or similar motor sport for competition. Motor sports shall include the operation of all terrain vehicles, mud trucks and racecars.
5. *Operator* shall mean the person, persons or entities responsible for the day to day operation and maintenance of any motor sports activity including any third party subcontractors.
6. *Owner* shall mean the entity or entities with an equity interest in the motor sport facility including their respective successors and assigns. Owner also refers to the property owner from whom land is leased or owned.
7. *Racetrack* shall mean a circuit or course, usually oval, used for racing. Also includes racecourse, raceway, track, speedway.
8. *Speedway* shall mean a racetrack or course for motor sports.
9. *Site Plan* shall mean documents, including a scale diagram describing the purpose, scope and details of a motor sport facility. Requirements for the Site Plan are set forth in this regulation.

19.03 Applicability and Requirements

This Regulation applies to all motor sport facilities. All motor sport facilities shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the motor sport facility and motor sport is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations.

19.04 Site Plan Procedure and Requirements

Applicant intending to construct and operate a motor sport facility shall submit a site plan as required by and specified by this Regulation to the Planning Commission and the County Board for review and approval. The site plan must meet the requirements. No permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the site plan, the Zoning Administrator shall have ten (10) business days to determine if the site plan is complete. An incomplete site plan shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Site Plan to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the site plan application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 26 giving public notice.

The Site Plan is meant to consider the land use from a local zoning and land use perspective and puts Kimball County, adjacent counties, neighboring property owners and the general public on notice that a property is under consideration for a motor sport facility.

The site plan shall contain, at a minimum, the following information.

1. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
2. The legal description and address of the project.
3. A narrative description of the project including an overview of the project; the project location; the area of dirt or paved surface; parking area; pit area and inspection area description; facility description; personnel description, safety description and insurance description. A summary description of the developer, applicant, owner and operator, including their respective business structures, shall be included.
4. A site plan for the motor sport facility showing the location of property lines, utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project. The site plan shall show the location, layout and setback lines of dirt and paved tracks, pit areas, inspection areas, buffer areas, burnout area, shutdown area, flag stations, staging area, barriers, control stands, light or flagman positions, spectator seating, scales, rest rooms, signs, fences, first aid stations, and emergency service areas. All construction areas and all related accessory structures within the geographical boundaries of the project shall be included. Identification of roads for construction access shall be included. All temporary and permanent accessory buildings and/or ancillary equipment shall be included. This site layout shall include distances and be drawn to scale.
5. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within one mile of the proposed motor sport facility.
6. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
7. Evidence that there will be no interference with any commercial and/or public safety communication towers.
8. Statement that the Owner/Operator will construct and operate each motor sport facility in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.

9. Construction documents describing general plans for appropriate drainage, erosion control and infrastructure improvements.

10. Certification that Applicant has provided the Kimball Airport Authority a copy of the site plan submitted to the County and a copy of the submitted FAA form for approval. No permit shall be issued until written approval from the FAA has been received.

11. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the site plan submitted to the County. No permit shall be issued until written approval from Warren Air Force Base has been received.

12. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

13. Any modifications to the Site Plan and revisions to any of the provided documents must be reported to the Zoning Administrator immediately. The Site Plan shall comply with all Federal, State and local regulations.

19.05 Design

A. Design Safety Certification

All motor sport facilities shall conform to applicable industry standards, including but not limited to, those of the National Fire Protection Association (NFPA), American Motorcyclist Association and National Hot Rod Association (NHRA). Applicants shall submit certificates of design compliance.

All motor sport facilities including all accessory buildings shall comply with industry accepted regulations for safety features including but not limited to hub rails, fences, light or flagman positions and spectator seating. All motor sport facilities and accessory buildings shall comply with all fire fighting equipment, fire inspections in accordance with the State Fire Marshall and the National Fire Protection Association. All motor sport facilities and accessory buildings shall comply with the Nebraska Department of Environmental Control regulations. This includes but is not limited to the storage, handling and/or use of liquefied petroleum gases, flammable and combustible liquids, and disposal of regulated waste.

B. Electrical Components

All electrical components of any motor sport facility shall conform to applicable state, and national codes, and international standards. All lines shall be buried.

C. Lighting

Lighting, including lighting intensity shall adhere to but not exceed requirements established by the FAA permits and any state and federal regulations.

D. Federal Aviation Administration

The Applicant shall comply with all applicable FAA requirements.

19.06. Setbacks and Access

1. Must front on a state-maintained highway.
2. Receive approval from the State Department of Roads for each entrance and exit.
3. Have all accessory buildings set back at least 500 feet from adjoining property lines.
4. Have motor sport facilities and all accessory building set back at least 500 feet from adjoining property lines.

5. The setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).
6. Racing surfaces must be set back up to 1,000 feet from property lines.
7. The setback shall be measured from any present and future road or right-of-way if a planned change or expanded road or right-of-way is known.

19.07. Soil Erosion and Water Quality

1. The applicant shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the motor sport facility. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
2. The applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.

19.08. Vehicle Noise Emission Levels

1. No motor sport shall exceed 90 dBA 500 feet from any property line.
2. The Applicant, as part of the site plan approval application process, shall appropriately demonstrate compliance with the above noise requirements.

19.09 Compliance with Additional Laws and Regulations

Nothing in these regulations is intended to preempt other applicable State and Federal laws and regulations.

19.10. Operation

1. Interference
The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any motor sport facility. The applicant shall notify all communication tower operators, Warren Air Force Base and any other relevant State or Federal Agency within five miles of the motor sport facility location upon application to the county for permits.
2. Coordination with Local Fire Department
The Applicant, Owner or Operator shall submit to the local fire department and the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and the Emergency Management Coordinator, the Owner or Operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
3. Materials Handling, Storage and Disposal
 - A. All solid wastes related to the construction, operation and maintenance of the motor sport facility shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
 - B. All hazardous materials related to the construction, operation and maintenance of the motor sport facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.

4. Premise Requirements

- A. All litter must be cleaned up within twenty-four (24) hours from the end of each racing event.
- B. Maximum overnight camping is limited to three (3) nights.
- C. The premises may be inspected at any reasonable time without notice or consent.
- D. Accumulation of junk on the property is prohibited.

19.11. Liability Insurance

The Owner or Operator of the motor sport facility shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. The Applicant shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the motor sport facility shall provide proof of insurance to the County Board annually.

19.12. Discontinuation

Any motor sport facility shall be considered a discontinued use after one year.

SECTION 20 SOLAR ENERGY SYSTEMS (Resolution 2018-21, April 17, 2018)

20.01 Purpose

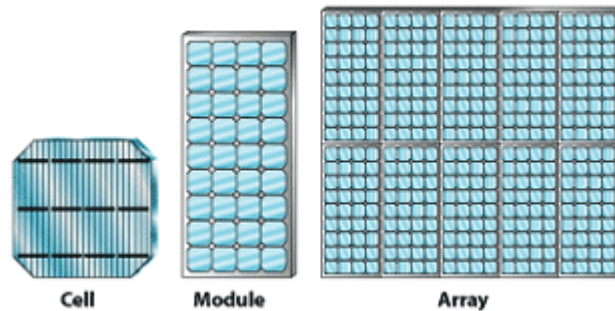
It is the purpose of this regulation to: 1) promote the safe, effective and efficient use of solar energy systems; 2) facilitate economic opportunities for local residents; and 3) promote the supply of solar energy in support of increasing energy production from renewable energy sources within Kimball County.

20.02 Definitions

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

1. **Glare:** The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
2. **Off-grid Solar Energy System:** A solar energy system that is not connected to an electric circuit served by an electric utility company. This system is accessory to the principal land use, designed to supply energy for the principal use.
3. **Operator:** The person, persons or entities responsible for the day to day operation and maintenance of any Solar Energy System project, including any third party subcontractors.
4. **Owner:** The entity or entities with an equity interest in the Solar Energy System, including their respective successors and assigns. Owner does not refer to the property owner from whom land is leased to locate the SES, unless the property owner has an equity interest in the SES.
5. **Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).
6. **Solar Energy:** Radiant energy (direct, diffuse and/or reflective) received from the sun.
7. **Solar Energy System (SES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.
8. **Solar Farm:** A commercial large-scale solar energy system facility for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal use of the land for the parcel on which it is located. It is designed for providing energy to off-site users or export to the wholesale market.
9. **Solar Panel:** That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.
10. **Solar Related Equipment:** Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

- A. SOLAR ARRAY: A grouping of multiple solar modules with purpose of harvesting solar energy.
- B. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed light.
- C. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.



20.03 Off-grid Solar Energy Systems

It is the intent of this regulation to: 1) promote the safe, effective and efficient use of a solar energy system installed to reduce the onsite consumption of utility supplied electricity; and, 2) promote the supply of solar energy in support of increasing energy production from renewable energy sources.

1. General Standards

Off-grid solar energy systems may be a permitted accessory use in the zoning districts. Certain standards as set forth below shall be met:

- A. SES's shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"), National Electrical Commission ("NEC"), Underwriters Laboratories ("UL"), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SPCC), or an equivalent third party.
- B. All electrical components of the SES shall conform and be maintained in compliance with all Federal, State and local requirements.
- C. Setbacks shall be equivalent to the performance standards in the underlying zoning district. The SES shall not be located in the front yards.
- D. All ground mounted SES in the Residential Estate District shall be installed either in the side or rear yard to the extent practicable.

20.04 Commercial Solar Energy Systems

1. Applicability and Permit Requirement

This Regulation applies to all solar energy systems and/or substations that generate electricity to be sold to wholesale or retail markets. Each solar energy system and/or substation shall require a site plan.

Solar energy systems shall be constructed to meet, and be maintained in compliance with all Federal, State and Local requirements. Written statements providing proof that the SES is in full compliance with these relevant requirements shall be provided to the Kimball County Zoning Administrator. If credible issues arise at any time during the review, and/or the approval development proposal process, related to compliance of Federal, State and/or Local requirements, the Applicant at the discretion of the Planning Commission or the County Board may be requested to provide additional studies, reports, maps and/or graphic depictions prepared by a professional qualified in the relevant discipline detailing the issues, characteristics, special features, potential impact, and mitigation measures that may be needed to minimize the issues. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or Local laws and regulations. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

2. Site Plan

Applicant intending to construct and operate a solar energy system, and/or substation shall submit a site plan as required by and specified by this Regulation.

The Site Plan shall contain the following information and documentation:

- A. The name, address and phone number of project developer, applicant, project owner, project operator, and all property owners.
- B. The legal description and address of the project.
- C. A general description of the project including an overview of the project; the project location; the equipment manufacturer; and name plate generating capacity.
- D. A general description showing the location of the property lines, existing utility lines, easements, roads, right-of-ways, pipelines, etc. within the geographical boundaries of the project.
- E. A general description of the proposed SES, including any changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
- F. A general location of the proposed SES, electrical collection system, transmission/interconnection facility, substation and any related accessory buildings.
- G. Identification of proposed county or municipal roads to be used for the purpose of transporting SES, substation parts, cement, and/or equipment for construction, operation or maintenance of the SES.
- H. A general plan showing setback lines and layout of proposed structures and their distance from all property lines and existing structures.
- I. Location of wetlands, scenic, natural areas (including bluffs) public conservation lands, easements, and government and/or military areas within geographical boundaries of proposed SES.
- J. Blueprint of the solar energy system signed by a professional engineer showing the proposed layout of the system and any potential shading from nearby structures.
- K. Electrical diagram detailing the solar energy system, associated components, and electrical interconnection methods, with all National and State Electrical Code compliance disconnects and overcurrent devices.
- L. Documentation of the major system components to be used, including the PV panels, mounting system and inverter.
- M. Name, address and contact information for proposed system installer.
- N. Documentation of land ownership or legal control of the property.
- O. Statement that the SES will be installed in compliance with manufacture's specifications.
- P. Certification that applicant has provided the Kimball Airport Authority a copy of the site plan and conditional use permit application.
- Q. Certification that applicant has provided Warren Air Force Base a copy of the site plan and conditional use permit application.
- R. Statement that the Owner will construct and operate the SES in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.
- S. Proof of Liability Insurance.
- T. The owner of a SES shall provide written confirmation that the public utility company to which the SES will be connected has been informed of the intent to install a grid connected system and approved of such connection.
- U. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Nebraska.

3. Compliance with Laws, Ordinances and Regulations

The construction and operation of all solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar energy system shall be constructed in accordance with the State Building Code.

4. Design and Installation

A. *Design Safety Certification*

SES's shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and National Electrical Commission ("NEC"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SPCC), or an equivalent third party. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

B. *Electrical Components*

All electrical components of the SES shall conform to applicable federal and state codes and standards.

C. *Lighting*

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.

Lighting of solar energy systems shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

D. *Safety Signs*

All SCS shall have a sign or signs posted at the base of all pad-mounted transformers and substation, warning of high voltage. Other signs shall be posted at the entrance to the site with the 911 address and with emergency contact information. A plainly visible warning sign regarding voltage be placed at the base of all pad-mounted transformers and substations. No other signage or logos of any type shall be installed except for signs related to safety, warning, emergency contact, and manufacturer's name or logo.

E. *Safety*

All electrical control devices associated with the SES shall be locked to prevent unauthorized access or entry. Ground-mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

F. *Feeder Lines*

All communications and feeder lines installed as part of a SES shall be buried, where feasible.

G. *Glare*

1. All SES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
2. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

H. *Land Clearing, Soil Erosion and Habitat Impacts*

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws.

I. Setbacks

1. Setback from the property line shall be 50 feet.
2. Setback from any occupied dwelling shall be 100 feet.
3. Setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).
4. The setback shall be measured from any future road or right-of-way if a planned change or expanded road or right-of-way is known.
5. The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a Solar Energy System.

J. Soil Erosion and Water Quality

1. The owner or operator shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the SES. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.
2. The owner or operator shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.

5. Operation

Materials Handling, Storage and Disposal

- A. All solid wastes related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
- B. All hazardous materials related to the construction, operation and maintenance of the SES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.
- C. The owner or operator shall submit to the local fire department and/or the Emergency Management Coordinator a copy of the site plan. Upon request by the local fire department and/or the Emergency Management Coordinator, the owner or operator shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

6. Maintenance Plan

The owner or operator shall submit a plan for the operation and maintenance of the solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the SES.

7. Liability Insurance

The owner or operator of the SES shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$10 million in the aggregate. The owner or operator shall provide proof of insurance to the County Board prior to the Board's approval of the submitted application. If the application is approved, the Owner or Operator of the SES shall provide proof of insurance to the County Board annually.

8. Discontinuation and Decommissioning Security

- A. Each SES shall have a Decommissioning plan outlining the anticipated means and cost of removing the SES at the end of their serviceable life or upon being discontinued use. A SES shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the SES to service. An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment.

B. The Decommissioning Plan shall include:

1. All SES and accessory facilities shall be removed no more than 180 days after the date of discontinued operations. (of the discontinuation of use).
2. Stabilization or re-vegetation of the site as necessary to minimize erosion. Owner may leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
3. Roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.
4. Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

C. Owner shall post, at the time of the conditional use permit approval, a Decommissioning Security in an amount determined by the County Board. The Security may be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the County Board.

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SECTION 25 NON-CONFORMING USES

25.01 General: Within the zoning districts established by this Resolution or future amendments to such districts, there exist 1) lots, 2) buildings or structures, 3) use of land and buildings or structures, and 4) characteristics of use which were lawful prior to the adoption or future amendment of this Resolution, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival.

Nonconforming uses are declared by this Resolution to be incompatible with permitted uses in the districts involved. It is further the intent of this Resolution that nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title. (Resolution 2017-16, May 2, 2017)

If such nonconforming use is in fact discontinued or abandoned for a period of twelve consecutive months, such right to the nonconforming use shall be forfeited and any future use of the building or structure, land and a building or structure or land shall conform to these regulations or amendment thereto. (Resolution 2017-16, May 2, 2017)

1. **Nonconforming Lot of Record:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and the lot does not comply with the lot area or width requirements of the district in which it is located;
2. **Nonconforming Buildings or Structures:** A building or structure that lawfully existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located;
3. **Nonconforming Use of Land and Buildings or Structures:** A use of land and a building or structure that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located; and,
4. **Nonconforming Use of Land:** A use of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

25.02 Nonconforming Lots of Record: In any zoning district, primary and customary accessory buildings of the type permitted in each zoning district may be erected on any single lot of record after the effective date of this Resolution or amendment thereto notwithstanding limitations imposed by this Resolution or amendment thereto subject to the following conditions:

1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations;

2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations; and,
3. The lot can meet all yard regulations for the district in which it is located.

25.03 Nonconforming Structures:

1. **Authority to Continue:** Any existing building or structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful;
2. **Enlargement and Alterations:** Any nonconforming building or structure may be enlarged, extended or structurally altered if such changes comply with the minimum requirements as to the applicable yard and height regulations and shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the building or structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof;
3. **Damage or Destruction:** In the event that any nonconforming building or structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located.
4. **Moving:** No nonconforming building or structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved;
5. **Change of Ownership:** A nonconforming building or structure may be continued, but not increased, by a new owner of such property; and,
6. **Ordinary Repair and Maintenance:**
 - A. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; and,
 - B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

25.04 Nonconforming Use of Land and Building or Structure:

1. **Authority to Continue:** Any lawfully existing use of land and building or structure which existed prior to the adoption of these regulations and does not comply with the requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

2. **Enlargement and Alterations:** Any nonconforming building or structure may be enlarged, extended or structurally altered if such changes comply with the minimum requirements as to the applicable yard and height regulations and shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the building or structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof;

3. **Damage or Destruction:** In the event that any nonconforming building or structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located;

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

5. **Change of Ownership:** A nonconforming use may be continued, but not increased, by a new owner of such property; and,

6. **Ordinary Repair and Maintenance:**

A. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; and,

B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

25.05 Nonconforming Use of Land:

1. **Authority to Continue:** Any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with the requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.

2. **Extension:** A nonconforming use shall not be extended, expanded, enlarged or increased in land area without first having received a Conditional Use Permit.

3. **Change in Use:** If no alterations are made which will expand the area or land use, any nonconforming use of the land use may be changed to another nonconforming use, provided that the County Board, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting a change, the County Board, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.

4. **Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed, and any later use or occupancy of the land shall comply with the regulations of the zoning district in which the land is located.
5. **Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.
6. **Change of Ownership:** A nonconforming use may be continued, but not increased, by a new owner of such property.

SECTION 26 CONDITIONAL USES

26.01 Conditional Use Permits: Conditional uses are those types of uses which, due to their nature, are determined to be more intense than the normal uses permitted within a given zoning district or where the product, process, mode of operation or nature of business may prove detrimental to the health, safety, welfare or property value of the immediate neighborhood and its environment. Within the various zoning districts, conditional uses that are specifically listed in the district regulations may be permitted only after additional requirements are complied with as established within this section.

Prior to consideration of a conditional use application, the Planning Commission shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard. (Resolution 2020-25, July 7, 2020)

At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public in attendance and shall review the conditional use request in accordance with the requirements set forth in Section 26.02 of this Resolution. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth in Section 26.02 of this Resolution. If the Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendation of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall be forwarded in writing to the County Board of Commissioners within 10 days after the recommendation has been made. (Resolution 2020-25, July 7, 2020)

Prior to consideration of a conditional use application, the Kimball County Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing as described in Section 30 of this resolution and shall be an agenda item. A copy of such notice shall be transmitted to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

At public hearing, the Kimball County Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the conditional request in accordance with the requirements set forth in Section 26.02 of this Resolution. The Kimball County Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in Section 26.02 of this Resolution. Upon approval of a conditional use, notice of the

approval, including all conditions of approval shall be transmitted to the applicant within seven calendar days of the date of such approval. If the Kimball County Commissioners disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven calendar days of the date of such disapproval.

26.02 Application requirements for a Conditional Use Permit: An application for a Conditional Use Permit shall be in writing and signed by the owner of the lot, tract of land, building or structure for which the permit is being requested. The application, which shall consist of forms and information required by Kimball County and which may be amended from time to time by the Kimball County Planning Commission, shall be filed with the Kimball County Clerk along with the appropriate filing fee. The applicant has the burden of proof that the requirements are met. (Resolution 2020-25, July 7, 2020) At a minimum the application form shall include the following:

1. General Information:
 - A. Name, address, and telephone number of the applicants;
 - B. Name, address, and authorization of the owner of the property proposed for the conditional use if different from above;
 - C. Legal description of the property under consideration;
 - D. Total acreage of the parcel under consideration;
 - E. Existing land use of the parcel under consideration;
 - F. Existing land uses of all the properties adjacent to said property;
 - G. Signatures of the applicant and fee owners or their authorized legal agent; and,
 - H. A list of the names, addresses and the corresponding Parcel Identification Number assigned by the Kimball County Assessor of the surface owners of the property within five hundred (500) feet of the property subject to the applicant. The source of such records shall be the records from the Kimball County Planning and Zoning (gisworkshop). The Zoning Administrator shall provide the applicant with this list. (Resolution 2013-4, May 21, 2013)
2. A detailed description of the proposed operation and use shall be supplied including the following:
 - A. Type of use for which the application is being made;
 - B. Proximity of the proposed use to residential structures;
 - C. A statement explaining that the proposal is consistent with the Kimball County Comprehensive Plan; and,
 - D. A statement which explains that the proposal is consistent with the intent of the district in which the use is located.
3. A vicinity map depicting the location of the proposed use related to roads, surrounding land uses and structures.
4. A site plan of the conditional use area depicting the location and extent of the proposed use and measures to lessen the impact of the use.

26.03 Minimum Requirements. A Conditional Use Permit shall not be granted unless specific written findings of fact directly based upon the particular evidence presented support the following conclusions:

1. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
2. The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public;
3. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
4. The nature, size and scope of the conditional use and its location in relation to transportation systems will not dominate the immediate neighborhood so as to prevent development and use of the neighboring property in accordance with applicable zoning regulations;
5. Off-street parking and loading will be provided as required in this resolution;
6. Adequate utility, drainage, and other necessary facilities have been or will be provided; and,
7. Adequate access to roads, or entrance and exit drives, will be provided and shall be so designed to prevent traffic hazards and to minimize congestion in public streets and alleys.

26.04 Additional Requirements:

1. In granting a conditional use, the Planning Commission shall recommend, and the County Board may impose certain conditions, safeguards and restrictions upon the premises benefited by the conditional use which may be necessary to reduce or minimize any potential injurious effect of conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any additional requirements set by the County Board shall be filed with the application;
2. Any expansion or enlargement of a Conditional Use shall be treated as a new use and shall require a new application under the provisions of this section;
3. Ordinary repairs and maintenance may be performed upon structures associated with a Conditional Use so long as such repairs and maintenance do not have the effect of expanding or enlarging the use; and,
4. If the Conditional use has not commenced within twelve months from the date of approval or is discontinued for a period of twelve consecutive months it shall be presumed inactive. Kimball County shall initiate an administrative hearing to consider whether to grant an extension of time to commence the use or revoke the Conditional Use. If the Conditional Use is revoked, it shall be necessary to follow the procedures and requirements of this Section in order to re-establish any Conditional Use.

26.05 Conditional Use Decisions, Appeals: Any person or persons, jointly or severally, aggrieved by any decision of the County Planning Commission or the County Board of Commissioners has the right to appeal to the district court. The procedure for appeal to the district court shall be the same as for appeals from the county court to the district court in civil actions. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

SECTION 27 BOARD OF ADJUSTMENT

27.01 Board of Adjustment Membership: The County Board of Commissioners shall appoint five regular members and one alternate member to serve three year terms as members of the County Board of Adjustment. One member only of the board of adjustments shall be appointed by the County Board from the membership of the Planning Commission, and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the Board of Adjustment and the subsequent appointment of another planning commission member to the Board of Adjustment. Any member of the Board of Adjustment may be removed for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

27.02 Board of Adjustment Meetings: The Board of Adjustment shall consult the recommendation of the Planning Commission on all planning and zoning matters. Meetings of the Board of Adjustment shall be held at such times as the Board of Adjustment may designate, or at such other times as the Chairperson, in his or her discretion, calls a meeting. Special meetings may also be held upon the call of any three (3) members of the Board of Adjustment. The Chairperson or, in the Chairperson's absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. The board of adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376. All meetings of the Board of Adjustment shall be open to the public. Any resident or property owner in the County or within the area over which it exercises zoning jurisdiction shall have the right to appear before the Board of Adjustment regarding any matter in which they have a reasonable interest. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the county clerk and shall be a public record. A majority of the Board of Adjustment shall constitute a quorum for the purpose of doing business.

27.03 Duties: The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board, have only the following duties:

1. To hear and decide appeals where it alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location of soundness of structures;
2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map;
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376 would

result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulations.

No such variance shall be authorized unless the board of adjustment finds that:

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

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

27.04 Applications:

1. **Procedure:** The procedure for requesting a hearing before the Board of Adjustment shall be as follows:

A. All applications for a variance to the Board of Adjustment shall be in writing and filed with the Planning Commission. If the Planning Commission provides for an application form, then that form shall be used. The application shall include the following:

- 1. The description of the lot, tract of land, building or structure for which the variance is requested;
- 2. The name or names of the owner or owners; and,
- 3. The nature of the relief requested; and,

B. After receiving the recommendation of the Planning Commission, a hearing shall be held by the Board of Adjustment within sixty (60) days of the filing of the application unless delayed by request of the applicant. Notice of the hearing shall be given as required by this Resolution.

2. **Additional Requirements:** In addition to the above requirements, certain applications require additional information as follows:

A. Appeals and Interpretations:

1. An application for an appeal or interpretation must be filed within fifteen (15) working days after a ruling has been made by the Board of Adjustment;
2. A copy of the order, requirement, decision or determination of the Board of Adjustment which the applicant believes to be in error shall be submitted;
3. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the applicant's position; and,
4. Where necessary, a plot 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 in which it is believed this application will meet each of the conditions as set out in this Resolution; and,
2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing lot or lots included in the application; the structures existing; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application should be included; and,

27.05 Variances: No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations. Once a variance is granted, the right to the variance shall expire unless the required zoning permit is applied for within six (6) months after the granting of the variance.

27.06 Appeals: An appeal to the board of adjustment may be taken by any person or persons aggrieved, or by any officer, department, board, or bureau of the county affected by any decision of an administrative officer or planning commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person, by agent, or by attorney.

27.07 Board of Adjustment Decisions, Appeals: Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any officer, department, board, or bureau of the county, may present to the district court for the county a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen days after the filing of the decision in the office of the board of adjustment. Upon the filing of such petition a summons shall be issued and be served upon the board of adjustment together with a copy of the petition, and return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of the summons, the county board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgment according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals in actions at law.

SECTION 28 AMENDMENTS TO ZONING RESOLUTION TEXT AND MAP

28.01 Amendment to the Zoning Resolution Text and Map.

1. **Authority:** The Board of County Commissioners may, by resolution, amend, supplement, change, modify or repeal these regulations and district boundaries. No amendment, change or repeal shall be adopted by the County Board until the Planning Commission has held a public hearing and submitted its recommendations.

2. **Proposal of Amendments:** Only the Board of County Commissioners, the Kimball County Planning Commission, the fee owner of a property, or a person with legal interest in a property in the unincorporated area of Kimball County may request an amendment. However, no person may apply for an amendment within a period of six (6) months following the denial by the County Board of the same amendment.

3. **Application:** When the owner of the property affected initiates an amendment to the regulations or the district boundaries, and Application for Amendment shall be obtained from the Zoning Administrator, completed, and filed with the County Clerk along with any required fees so that a public hearing can be set.

4. **Ownership List:** A list of the names, addresses and the corresponding Parcel Identification Number assigned by the Kimball County Assessor of the surface owners of the property within one-half mile of the property subject to the applicant. The source of such records shall be the records from the Kimball County Planning and Zoning (gisworkshop). The Zoning Administrator shall provide the applicant with this list. (Resolution 2013-4, May 21, 2013)

5. **Disposition of Amendment Proposals:** Upon receipt of a proposed amendment from the County Board or from the property owner affected, the Planning Commission shall hold a public hearing on the proposed amendment and forward its findings and recommendations with respect to the proposed amendment to the County board.

28.02 Planning Commission Public Hearing: The Planning Commission shall have the following responsibilities when an application is submitted for an amendment:

1. **Public Hearing:** The Planning Commission shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Planning Commission itself. The Planning Commission shall hold the public hearing within sixty (60) days from the date on which the proposed amendment is referred to, filed with or initiated;

2. **Notice of Hearing:** Public notice of the hearing on a proposed amendment shall include advertisement in a legal newspaper ten days prior to the hearing date and providing written notice to the chairman of any municipal or joint planning commission which has jurisdiction over land within three miles of the property affected by such action. Notice may include posting of the site in question and may include mailing notice of hearing to property owners within one-half mile of the site in question;

3. **Conduct of Hearing:** The hearing shall be conducted and record of the proceedings shall be preserved according to the procedures as the Planning Commission may prescribe by rule. Any interested person or party may appear and be heard in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency. A copy of the report shall be made available to the applicant and any other interested persons and shall be available for review in the office of the County Clerk at least three days before the date set for the public hearing.

The Planning Commission may also require reports after the public hearing if additional information is deemed necessary. These reports shall also be made available to the applicant and any other interested persons; and,

4. **Recommendation:** The Planning Commission shall forward its recommendation in writing, and the official record and case file to the County Board within ten days after the recommendation has been made. If the Planning Commission recommendation is conditional upon the applicant submitting completing certain specified items prior to the publication of the notice of public hearing by the County Board, then the ten day period shall commence upon submission of items by the applicant to the Planning Commission.

28.03 Board of Commissioners Public Hearing: The Board of Commissioners shall have the following responsibilities when an application is submitted for an amendment:

1. **Public Hearing:** Set a Board of Commissioners' public hearing to take place not less than fifteen (15) days and not more than forty-five (45) days after receipt of the Planning Commission recommendation;

2. **Notice of Hearing:** Public notice of the hearing on a proposed amendment shall include advertisement in a legal newspaper ten days prior to the hearing date and providing written notice to the chairman of any municipal or joint planning commission which has jurisdiction over land within three miles of the property affected by such action. Notice may include posting of the site in question and may include mailing notice of hearing to property owners within one-half mile of the site in question;

3. **Conduct of Hearing:** The hearing shall be conducted and record of the proceedings shall be preserved according to the procedures as the County Board may prescribe by rule. Any interested person or party may appear and be heard in person, by agent or by attorney. The County Board may request a report on any proposed amendment from any governmental official or agency. A copy of the report shall be made available to the applicant and any other interested persons and shall be available for review in the office of the County Clerk at least three days before the date set for the public hearing; and,

4. **Approved Action:** Amendments shall be approved by resolution of the County Board.

28.04 Amending Official Zoning Map: Should any amendment adopted by resolution of the Board of Commissioners serve to modify the location of zoning district boundaries as set forth on the Kimball County Official Zoning Map, the Board of Commissioners shall cause the Official Zoning Map to immediately be modified to reflect the adopted amendment and such change shall be witnessed by the signature of the Chairperson of the Board of Commissioners. Adoption of any resolution to amend the Official Zoning Map shall become effective only after such amendment is reflected on such Official Zoning Map and such change has been witnessed by the signature of the Chairperson of the County Board of Commissioners and attested to by the County Clerk.

28.05 Effective Date of Approved Amendments: Any approved amendments to the Official Zoning Map or the Kimball County Zoning Resolution shall be effective immediately upon approval by the Board of County Commissioners unless otherwise specified by the approving resolution of the Board of County Commissioners. The applicant shall be advised that the land must be developed in accordance with the designated zoning classification within two years of approval. Failure to complete or substantially commence development within two years may result in revocation of the amendment.

28.06 Similar Amendments: A proposed rezoning request for a similar classification and/or area to one already reviewed by the County Commissioners shall not be reconsidered by the County Commissioners within twelve months of the date of such County Commissioners' action. Submission by a different applicant or minor changes in boundaries shall not be adequate reason to circumvent this requirement.

SECTION 29 ADMINISTRATION

29.01 Administrative Procedure: The County Board shall designate a Zoning Administrator, with the recommendation of the Planning Commission, who shall be responsible for the administration of this Resolution. The County Board shall consult the Planning Commission's recommendation prior to acting on the following powers and duties. The Zoning Administrator shall have the following powers and duties:

1. To provide assistance in the application process;
2. To receive and maintain all applications as required by these regulations;
3. Conduct field inspections when necessary to the performance of the Zoning Administrator's duties;
4. Receive and record all complaints; and,
5. Any other duties and responsibilities as may be deemed necessary by the Planning Commission or County Board of Commissioners.

29.02 Permit Fees: Fees shall be as established by the Kimball County Board of Commissioners.

29.03 Liability for Damages: This Resolution shall not be construed to hold the County responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect of by reason of issuing a permit as herein provided.

SECTION 30 NOTICES

30.01 References to Notice Requirements: Where reference is made in this Resolution to notice being given as required by this Resolution, then the notice shall be given as provided for in section 30.02 below.

30.02 Method of Giving Notice: Notices required pursuant to this section shall be given as follows:

1. **Publication:** Notice of the time and place of the hearing shall be published once in a newspaper of general circulation in the County at least ten (10) days prior to the hearing;
2. **Posting:** A notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. The posted notice shall be placed upon the premises so that it is easily visible from the street/road nearest to the premises and shall be posted at least ten (10) days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change the posted notice prior to the hearing. Any person doing so shall be guilty of a misdemeanor; and,
3. **Mailing:** If the record title owners of any lots included in the proposed change be nonresidents of the County, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last-known address at least ten (10) days prior to the hearing.

30.03 Exceptions to Notice Requirement: Notice by posting or mailing shall not apply if:

1. The proposed change is to apply throughout the entire area of an existing zoning district, or
2. Additional or different types of zoning districts are proposed, whether or not the additional or different districts are made applicable to areas or parts of areas already within a zoning district of the County.

SECTION 31 ENFORCEMENT

31.01 Zoning Violations: Kimball County may enforce the Kimball County Zoning Resolution through methods included in this Resolution or through other methods adopted by the Board of County Commissioners.

31.02 Violations and Penalties: Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint, investigate the complaint and take appropriate action thereon in accordance with the regulations and requirements of this Resolution. Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approval of variance and conditional uses, shall constitute a misdemeanor. Any person, partnership, limited liability company, association, club, or corporation violating any provision of this Resolution is guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to offender may be deemed a separate offense. Whenever a violation exists in these regulations, the County may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine and penalty imposed, enter an order of abatement as a part of the judgment in the case.

31.03 Enforcement Procedure: Whenever the Kimball County Zoning Administrator, whether through personnel knowledge or through members of the Board of Commissioners, Planning Commission or county employees, has knowledge of any violation of the Kimball County Zoning Resolution, it shall give written notice to the violator to correct such violation within thirty (30) days after the date of such notice. Should the violator fail to correct the violation within such thirty (30) day period, the Kimball County Board of Commissioners may request that the Kimball County Sheriff's Department issue a citation and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The citation and complaint shall require that the violator appear in court at a definite time and place stated therein to answer and defend the charge.

1. One (1) copy of said citation and complaint shall be served upon the violator by the Kimball County Sheriff's Department in the manner provided by law for the service of a criminal summons. One (1) copy each shall be retained by the Sheriff's Department and the Kimball County Planning Commission and one (1) copy shall be transmitted to the clerk of the court.

31.04 Attorney: It is the responsibility of the Kimball County Attorney to enforce the provisions of this Resolution. In the event the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint a Special Acting Attorney to perform such enforcement duties in lieu of the Kimball County Attorney.

31.05 Civil Action: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of any provision of the Kimball County Zoning Resolution, the Kimball County Attorney, or where the Board of Commissioners deems it appropriate, a Special Acting Attorney, in addition to the other remedies provided by law, resolution, or regulation, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or use.

31.06 Failure to Comply: The County Board may after notice and hearing to the owner and operator suspend or revoke a plan approval or permit issued upon the basis of failure to comply with the requirements set forth in any of the sections or the conditional use permit as set forth in Section 26, incorrect information supplied or performing or taking action which is determined by the County Board to be in violation of any of the provisions of this regulation. (Resolution 2012-02, April 3, 2012)

SECTION 32. SUBDIVISION REGULATIONS

32.01 Intent: The intent of this section is to assure the orderly subdivision of land and its development, to provide for the harmonious and economic development of the County, for the coordination of streets or roads within subdivisions of land with other existing or planned streets or roads, for adequate open spaces, and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, and prosperity.

32.02 Purpose: The purpose of these regulations is to provide for the orderly development of the County and its environs by insuring, through prescribed rules and standards functional arrangements of street layouts, open spaces, adequate county facilities and utilities; to provide for general conditions favorable for the health, safety and convenience of the county; and to provide for the continued improvement of the standard of living for the citizens by promoting new ideas and effective, efficient, and attractive county design.

32.03 Definitions: For the purposes of Section 32, a subdivision shall be defined as: The division of a lot, tract or parcel or tract of land into two or more parcels, or other divisions of land for the purpose, whether immediate or future, of ownership or building development. The definition includes resubdivision and shall relate to the process of subdividing or to the land subdivided. For the purpose of recording any separation of land, a plat of such division shall be submitted for approval in accordance with Section 32.04.

For the purposes of Section 32, a subdivider or developer shall be defined as: Any person, firm, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sales or lease of a subdivision.

32.04 Applicability:

1. Each separate principal use building within the planning area of the County shall be situated on a separate and single subdivided lot of record.
2. No subdivision of land, except those hereinafter exempted, shall be permitted within the County Planning Area unless a plat is approved in accordance with the provisions of these Regulations.
3. These Regulations shall apply not only to subdivision as herein set forth but shall also apply, insofar as payment of costs for improvement of subdivision is concerned, to those subdivisions, or parts thereof, already platted and approved, which are undeveloped, wholly or partially.
4. The following shall be exempt from subdivision regulations:
 - A. The subdivision of burial lots in cemeteries;
 - B. The division of land into parcels of the size exempted by Nebraska State Statute;
 - C. The division of land for agricultural purposes in the "A-1" and "A-2" zoning districts; and,
 - D. The division of land into four contiguous lots or less, and in which the lots are ten (10) acres or more in size and no new public or private roads are to be created. (Resolution 2012-02, April 3, 2012)
5. No subdivision shall result in the creation of a non-conforming lot in the zoning district in which said lot is located.

32.05 Procedure: Any person, partnership, or corporation intending to subdivide land within Kimball County's planning jurisdiction shall submit plans and plats as required by and specified by this Resolution to the Planning Commission and the County Board for review and approval.

There are six steps in the subdivision process:

1. Pre-Application Procedure:

- A. Before filing a preliminary plat the subdivider shall consult with the Zoning Administrator for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographical survey map shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterials and existing community or county facilities.
- B. The Zoning Administrator shall inform the subdivider of the requirements pertaining to the proposed subdivision as such requirements are established by these Regulations.
- C. The pre-application procedure does not require formal application, fee, or filing of plat with the Zoning Administrator.

2. Change of zone: The subdivider should apply for a change of zone as outlined in the Kimball County Zoning resolution, if applicable. The change of zone shall be contingent on completion of the subdivision process.

3. Preliminary Plat:

A. The subdivider shall submit to the zoning administrator nine (9) copies of the preliminary plat and supplemental material specified with written application for conditional approval. Said complete submittal shall occur at least 21 days prior to the regular meeting of the Planning Commission at which the request will be heard.

B. A preliminary plat shall be submitted at a scale of 1"=200' showing the following:

- 1. Name and address of the owner, person who prepared the plat, date, north arrow, graphic scale, subdivision name, total acreage, and legal description of the proposed subdivision.
- 2. Proof of ownership and title insurance commitment or written opinion of a licensed Nebraska attorney.
- 3. The location of tree clusters (need not show location of all trees)
- 4. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
- 5. The location, widths, and names of proposed streets, alleys, roads, easements, parks, and other opens spaces. All streets shall be named and shall conform to the E911 numbering system.
- 6. The layout of future streets adjacent to the subdivision shall be shown as a dashed line.
- 7. Topographical contour lines showing elevations two (2) foot intervals (or five (5) foot intervals at 1"=200' scale).
- 8. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
- 9. A utility service statement block shall appear on the preliminary plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:

- A. The name of the utility company.

B. A dated signature and statement from the representative of the utility company indicating one of the following:

1. Service is available.
2. Service is available subject to the following specific conditions.
3. Service is not available for the subdivision.

10. The location and sizes of proposed culverts, storm drains, retention or detention ponds, and other drainage provisions.

11. Non-buildable flood plain areas shall be indicated.

12. A brief description of soil types and permeability rates.

13. A cross section of proposed streets showing the width of roadways, location and type of curb & gutter, paving and sidewalks to be installed. The subdivider shall consult the County Roads Department to determine minimum requirements.

14. Names of, and relationship to, adjoining subdivisions, streets, lots, easements and structures.

15. Location of existing lot lines, streets public utility easements, water mains, sewers drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision.

16. Zoning of surrounding land, and present and proposed zoning of subdivision.

17. Proposed easements, dedications and reservations of land.

C. The subdivider shall indicate by letter when improvements as required will be provided. Any proposed restrictive covenants for the land shall accompany the letter.

D. The subdivider shall provide written evidence that there are no delinquent taxes on the property.

4. Preliminary Plat Approval:

A. At least ten days prior to the Planning Commission meeting at which the Preliminary Plat is to be considered for approval, Planning Commission shall submit a copy of the proposal to the school board of each school district which the proposed development affects, and shall notify the school board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.

B. After review of the Preliminary Plat and negotiations with the subdivider, the Planning Commission shall reject or conditionally approve the Preliminary Plat within 40 days after the official meeting at which the Plat was considered.

C. The action of the Planning Commission shall be noted on three copies of the Preliminary Plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy to the County Commissioners and copy to be retained by the Planning Commission.

D. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval or conditional approval of the submitted Plats a guide for the preparation of the Final plat, which will be subject to further consideration by the Planning Commission and County Commissioners. Any approval of the Preliminary Plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.

5. Final Plat: The preliminary plat must be approved by the County Board before a final plat can be submitted. A final plat shall be submitted to the Zoning Administrator for approval within one year of the date the a preliminary plan has been approved by the County Board unless an extension of time is granted by the County Board within the one year's time. The final plat shall conform to the approved preliminary plat as approved and to the requirements of all applicable ordinances and state laws; and if desired by the Subdivider, it may constitute only that portion of the approved Preliminary Plat which he proposes to record and develop at the time; provided that such portion conforms to all requirements of these regulations. Submittal of any portion of the approved area shall be interpreted as satisfying the one (1) year requirement mentioned above.

The Board may approve a modified final plat if changes reflect improvements in design. The following information shall be submitted including the original and five copies as part of a final plat application:

A. A final plat shall be submitted with the information identified in the preliminary plat and in addition the following information:

1. A copy of a title commitment issued by a title insurance company.
2. A summary explaining how the developer will address any problems or concerns that were identified in the preliminary plat plan.
3. If the applicant is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent from the appropriate public agency stating it will accept the lands to be dedicated.
4. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
5. A copy of a contract or some tangible guarantee providing for a common water supply if water is required to be supplied by a water district, municipality, or other.
6. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
7. A list of any covenants, grants of easement, and restrictions imposed upon any land, buildings and structures within the proposed subdivision.
8. A copy of a Nebraska Department of Roads access permit if a new street intersects with a state highway.
9. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Kimball County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.

10. The final plat shall contain the following certificates and seals:

A. Certificate of Dedication, Ownership, and Maintenance:

Know all persons by those present that _____ being the Owner(s), Mortgage or Lienholder of certain lands in Kimball County, Nebraska, described as follows: Beginning _____ containing ___ acres, more or less, have by these presents laid out, platted, and subdivided the same into lots and blocks, as shown on this plat, under the name and style of and do hereby dedicate to Kimball County, public, school district, owners and future owners of this subdivision all ways, public rights-of-ways, easements, parks and open space, and other public right-of-way _____ and easements for purposes shown hereon.

Executed this ___ day of _____, 20__

(Owner, Mortgagee, or Lienholder)

The foregoing dedication was acknowledged before me this ___ day of _____, 20____

Notary Public

Witness my hand and seal

My Commission expires _____

B. Surveying Certificate:

I, _____, a registered Professional Land Surveyor in the State of Nebraska do hereby certify that the survey represented by this plat was made under my personal supervision and checking. I further certify that the survey and this plat comply with all applicable rules, regulations, and laws of the State of Nebraska.

By: _____
Registered Land Surveyor Date

C. Certificate of Approval by the County Board:

This plat is approved by the Kimball County, Nebraska Board of Commissioners. Approval of this plat does not constitute acceptance of any dedication.

Witness my hand and the corporate seal of Kimball County, Nebraska this ___ day of ____ 20__

Chairman, Kimball County Board of Commissioners, Nebraska

ATTEST:

By: _____ Dated: _____
Kimball County Clerk

D. A certificate by the Engineer certifying that the subdivider has posted a bond or certified check which available to the County, and in sufficient amount to assure completion of all required improvements; or, certifying that all required improvements have been installed in accordance with the approval of the preliminary plat by the Planning Commission.

E. Protective covenants in form for recording.

6. Final Plat Approval: The planning commission shall approve or reject the Final Plat and have prepared a recommendation to the County Commissioners for approval or rejection. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or the County Commissioners shall be given the subdivider within 80 days after submission of the Final Plat Plan to the Planning Commission, unless an extension was agreed upon by the subdivider and the Planning Commission or the County Commissioners. The Final Plat and Planning Commission recommendations shall be reviewed by the County Commissioners at their next regularly scheduled meeting following Planning Commission action. (If the Commissioners' agenda for that first regularly scheduled meeting is full, the subdivision request shall then be rescheduled for their next regular meeting.)

32.06 Design Guidelines: Design and improvement considerations to be evaluated by the Planning Commission and County Board for proposed subdivisions.

1. General Guidelines:

- A. Subdivision design shall conform to standards of the Comprehensive Plan and to the County zoning regulations.
- B. Each lot in a subdivision shall abut a public street/road unless otherwise recommend by the Planning Commission and on exception approved by the County Commissioners.
- C. All subdivision designs shall indicate that consideration was given for economic aspects of maintenance of safe, convenient, comfortable and attractive county facilities.

2. Streets:

- A. Right-of-way, street grade, and paving design shall be in conformance with minimum standards suggested in the Comprehensive Plan or as approved by the County Roads Department.

- B. Arterial streets and collector streets shall be properly integrated with the existing and proposed system of streets and highways.
- C. No subdivision shall prevent the extension of arterial and collector streets through and beyond the subdivision in a direction away from the center of a nearby City. The subdivider may plat and design the collector streets not extended on the Comprehensive Plan subject to approval of the Planning Commission.
- D. Minor streets shall be designed to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewer systems; and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- E. Cul-de-sac streets designed to have one end permanently closed shall not exceed 600 feet in length and shall be posted as a non-through street. The terminating end of a cul-de-sac shall have a turn-around with a minimum property line radius of 50 feet.
- F. The Planning Commission and County Commissioners may require dedicated passage (alleys) in commercial and industrial districts for off-street loading and service access.
- G. Minor streets shall not be designed for extension beyond the subdivision shown on the Preliminary Plat submitted for approval, unless the adjoining land is land locked without road access, or for some other reason access is desired by the Planning Commission or County Commissioners.
- H. Curves in Streets -Horizontal and Vertical:
 - 1. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
 - 2. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made
 - 3. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

3. Intersection of Streets:

- A. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
- B. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two. On local streets, the "T" intersection is generally preferable to the crossroad intersection.
- C. Arterial Streets shall not be intersected by minor streets or alleys.
- D. The number of intersections along county arterials or highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than 1,000 feet.
- E. Street jogs with center lines offset less than 150 feet shall be avoided.
- F. All right-of-way lines at intersections with arterial streets shall have a corner radius of not less than 25 feet.

4. Easements:

- A. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
- B. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

5. Blocks:

A. The length, widths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control, and safety of street traffic, and the limitations and opportunities of topography. Block lengths in residential areas shall not as a general rule be less than 600 feet in length between street lines unless dictated by exceptional topography or other limiting factors of good design.

B. Pedestrian ways or crosswalks, not less than ten (10) feet in width, shall be provided near the center and entirely across the block 900 feet or more in length where deemed essential, in the opinion of the Planning Commission, to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities. Said pedestrian ways shall be dedicated to the public use unless other written agreement, deed restriction, etc., guarantees maintenance. To the extent practical subdivision design should give high priority to the convenience and safety of the pedestrian.

C. All utility lines for electric power and telephone service shall be placed underground except where, in the opinion of the Planning Commission, such location is infeasible or too costly. Poles for permitted overhead lines shall be placed in rear lot line easements.

6. Lots:

A. The size, shape, and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and proper architectural setting for the building contemplated.

B. Minimum lot dimensions for "Residential" type subdivisions shall conform to the requirements of the County Zoning Regulations.

C. Where residential lots border a railroad right-of-way the depth of adjacent lots shall be increased by at least 25 feet more than the otherwise required minimum.

32.07 Required Improvements: The following subdivision improvements are required by Kimball County:

1. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size, and length as may be approved by the Engineer.

2. Utility and Street Improvements:

A. Utility and Street right-of-ways shall be provided in each new subdivision in accordance with the requirements of Exhibits A and B. Standards for improvements shall be approved by the Engineer and shall be in accordance with the Comprehensive Plan.

B. Each of the following improvements may be required in each subdivision. Actual improvements required shall be negotiated with each subdivider:

1. Curb, gutter, and sidewalks.
2. Street grading and paving.
3. Street name signs.
4. Street lights.
5. Paved alleys (when platted)
6. Bridges, culverts or other drainage facilities (when required)
7. Complete public water system.
8. Complete public sewage collection and treatment.
9. Fire hydrants.
10. Other improvements as may be required by the County.

C. Subdivisions with lots all larger than one (1) acre in size may be exempted from the above mentioned curb, gutter, and sidewalk requirement if so approved by the County Commissioners.

D. Subdivisions with all lots larger than five (5) acres in size may be exempted from the above mentioned curb, gutter, sidewalk, sewage system and water system requirements if so approved by the County.

32.08 Public lands:

1. Before Final Plat approval is given to the subdivider, they shall be required to dedicate to the public use all streets, alleys, buffer strips and parks as may be required by the Planning Commission. Acceptance of these dedicated lands shall be recorded in the minutes of the County Commissioners and on the subdivision plat.
2. Open park and recreation space shall be provided in the amount that may be determined by the Planning Commission.
3. Subdividers of "Commercial" type subdivisions may be required to dedicate land for off-street parking as determined necessary by the Planning Commission.
4. Before Final Plat approval is given the subdivider, they may be required to reserve sites for schools as determined by the Planning Commission to be sufficient and in compliance with the Comprehensive Plan. Reservation of land for public acquisition shall be for a period not to exceed three years from the date the plat is officially recorded.

32.09 Operation and Maintenance: It is the stated intent of the County to primarily provide rural and county-wide services. It is not intended that the County be obligated to provide urban services, i.e. utility systems maintenance, park maintenance, local road maintenance and related services normally required in housing projects. Therefore, it will be the obligation of the subdivider to present to the County Planning Commission and County Commissioners a precise approach to handling and providing these services. Said approach may include the formation of districts, homeowners organizations or other methods to operate and provide for long term maintenance and service. Said approach shall be made binding on the subdivider in a form, agreement, or contract in a manner which is accepted by the County Attorney.

32.10 Variance of requirements:

1. The Planning Commission may recommend and the County Commissioners may grant variance of requirements from the provision of the regulations in Section 26 but only after determining:
 - A. There are unique circumstances or conditions affecting the property.
 - B. The variance of requirements is necessary for the reasonable and acceptable development of the property in question.
 - C. The granting of the variance of requirements will not be detrimental to the public welfare or injurious to adjacent property.
2. The requirement of filing and recording a plat for subdivision shall not be waived.

32.11 Final Plat Development Requirements: A proposed subdivision shall be developed in accordance with the approved Final Plat of the subdivision and all supporting data. These plats shall control and limit the use of the land in the subdivision as indicated on the plats.

SECTION 33 MISCELLANEOUS

33.01 Invalidity in Part: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid by any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Resolution.

33.02 Conflicting Resolution: Where this Resolution may conflict with any other Local, State or Federal Resolution or regulation, the most restrictive Resolution shall apply.

33.03 Effective Date: This Resolution shall take effect and be in force from and after the date of its passage, approval and publication as required by law.

33.04 Publication: Publication of this Resolution shall be in pamphlet form.

Appendix

Resolution Number	Adoption Date	Amendment (s)	Specific Description
2010-10	October 5, 2010		Adoption of Kimball County Zoning and Subdivision Regulations
2011-01	July 9, 2011	Official Zoning Map	Approximately 1 acre part of 10.119 acre tract in SE/4 30-15-57 to "C" Commercial District

Resolution Number	Adoption Date	Amendment(s)	Specific Description
2012-02	April 3, 2012		
Section 3.04			Added WPO Wellhead Protection Overlay District
Section 4.02 Definitions			Amended: Bed and Breakfast; Conditional Use; Conditional Use Permit; Home Occupation; and Mining. Added: Acreage; Compatible Use; Convenient Store; Industrial; Manufacturing; Motor Sport Facility; Nursery; Oil and Gas Production; Family Entertainment Center; Hazardous Waste; Overlay District; Owner; Public Use Area; Public Uses; Recreational Facilities; Recreational Purposes; Restaurant; Restaurant, Drive-in; Restaurant, Fast Food; Retail Trade; Self-Service Station; Service Stations; Sewer & Waste Water Treatment Operation; Solid Waste; Storage; Truck Wash Services; Wastes; and, Wholesale Trade.
Section 5.01			Amended Intent
Section 5.02			Amended Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production. Deleted Public parks and public recreation facilities; recreational tourist services; and tourist information area.
Section 5.03			Amended Churches to Place of Worship; Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production; and, Indoor or outdoor sporting and recreational facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc. to Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. Added Nurseries. Deleted Race Tracks; Salvage Yard or Scrap metal processor; Solid Waste disposal sites and facilities; and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-1 District.
Section 5.04			Amended #2 from 5 acres to 10 acres
Section 6.01			Amended Intent
Section 6.02			Amended Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production. Deleted Public parks and public recreation facilities; recreational tourist services; and tourist information area.
Section 6.03			Amended Churches to Place of Worship; Extraction of minerals using non-excavation (drilling) techniques to Oil and Gas Production; and, Indoor or outdoor sporting and recreational facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc. to Indoor or outdoor recreational facilities that due to the nature of the facility generally require a location separated from urban areas. Added Nurseries, Salvage Yard or Scrap Metal Processor, Motor Sport Facility. Deleted Schools and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-2 District.
Section 7.02			Deleted Public Parks and recreation areas
Section 7.03			Deleted churches and Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RE District.

Section 7.04	Amended #2 from 5 acres to 10 acres	
Section 8.01	Amended Intent	
Section 8.02	Amended Gas stations to Self-service stations; and, Stores and shops which sell retail or wholesale merchandise trade to Retail and Wholesale Trade. Deleted Commercial and public recreation and entertainment.	
Section 8.03	Deleted Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the C District. Added Family Entertainment Center.	
Section 9.02	Amended Gas stations, truck stops and other vehicle service stations to Service stations, truck stops and other vehicle stations. Deleted Public or private tourist, recreation, and entertainment.	
Section 9.03	Deleted Retail Uses not listed as permitted uses; Services not listed as permitted uses; and, Offices not listed as a permitted use. Added Family Entertainment Center.	
Section 10.03	Added (in accordance with Section 12) for Salvage Yard or scrap metal processor.	
Section 11	Added Section: WPO Wellhead Protection Overlay District	
Section 12.01	Amended A, B, D and E. with the deletion of "operated in a residential district" or "in a residential district".	
Section 18	Added Section: Motor Sport Facility	
Section 25.06	Added Failure to Comply	
Section 26.04	Amended #4D from five acres to ten (10) acres	
Resolution Number	Adoption Date	
2013-04	May 21, 2013	
Amendment(s)	Specific Description	
Section 2.01	Added #14.	
Section 15	Added 15.01 Intent. Amended General Standards #1 and #3; and added #4, #6 and #7. Added 15.03 Exception. Amended Application Requirements.	
Section 20.02	Amended 1. H	
Section 22.01	Amended #4.	
Resolution Number	Adoption Date	
2013-06	November 19, 2013	
Amendment(s)	Specific Description	
Section 3.04	Added AHAO Airport Hazard Area Overlay District	
Section 12	Amended Section 12. Deleted Section 12.04 Airport Requirements. (Nebraska Airport Zoning Act)	
Official Map	Added Airport Hazard Area Overlay District	
	Sections were renumbered after amending Section 12. All references to these Sections were changed. Page numbers and Table of Contents were changed. Sections 19, 20, 21, 22, and 23 were intentionally left blank for future use.	

Resolution Number	Adoption Date	
2014-09	July 1, 2014	
Amendment(s)	Specific Description	
Section 5.02	Amended 5.02 #10 to include pipeline and pipeline facility	
Section 6.02	Amended 6.02 #9 to include pipeline and pipeline facility	

Resolution Number	Adoption Date	
2017-15	May 2, 2017	
Amendment(s)	Specific Description	
Section 4.02	Added borrow pit and excavation, Amended commercial use	
Section 5.02.07	Deleted Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project, Amended with A non-commercial borrow pit for personal uses.	
Section 5.03.14	Removed "of minerals"	
Section 5.03.15	Removed "and borrow pits"	
Section 6.02.6	Deleted Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project, Amended with A non-commercial borrow pit for personal uses.	
Section 6.03.13	Removed "of minerals"	
Section 6.03.14	Removed "and borrow pits"	
Resolution Number	Adoption Date	
2017-16	May 2, 2017	
Amendment(s)	Specific Description	
Section 4.02	Added Grandfather Rights	
Section 25.01	Amended General	
Resolution Number	Adoption Date	
2018-21	April 17, 2018	
Amendment(s)	Specific Description	
Section 4.02	Added Solar Energy System, Amended Wind Energy Conversion System	
Section 5.02	Added Off-grid Solar Energy System and Off-grid Wind Energy System	
Section 5.03	Removed Conversion in #10. Added Solar Energy Systems, Offices incidental to the operation of the listed conditional uses and Accessory buildings and uses customarily incidental to a conditional use.	
Section 6.02	Off- Added grid Solar Energy System and Off-grid Wind Energy System	
Section 6.03	Removed Conversion in #8. Added Solar Energy Systems, Offices incidental to the operation of the listed conditional uses and Accessory buildings and uses customarily incidental to a conditional use.	
Section 7.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 7.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 8.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 8.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 9.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 9.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 10.02	Added Off- grid Solar Energy System and Off-grid Wind Energy System	
Section 10.03	Added Accessory buildings and uses customarily incidental to a conditional use.	
Section 15	Amended 15.01 to Intent; Added 15.02; Amended 15.03#2 and added #1,#4 and #5; Amended 15.04 with #2 and #3 added. LIVESTOCK SITING MATRIX – COUNTY ZONING WEBSITE	
Section 18	Amended to read Wind Energy System. Amended 18.02 to Off-Grid. Amended 18.02#3. Amended 18.03 to Wind Energy System. Amended 18.03 #2 #3 #4-C9,D3. Added 4-D#11. Amended #5-B, K and added P. Added 6.E. Amended 9.10 and 12. Added 9.15- 9.18. Amended 11. Amended 12.B. Removed 13.	
Section 20	Added Solar Energy Systems	

Resolution Number	Adoption Date
2020-25	July 7, 2020
Amendment(s)	Specific Description
Section 3.09	Deleted 1 and 2
Section 16.02	Added Definitions
Section 16.03	Renumbered. Amended 1, 2,4,5,6 and 10. Added #7, 8, and 9.
Section 16.04	Renumbered and Amended #1 and #2.
Section 16.05	Renumbered and amended tower to facility.
Section 18.03	#12 B. 3. Amended to "at the time"
Section 26.01	Amended "mailed to the applicant" to "transmitted to the applicant". Amended recommendation forwarded in writing to the County Board of Commissions from immediately to within ten days after recommendation has been made.
Section 26.02	Amended "filed with the zoning administrator" to "filed with the Kimball County Clerk". Added "The applicant has the burden of proof that the requirements are met."