

An aerial photograph of a rural landscape in Nebraska. The scene features a large, long, white metal barn in the foreground, several cylindrical silos, and a pond. The surrounding area is a mix of green fields, trees, and a dirt road. The sky is blue with some light clouds.

Brown County, Nebraska Zoning Regulations.

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COMMUNITY PLANNING & RESEARCH

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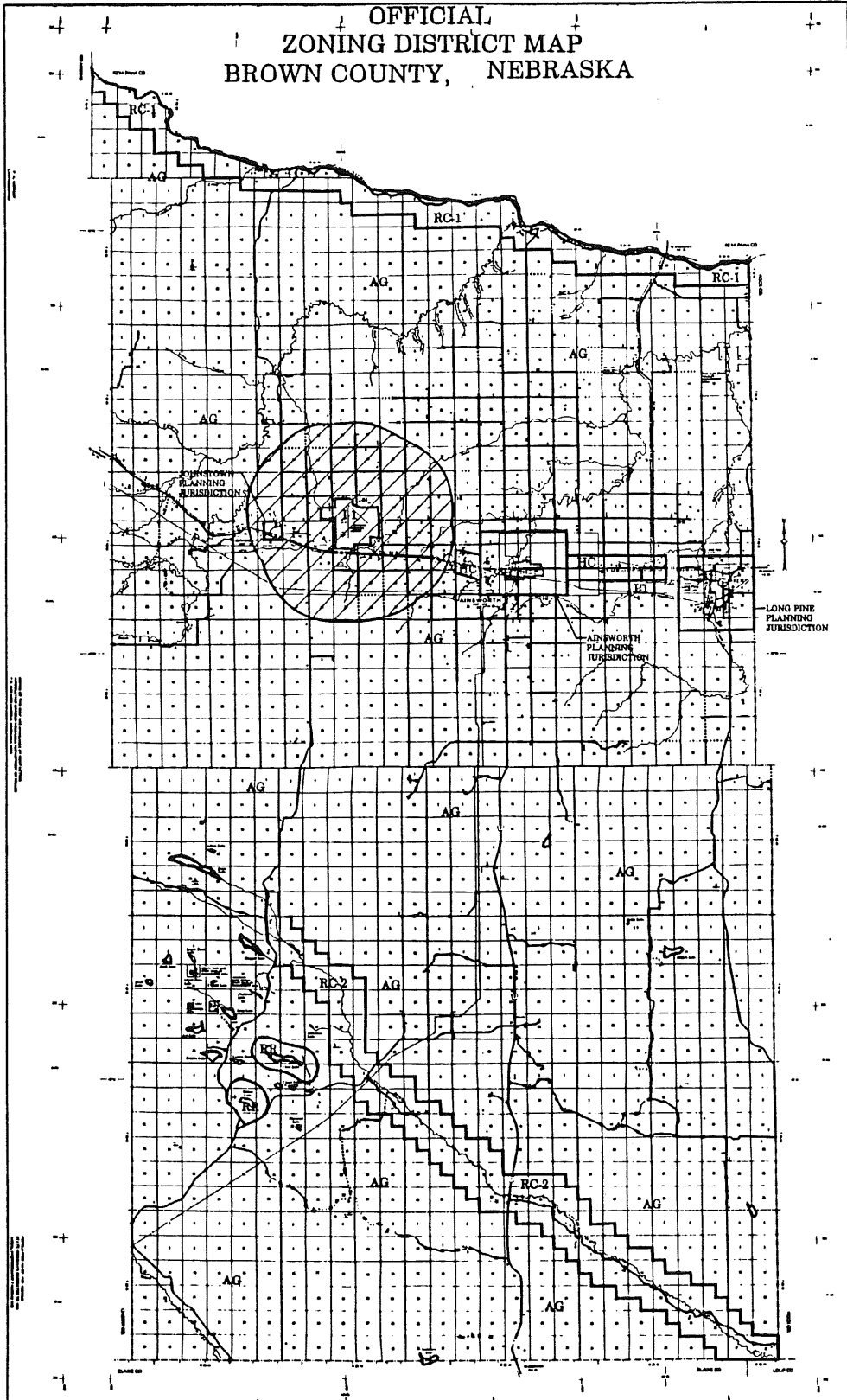
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OFFICIAL ZONING DISTRICT MAP BROWN COUNTY, NEBRASKA



ALINTON NIMOSE

OFFICIAL ZONING MAP
BROWN COUNTY, NEBRASKA

THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN ARTICLE 4, SECTION 43 OF THE BROWN COUNTY, NEBRASKA ZONING REGULATIONS ADOPTED BY RESOLUTION NUMBER _____ ON _____ 1982.

DATED _____ DAY OF _____, 1982.

ATTEST:

COUNTY CLERK

CHAIR, BOARD OF COMMISSIONERS

- ZONING DISTRICTS**
- AG Agriculture District
 - RC-1 Rural Conservation District
 - RC-2 Rural Conservation District
 - RR Rural Recreation District
(1/4 mi. from firewater line).
 - HC Highway Commercial
 - I-1 Industrial District
- NOTE: Airport Zoning Regulations are subject to the city of Ainsworth.

BROWN COUNTY NEBRASKA

DEPARTMENT OF ROADS
PLANNING DIVISION
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

1982

HANNAYKELAN ASSOCIATES, P.C.

ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

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

1.2 JURISDICTION

The provisions of this Resolution shall apply within the planning jurisdiction of Brown County as established on the map entitled "The Official Zoning Map of Brown County, Nebraska." The jurisdiction includes the rural and unincorporated areas of Brown County, excluding the extraterritorial zoning jurisdiction areas of Ainsworth and Long Pine and the incorporated area of Johnstown.

1.3 PURPOSE

In pursuance of the authority conferred by Section 23-114.03 of Nebraska Statutes as amended, this Resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Brown County and for implementing the Comprehensive Plan of the County.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

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

2.2 ZONING AFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the Zoning Regulations herein specified for the District in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

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

2.4 MINIMUM REQUIREMENTS

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

2.5 NONCONFORMITIES

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

2.51 NONCONFORMING LOTS OF RECORD: The Building Inspector may issue a Building Permit for any nonconforming lot of record provided that:

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

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

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

2.52 NONCONFORMING STRUCTURES

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

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

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

Moving: No nonconforming structure shall be moved in whole or in part 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.

2.53 NONCONFORMING USES

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

Ordinary Repair and Maintenance:

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

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

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

Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, no repairs or restoration shall be made unless a zoning permit is obtained within six months and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

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

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

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

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

ARTICLE 3

GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

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

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

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

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

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

3.2 GENERAL TERMINOLOGY

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

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

3.3 DEFINITION

For the purpose of this Resolution, certain words and terms used herein are defined as follows;

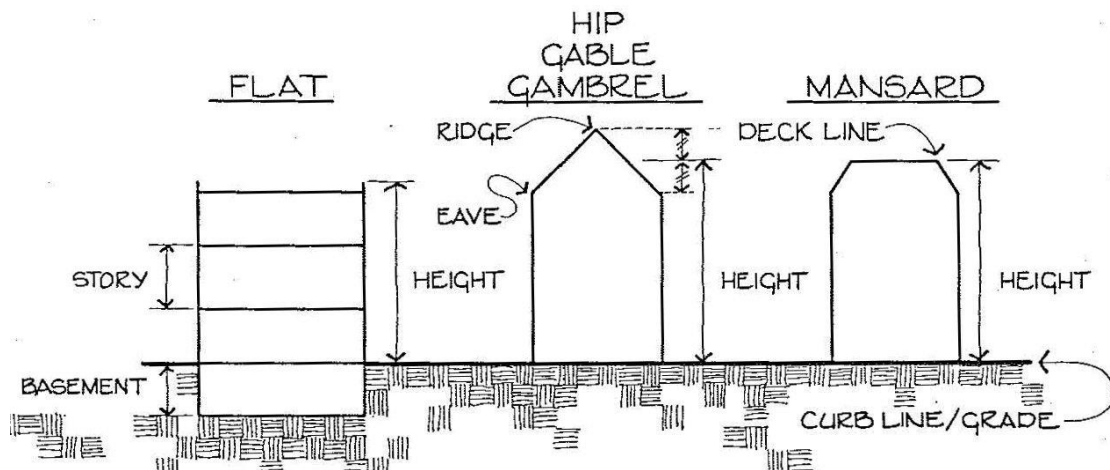
3.31 ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile towers of less than 100 feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

3.32 AGRICULTURAL FARM OR OPERATION: A parcel of land consisting of twenty (20) acres or more which produces one thousand dollars (\$1,000.00) or more of farm products each year. Further the twenty acre parcel shall be undivided by county, state, or federal roads.

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

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

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



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

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

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

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

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

3.310 DWELLING, SINGLE FAMILY: A dwelling having accommodations for and occupied by one family.

3.311 DWELLING, TWO-FAMILY: A residential building containing two dwelling units entirely surrounded by open space on the same lot.

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

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

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

3.315 HABITABLE DWELLING: Any structure or part thereof that can be occupied in reasonable comfort and used as a living situation for one or more persons or a single family. A habitable dwelling must have intact exterior walls and roof structure, complete indoor plumbing and kitchen facilities, a sanitary waste disposal system, complete interior wiring and heating system.

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

3.317 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS: Shall mean the confinement of more than 300 animal units any one time on a permanent bases in buildings, pens, pools or ponds which are not used for growing crops or grazing animals. The confinement of an unrestricted number of animal units for birthing, weaning, or backgrounding purposes for less than 210 days per year shall not be considered an intensive animal feeding use.

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

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

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

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

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

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

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

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

3.326 MOBILE HOME: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and thirty-two (32) feet in length designed and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities.

3.327 MODULAR HOME: A structure designed to be transported after fabrication and located as a permanent addition to, and becoming part of, the real property. Such a structure must meet minimum construction requirements of the Uniform Building Code or other similar requirements as accepted by the Federal Housing Administration or the Veteran's Administration. Such a structure must be set on a permanent foundation and is subject to all local building, zoning and housing regulations. Any such modular home meeting the requirements herein defined is not considered a mobile home.

3.328 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 approval date of this Resolution and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the District in which it is located.

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

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

3.331 NON FARM BUILDING: All buildings except those buildings utilized for agricultural purposes on a farm.

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

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

3.334 PUBLIC AREA: Any building or designated land area (State, County or Municipally-owned) intended for citizen gatherings and functions. This definition excludes hiking and biking trails.

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

3.336 SPECIAL USE PERMIT: A written permit issued with authorization of the County Board. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning Districts as stipulated under permitted special uses in each of the District zoning regulations.

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

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

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

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

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

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

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

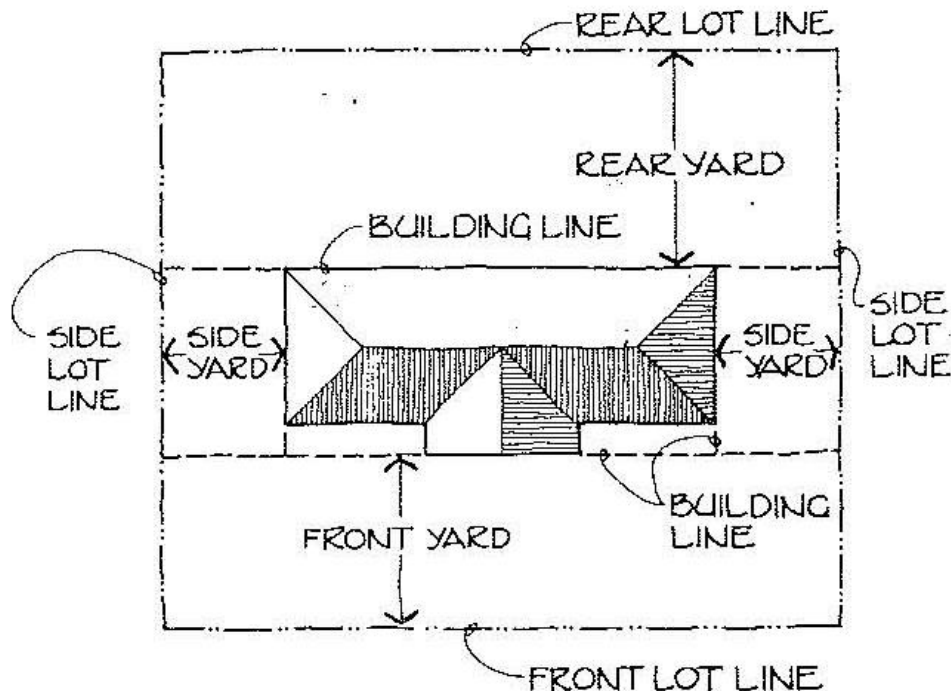
3.344 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the District regulations.

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

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

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

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



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

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

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

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 PLANNING COMMISSION RECOMMENDATIONS

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

4.2 DISTRICTS CREATED

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

1. AG Agriculture District
2. RR Rural Residential District.
3. RC-1 Rural Conservation District
4. RC-2 Rural Conservation District
5. HC Highway Commercial District
6. I-1 Industrial District
7. AZR Airport Zoning Regulations

4.3 OFFICIAL ZONING MAP

1. The boundaries of the District are shown upon maps, which are made a part hereof by reference, which map(s) are designated as the Brown County Zoning District Map, dated _____ and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map(s) containing the zoning Districts designated at the time of adoption of this Resolution shall be maintained in the office of the County Clerk for the use and benefit of the public.

3. If in accordance with the provisions of this Resolution, changes are made in the District boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the County Board, with an entry on the Official Zoning Map(s) as follows:

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

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

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

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

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

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

ARTICLE 5

ZONING DISTRICTS

5.1 AG AGRICULTURE DISTRICT

5.11 INTENT: This District is intended for agriculture use and is intended to encourage a vigorous agriculture industry throughout the County and to preserve and protect agriculture production from encroachment by incompatible uses.

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

~~1. Agriculture, including intensive livestock facilities/operations which do not exceed the following one time livestock capacity limitations. Development of new intensive livestock facilities/operations are permitted up to the following one time capacity limitation. Expansion of existing intensive livestock facilities/operations is permitted when the expansion plus the existing capacity does not exceed the following one time capacity.~~

~~1. Cattle~~

~~One time capacity 1,000 head maximum,~~

~~2. Market hogs~~

~~One time capacity 1,000 head maximum,~~

~~3. Sheep~~

~~One time capacity 1,000 head maximum,~~

~~4. Dairy Cattle or breeding hogs (maximums based upon number of producing females)~~

~~One time capacity 100 head maximum,~~

~~5. Poultry~~

~~One time capacity 2,000 birds,~~

~~6. Exotic Animals — not otherwise permitted in 5.12 as principal use~~

~~One time capacity — 100 animals.~~

1. Agriculture, including the development of new or expansion of existing intensive livestock facilities/operations. All animal numbers are based upon the following animal unit (AU) system:

One (1) Beef Animal	1.0 AU
One (1) Beef or Dairy Calf to 500 Pounds	0.5 AU
One (1) Young Dairy Stock	0.75 AU
One (1) Dairy Cow	1.4 AU
One (1) Horse	2.0 AU
One (1) Swine 55 Pounds or Heavier	0.4 AU
One (1) Swine Less than 55 Pounds	0.04 AU
One (1) Sow and Litter	0.5 AU
One (1) Sow or Boar	0.4 AU
One (1) Sheep	0.1 AU
One (1) Chicken	0.01 AU
One (1) Turkey	0.02 AU

Special Use Permits are required for all intensive livestock facilities/operations of 1,000 AU or larger. The Nebraska Livestock Assessment Matrix would be required to be completed to use in gathering information and submitted with the Special Use Permit application. The livestock operation would need to score a minimum of 75 to be considered for approval of the Special Use Permit.

- 2. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
- 3. Bulk grain and produce storage, excluding commercial warehouses;
- 4. Irrigation, flood, erosion and sediment control projects;
- 5. Single family dwellings, including ranch and farm dwellings; and one additional on farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agriculture workers;
- 6. Green houses and garden centers;
- 7. Fish hatcheries, game farms and facilities;

8. Kennels and breeding establishments;
9. Bed and breakfast; and
10. Veterinary facilities.

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

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

5.14 PERMITTED SPECIAL USES: A building or premise may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Additional one farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agricultural workers;
4. **Cell towers**, broadcast towers and stations, including Amateur Radio or land mobile towers of more than 100 feet;
5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards;
9. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries;
10. Private elementary and high schools;

11. Expansion of existing or development of new intensive livestock operations in the event they exceed the maximum allowable permitted capacity limitations and conditions as indicated in 5.12(1);
12. Churches, places of worship, cemeteries, crematories, mausoleums and columbaria;
13. Child care centers and pre-schools;
14. Manufacturing, Commercial and/or Industrial operations;
15. Hospitals, penal institutions and sanitariums;
16. Nursing and care homes; and
17. Public and private, including non-profit, charitable institutions.
18. Single family rental dwellings, provided such dwellings are conversions of existing conforming single family dwellings; existing conforming additional on farm/ranch single/two family dwellings; or other existing conforming structures used for housing people.
19. Conservation Easements, for the purposes of restricting or prohibiting activities that, if conducted, would negatively impact conservation values of the property and can include, but not be limited to protecting open space, scenic views, wildlife habitat and migration corridors, maintain and improve water quality and ensure proper land management. Conservation Easements, if allowed, must meet the following conditions:
 - a) Easements must allow any current and future accepted best management practices used in modern agricultural production.
 - b) Easements may ban and land use that requires a Special Use Permit in the zoning district in which it is located but cannot ban any development or use that is allowed under current zoning regulations.
 - c) Easement must allow any historical use of the parcel of land being considered for the perpetual conservation easement.
 - d) Easements must not reduce the land's ability for agricultural production.

Any transfer of ownership of any Perpetual Conservation Easement must be approved by the Brown County Commissioners based upon a recommendation made by the Brown County Planning Commission.
20. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

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

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

5.17 MINIMUM LOT REQUIREMENTS:

Single Family Dwellings:

Lot Size: 5 acres. The designated 5 acres shall be one parcel.

5.18 MINIMUM YARD REQUIREMENTS:

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet.

Rear Yard: No limitations; unless abutting a residential District then the minimum rear yard shall be fifteen (15) feet.

Side Yard: No limitations; unless abutting a residential District then the minimum side yard shall be ten (10) feet.

5.19 MAXIMUM HEIGHT: No limitation.

5.20 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS SETBACKS.

The following setbacks for livestock operations are required:

Animal Units	Setback Distance
301-1,000	$\frac{3}{4}$ Mile
1,001 to 5,000	1½ Mile
5,001+	2 Miles*

~~*Plus ¼ Mile for each additional 5,000 AU up to 2 Miles.~~ All setbacks apply to people building near animal operations as well. Setbacks may be waived or reduced by signed waivers. Setbacks are from habitable dwellings, public areas and other intensive livestock facilities/operations. All setbacks apply to people and buildings near animal operations as well

5.2 RC-1 RURAL CONSERVATION DISTRICT

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

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

1. Single family dwelling.
2. Up to two single family farmland ranch dwellings one of which may be a two family dwelling for purposes of housing relative or permanent agricultural workers.
3. Farming and ranching activities excluding intensive livestock facilities/operations.
4. Aquaculture activities.
5. Public uses: including fire stations, public utilities and utility distribution systems.

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

1. Accessory uses and structures normally appurtenant to permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8.
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

5.24 PERMITTED SPECIAL USES: A building or premise may be used for the following purposes in the "RC-1" Rural Conservation District if a special use permit has been obtained in accordance with Article 6 of this Resolution.

1. Public, private and commercial recreation uses.
2. Additional one farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agricultural workers.
3. Non-farm/ranch operated saw mills.
4. Bed and breakfast establishments.
5. Mineral extraction.
6. Public and private schools.

7. Churches.
8. Manufacturing and commercial operations.
9. Single family rental dwellings, provided such dwellings are conversions of existing conforming single family dwellings; existing conforming additional on farm/ranch single/two family dwellings; or other existing conforming structures used for housing people.
10. Conservation Easements, for the purposes of restricting or prohibiting activities that, if conducted, would negatively impact conservation values of the property and can include, but not be limited to protecting open space, scenic views, wildlife habitat and migration corridors, maintain and improve water quality and ensure proper land management. Conservation Easements, if allowed, must not reduce the land's ability for agricultural production.

Any transfer of ownership of any Perpetual Conservation Easement must be approved by the Brown County Commissioners based upon a recommendation made by the Brown County Planning Commission.

11. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the "RC-1" Rural Conservation District.

5.26 MINIMUM LOT REQUIREMENTS:

1. The minimum lot area for "RC-1" uses shall be 20 acres.

5.27 MINIMUM YARD REQUIREMENTS: No structure shall be placed within two hundred (200) feet of high water mark of waterways in designated District.

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

5.3 RC-2 RURAL CONSERVATION DISTRICT

5.31 INTENT: This District because of its proximity to Calamus River, its scenic statue, its recreational potential, its lack of access to developed roads, its predominant agricultural use requires regulation which considers harmonious development of agricultural and recreational potential.

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

1. Single family dwelling.
2. Up to two single family farmland ranch dwellings one of which may be a two family dwelling for purposes of housing relative or permanent agricultural workers.
3. Farming and ranching activities excluding intensive livestock facilities/operations.
4. Aquaculture activities.
5. Public uses: including fire stations, public utilities and utility distribution systems.
6. Bulk grain and produce storage excluding commercial warehouses.
7. Irrigation, flood, erosion and sediment control projects.
8. Bed and breakfast.

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8.
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

5.34 PERMITTED SPECIAL USES: A building or premise may be used for the following purposes in the “RC-2” Rural Conservation District if a Special Use Permit for such use has been obtained in accordance with Article 6 of this Resolution:

1. Additional one farm/ranch single/two family dwelling for the purpose of housing relative or permanent agricultural workers.
2. Broadcast towers and cellular towers.
3. Public, private, and commercial recreational uses.
4. Churches, places of worship, cemeteries.
5. Mineral extraction.
6. Public and private schools.

7. Manufacturing and commercial operations.
8. Single family rental dwellings, provided such dwellings are conversions of existing conforming single family dwellings; existing conforming additional on farm/ranch single/two family dwellings; or other existing conforming structures used for housing people.
9. Conservation Easements, for the purposes of restricting or prohibiting activities that, if conducted, would negatively impact conservation values of the property and can include, but not be limited to protecting open space, scenic views, wildlife habitat and migration corridors, maintain and improve water quality and ensure proper land management. Conservation Easements, if allowed, must not reduce the land's ability for agricultural production.

Any transfer of ownership of any Perpetual Conservation Easement must be approved by the Brown County Commissioners based upon a recommendation made by the Brown County Planning Commission.

10. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the "RC-2" Rural Conservation District.

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

5.37 MINIMUM LOT REQUIREMENTS:

1. The minimum lot area for "RC-2" uses shall be 20 acres.

5.38 MINIMUM YARD REQUIREMENTS: No structure shall be placed within fifty (50) feet of high water mark of waterways in designated district.

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

5.4 RR RURAL RECREATION DISTRICT

5.41 INTENT: This District is established for the purpose of protecting general agricultural operations and permitting rural vacation or seasonal and/or year-round residences, recreational vehicle parks for short term or seasonal parking and the uses that serve them by regulating density and land use.

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

1. Agriculture, excluding intensive livestock facilities/operations and auction/sale barns and yards;
2. Single family dwellings;
3. Mobile homes;
4. Churches; and
5. Public uses including golf courses, public elementary and high schools, public utilities and utility distribution systems.

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

1. Accessory uses and structures normal appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations; and
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the ‘RR’ Rural Recreation District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution:

1. Campgrounds;
2. Commercial operations and businesses, intended for the purpose of servicing recreational users; and
3. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables.
4. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.
5. Conservation Easements, for the purposes of restricting or prohibiting activities that, if conducted, would negatively impact conservation values of the property and can include, but not be limited to protecting open space, scenic views, wildlife habitat and migration corridors, maintain and improve water quality and ensure proper land management. Conservation

Easements, if allowed, must meet the following conditions:

- e) Easements must allow any current and future accepted best management practices used in modern agricultural production.
- f) Easements may ban and land use that requires a Special Use Permit in the zoning district in which it is located but cannot ban any development or use that is allowed under current zoning regulations.
- g) Easement must allow any historical use of the parcel of land being considered for the perpetual conservation easement.
- h) Easements must not reduce the land's ability for agricultural production.

10. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

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

5.5 HC HIGHWAY COMMERCIAL DISTRICT

5.51 INTENT: The 'HC' Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

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

1. Agriculture, excluding intensive livestock facilities;
2. Commercial operations and businesses intended for the purpose of servicing travel and recreational users;
3. Electric and telephone substations;
4. Farm implement sales and services;
5. Irrigation equipment sales and services;
6. Mobile homes sales;
7. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
8. Restaurants and cafes;
9. Service stations, including car and truck repair services;
10. Trucks and freight terminals;
11. Utilities, including shops and offices;
12. Single family homes;
13. Churches, places of worship and other religious institutions;
14. Veterinarian services and animal hospitals;
15. Automobile sales and services;
16. Automotive and truck wash facilities;
17. Carpenter, cabinet, plumbing or sheet metal shops;
18. Carpet and rug cleaning and repair services;
19. Electrical sales and services;
20. Equipment rental and leasing services;
21. Mini-warehouse;
22. Farm supplies-retail;
23. Feeds, grains and hay-retail;
24. Food lockers and storage services;
25. Freight forwarding services;
26. Furniture repair and re-upholster services;
27. Garden centers and nurseries;
28. Light manufacturing operation;
29. Landscape sales and services;
30. Photo engraving;
31. Photofinishing services;
32. Radios, televisions, phonographs, recorders, tape players and other similar device repair services;
33. Stores or shops for the sale of industry goods at retail;
34. Telephone services; and
35. Transportation warehousing

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

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

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the ‘HC’ Highway Commercial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

- 1. Private clubs and lodges;
- 2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
- 3. Radio studios, transmitters and antenna; and
- 4. Mineral Extraction.
- 5. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

5.55 SCREENING REQUIREMENTS:

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

5.56 PROHIBITED USES:

- 1. Uses by right of ownership and special use permits may be denied in this District if it is determined by the County that use would create excessive fumes, dust, smoke, refuse, noise, vibrations, illumination, glare, and excessive safety hazards to surrounding property owners.
- 2. Conservation Easements.

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

a) General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted uses	None	100'	40'	10'	20'	45'

5.58 PARKING REGULATIONS: Parking within the 'HC' Highway Commercial District shall be in conformance with the provisions of Article 7 of this Resolution.

5.6 I-1 INDUSTRIAL DISTRICT

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

5.62 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations;
2. Animal hospitals;
3. Automobile sales and services;
4. Automotive wash facilities;
5. Bottling works;
6. Building material sales and ready-mix concrete plants;
7. Carpenter, cabinet, plumbing or sheet metal shops;
8. Carpet and rug cleaning and repair services;
9. Disinfecting and exterminating services;
10. Dry cleaning, laundering and dyeing services;
11. Dyeing and finishing of textiles;
12. Educational and scientific research activities;
13. Electrical sales and services;
14. Equipment rental and leasing services;
15. Farm machinery and equipment – retail;
16. Farm supplies – retail;
17. Feeds, grains and hay – retail;
18. Food lockers and storage services;
19. Freight forwarding services;
20. Furniture repair and reupholster services;
21. Fur trading services;
22. Garden centers and nurseries;
23. Gas utility maintenance yard;
24. Light manufacturing operation;
25. Landscape sales and services;
26. Mobile and modular home sales and manufacturing;
27. Newspaper publishing plants and commercial printing;
28. Photoengraving;
29. Photofinishing services;
30. Public utility and public service uses;
31. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;
32. Recycling centers;
33. Service stations;
34. Stores or shops for the sale of industry goods at retail;
35. Telephone services;
36. Transportation warehousing;

- 37. Truck wash services;
- 38. Veterinarian services;
- 39. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
- 40. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature;
- 41. Mini-warehouse; and
- 42. Airport.
- 43. Single family houses.

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

5.64 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the ‘I-1’ Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

- 1. Expansion of nonconforming use;
- 2. Junk and salvage yard;
- 3. Recycling center; and
- 4. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries.
- 5. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated special uses and consistent with the intent statement of this Zoning District.

5.65 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the ‘I-1’ Industrial District.

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

a) General Requirements:

	<u>Lot Area</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	10,000	100'	40'	0', 10' when abutting Residential District	15'	No limitation, unless compliance required with Ainsworth Airport zoning regulations.

5.67 PARKING REGULATIONS: Parking within the ‘I-1’ Industrial District shall be in conformance with the provisions of Article 7 of this Resolution.

5.7 AZR – AIRPORT ZONING REGULATIONS

5.71 LOCATION AND BOUNDARIES:

The boundaries of the said “AZR” zone shall be as indicated on the zoning map, drawing no. ZN-AN-03. A copy of this map shall at all times be on file in the office of the Brown County Clerk, Brown County Courthouse, Ainsworth, Nebraska. This area is hereby declared an airport hazard area and is hereby zoned as follows:

A. Hazard Area Description. The Hazard Area consists of

1. Operation Zones
2. Approach Zones
3. Transition Zones
4. Turning Zones
5. Runway Protection Zone

The outer boundary of the Hazard Area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones.

B. Zone Descriptions.

1. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1,000 feet in width for each instrument runway or land strip and 500 feet in width for all other runways and landing strips.
2. The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of their respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet of width for each 100 feet of horizontal length for all other runways.

The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip.

The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.

3. The Transition Zones shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of contiguous inner areas of approach zones and the outer limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the Hazard Area and the edges of adjacent inner areas of approach zones; said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one (1) foot vertically to seven (7) feet horizontally to the lines of intersection previously referred to.
 4. The Turning Zones shall comprise all portions of the Hazard Area not contained in the Operation Zones, Approach Zones and in the Transition Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport property lines.
 5. The Runway Protection Zone shall be that area described in Exhibit A.
- C. Height Restrictions. No building, transmission line, communication line, pole, tree, smoke-stack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:
1. In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument, runway or landing strip in excess of 1/50, and all other runways or landing strips in excess of 1/40 of the distance from the end of the approach zone (the end nearest the runway or landing strip) to said structure or object.
 2. In the Outer Area of Approach Zones and in Turning Zones to a height in excess of 150 feet above the elevation at the end or proposed end of the nearest runway or landing strip.

3. In the Transition Zones to a height above the planes forming the transition slopes; and
4. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runways or landing strips or surface of the ground.
5. In the Runway Protection Zone the height limit of all objects shall be 35 feet.

5.72 PERMITS RELATED TO:

- A. Permit Required. It shall hereafter be unlawful to erect, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the operation zones, the inner area of the approach zones, and the Runway Protection Zone without first obtaining a permit from the Brown County Zoning Administrator. Further, no permit shall be granted for any occupied structure to be erected in the Runway Protection Zone.
- B. No Permit Required (subject to use requiring special use permit). In the outer area of approach zones and within the turning zones, no permit shall be required for any permitted construction or planting which is not higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip.
- C. Permit Fees. Permit fees shall be set by the Brown County commissioners.

- 5.73 NON-CONFORMING STRUCTURES:** Within the zoned area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations were adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80 percent or more of their

original condition, or abandoned for a period of twelve months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the zone regulated.

- 5.74 MARKING OF NON-CONFORMING STRUCTURES:** Whenever the Brown County Zoning Administrator shall determine or shall be notified by the Zoning Board or the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the zoned area hereinbefore described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Brown County Zoning Administrator and shall within a reasonable time permit the marking thereof by suitable lights or other signals designated by the said agency and based on the recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lessor of said premise.
- 5.75 ADMINISTRATIVE AGENCY:** The Brown County Zoning Administrator shall administer and enforce these regulations, and shall be in the administrative agency provided for in Section 3-319, R.R.S. 1945.
- 5.76 ZONING BOARD OF ADJUSTMENT:** The Brown County Zoning Board of Adjustment shall be the board of adjustment with respect to these regulations, to have and exercise the powers conferred by Section 3-320, R.R.S. 1945, and such other powers and duties as are conferred and imposed by law.
- 5.77 AGRICULTURAL DISTRICT REGULATIONS:** Unless otherwise stated, all regulations applied to the Agricultural District (5.1) shall apply to the “AZR” Zone. Any conflict of Regulations between the “AZR” Zone Regulations and “Agricultural District” Regulations shall be resolved as stated in state statute 3-306 under article 3 “Airport Zoning.”
- 5.78 PROHIBITED USES AND STRUCTURES:**
1. Conservation Easements.

ARTICLE 6

SPECIAL USE PERMIT

6.1 GENERAL

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

6.2 PROCEDURES

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

In addition to the publication of the notice herein prescribed, other methods may be used as deemed necessary for notification of the public. Some of those methods may be a sign posted on or near development, radio announcements or announcements in the local papers. A notice of the purpose, time and place of the hearing shall be given in writing to the Chairperson of any municipality, county, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action.

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

1. Be compatible with and similar to the use permitted in the District, and
2. Not be a matter which should require re-zoning of the property, and
3. Not to be **unreasonably** detrimental to adjacent property, and
4. Not tend to **substantially** depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the District, and
6. Not change the character of the District, and
7. Be in accordance with the Comprehensive Plan.
8. The timeline between the date of the issued permit and the start of construction is within one year.

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

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AG and I-1 Zoning Districts under the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a 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 ensure 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. Salvage or junk yards 1,000 feet from a public road do not require a fence, but all material must be contained within the area 1,000 feet or more from the public road.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the County Board.

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

6.4 LANDFILLS

Landfill operations shall only be allowed by special permit in the AG Agriculture District under the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within an area completely surrounded on all sides by a 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 ensure 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 material within the yard and no material shall protrude above the fence.
3. No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the County Board.

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

6.5 WIND ENERGY CONVERSION SYSTEMS

6.51 DEFINITIONS.

1. “Abandon” means failure to have a power purchase agreement in place for 90 days and decommissioning has not commenced, or a turbine has not been actively generating and selling power for 365 days.
2. “Aggregate Project” means a single project undertaken by a group of two or more wind energy producers.
3. “Collateral bond” means an indemnity agreement for a fixed amount, payable to the Brown County, executed by the owner and supported by the deposit with Brown County of cash, negotiable bonds of the United States (not treasury certificates), state or municipalities, negotiable certificates of deposit or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States or other surety acceptable to the Commission.
4. “Commenced commercial operation” means the signed date on the turbine completion certification for the turbine whose capacity first brings the wind generation facility’s cumulative generating capacity to 25 megawatts or more.
5. “Decommission” or ‘decommissioning” means:
 - a) the removal of aboveground wind turbine tower(s) after the end of a wind generation facility’s useful life or abandonment;
 - b) except as provided in rule, the removal of all buildings, cabling, electrical components, roads, or any other associated facilities; and
 - c) except as provided in rule, reclamation of all surface lands to the previous grade and to comparable productivity in order to prevent adverse hydrological effects.
6. “Commission” means the “Brown County Planning Commission”
7. “Expansion” means the act of a wind generation facility adding one or more additional wind turbines to its operation after commencing commercial operation.
8. “Facility” means any place, amenity or piece of equipment provided for a particular purpose in support of the wind energy development.
9. “Infrastructure” means the physical structures and facilities (e.g. buildings, roads, towers, power supplies, transformers, etc.) needed for the operation

of the enterprise.

10. "Owner" means a person(s) who owns a wind generation facility used for the generation of electricity.
11. "Person" means any individual, firm, partnership, company, association, corporation, city, town, or local governmental entity or any other state, federal, or private entity, whether organized for profit or not.
12. "Repurposed" means having made a significant investment in an existing wind generation facility to extend the useful life of the facility by more than 5 years.
13. "Surety bond" means an indemnity agreement in a certain sum, payable to Brown County, executed by the owner which is supported by the performance guarantee of a corporation licensed to do business as a surety in Nebraska.
14. "Wind generation facility" means any combination of a physically connected wind turbine or turbines, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power from wind that have a nameplate capacity greater than or equal to 25 megawatts.

6.52 SPECIAL USE PERMIT APPLICATION.

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within the AG district and allowed. Original signatures are required for the applicant and all co-applicants applying for the Special Use Permit for a Wind Energy Unit. If the applicant or co-applicant will be represented by an agent, the original signature authorizing the agent to represent the applicant and/or co-applicant is required. Applicant(s) shall remit an application fee of \$1,000.00 per tower in the proposed WECS.

6.53 PERMIT APPLICATION.

An application must include plans and specifications sufficient to show that the proposed wind energy unit complies with the standards of the Brown County's Zoning Ordinance, and cannot be deemed complete unless it includes the following items:

1. Name, address and telephone number of the property owner of record, applicant and the person preparing the map (if different than owner).
2. The approximate generating capacity of the wind energy unit.
3. An estimate of the total on-site electrical demands.
4. The name of the manufacturer and model being used.
5. The name, address, and phone number of the Engineer registered in the State of Nebraska preparing and providing the certified and sealed engineered drawings for the unit.
6. The name, address, and phone number of the individual installing the unit on-site.
7. The total system height of the wind energy unit to be constructed, from the natural grade to the highest point of the blade in the upright position for horizontal axis units, or to the highest point of the structure for vertical axis units.
8. The phone number and name of a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

6.54 SYSTEM DESIGN REQUIREMENTS AND DRAWINGS.

Certified and sealed engineered drawings prepared by a professional Engineer registered in the State of Nebraska are required, and must include the following information;

1. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines, along with signed easements. The description must be accurate and no changes may be made after Conditional Use Permit Application has been approved.
2. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
3. Certification by an Engineer competent in disciplines of WECS and

approved by Brown County Planning Commission and Brown County Board of Commissioners including the following:

- a) Design specifications of the wind energy unit, including the tower, base, and footings, and unit components.
- b) For buildings or structurally-mounted units, the certified and sealed engineering plans prepared by a professional Engineer registered in the State of Nebraska must show how the wind energy unit will be installed for the portions of the structure proposed for use in the mounting of the unit, and must state and show that the proposed wind energy unit is compatible with the portions of the mounting structure proposed for use, and does not impose a safety hazard to the main structure or adjacent property or their occupants.
- c) Drawings that indicate the total finished wind energy unit height from the grade level prior to any modifications, and including any engineered break points on the tower.
- d) The wind survival speed of the entire unit, including the supporting structure, turbine, rotor blades, covers, and other components.
- e) Data pertaining to the tower or supporting structure's safety and stability, including any safety results from test facilities.

4. Documentation of land ownership or legal control of property.
5. The latitude and longitude of individual wind turbines.
6. A USGS topographical map, or map with similar data, of property and surrounding area, including any other Wind Energy Conservation System not owned by the applicant, within 10 rotor diameters of the proposed Wind Energy Conversion System.
7. An Acoustical and Infrasound Analysis that certifies that the noise requirements within this regulation can be met.
8. Applicant shall submit FAA notices of determination of no hazard to air navigation, & FCC permit evidence that the permit has been filed with the appropriate agency.
9. Evidence that there will be no interference with any commercial and/or public safety communication towers, including but not limited to radio, telephone or television signals.
10. Decommissioning Plan as required by Special Safety & Design Standards.
11. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
12. Documentation of all easement agreements for all transmission lines, feeder lines and substations required for the operation of the WECS, shall accompany the Conditional Use Permit Application and be filed with the Brown County Register of Deeds. Voluntary easements for the crossing of any form of neighboring properties shall be required and filed with the Conditional Use Permit Application.
13. The Commercial/Utility WECS owner(s) and/or operator(s) shall conduct an

analysis on potential shadow flicker at any occupied building within one mile of the tower. The analysis shall identify the locations of shadow flicker that may be caused by the project and expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow Flicker on a building shall not exceed thirty (30) hours per year.

14. Incident Plan: Any WECS operator and owner shall prepare an incident response plan that ensures that their employees have the necessary equipment and training to effectively handle emergencies such as oil spills, turbine fires, turbine structural damage (or collapse) or equipment, including access to heavy equipment needed for rescue of trapped personnel.

15. Roads Applicants shall:

- a. Identify and prepare an itemized report of all county, municipal or township roads to be used for the purpose of transporting WECS, Substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdiction prior to transportation and construction. Such itemized report will be presented with the Conditional Use Permit Application to the Brown County Zoning Administrator for approval by the Brown County Planning Commission and Brown County Board of Commissioners.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdiction to determine existing road conditions. The survey shall include photographs to document the condition of the public roads. This survey must be presented with the Conditional Use Permit Application to the Brown County Zoning Administrator for approval by the Brown County Planning Commission and Brown County Board of Commissioners.
- c. All MSDS (material safety data sheets) data sheets pertaining to all materials utilized on the WECS project will be presented to the Brown County Zoning Administrator with the Conditional Use Permit application.

16. Aggregate Projects:

- a. Aggregate projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- b. Permits may be issued and recorded separately.
- c. Aggregate projects will be assessed fees as \$1,000 per tower, which is non-refundable.
- d. Setbacks to property lines, not right-of-way, may be less when adjoining property owners are within the same aggregate project.

6.55 SITE PLAN.

Two copies of a site plan submitted for a wind energy unit are required, submitted on a minimum size of 8½” X 14” sheets for units proposed on an industrial / commercial use. The site plan must include the delineation, location, and dimension of the lengths and widths of the following:

- (1.) The Site Plan should be drawn so that "north" is to the top of the Site Plan, with the scale used under the north arrow provided.
- (2.) Provide the legal description, including tax identification/parcel number, and address of the project site.
- (3.) Adjacent existing land uses and zoning designations.
- (4.) The locations of all easements, rights-of-way (names included), building, front, side, and rear zoning lot setback lines, and overhead utility lines on the property.
- (5.) The location of all underground structures including septic tanks and wells.
- (6.) Indicate the dimensions of, and distances between, all existing structures and the nearest existing or proposed property line.
- (7.) Indicate the location, height, and the distance of the Wind Energy Unit to all existing structures as well as the distance to the property lines.
- (8.) Show the direction of the prevailing winds.
- (9.) The type of development on all adjacent properties, including across any streets. Show distance of structure(s) on adjacent properties from the project property lines.
- (10.) The location of water bodies, waterways, wetlands, drainage channels, creeks, and rivers within 10,560 feet (2 miles) of the proposed wind energy unit location onsite.
- (11.) One-line diagram for the electrical interconnection.

6.56 SETBACKS AND DESIGN REQUIREMENTS

- (1.) All towers shall adhere to the setbacks as measured from centerline of turbine established in the following table:

	Wind turbine-Non Commercial	WECS Wind Turbine Commercial/Utility WECS and Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	1 mile
Right angle corner property lines	Diameter plus applicable building set back from both property lines	1 mile plus behind a line on the property lines drawn between two points from the property line intersection. Generator blades must not exceed the building setback lines on the non-road side, and shall not encroach on the right-of-way on the road side. Can be closer if waiver from neighbor.
Road Right-of-Way*	Diameter plus applicable building setback	1 mile plus applicable building setback
Other Right-of-Way	Diameter plus applicable	1 mile plus applicable building setback

Wetlands, USFW Types III, IV, and V	N/A	1 mile
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*The setback shall be measured from any future Right-of-Way if a planned change or expanded right-of-way is known.

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

- (1.) Clearance of rotor blades or airfoils must maintain a minimum of 50 feet of clearance between their lowest point on the ground
- (2.) All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information and on all gates into WECS structures.
- (3.) All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
- (4.) Color and finish: All wind turbines and towers that are a part of the commercial/utility WECS shall be white, grey or another non-obtrusive color. Blade finishes shall be matte or non-reflective.
- (5.) Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
- (6.) Feeder Lines: All communication and feeder lines installed as part of a WECS shall be buried.
- (7.) Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packing materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal rules and regulations. WECS owner shall be responsible to get all waste disposal off participating and nonparticipating at their cost.
- (8.) Discontinuation and Decommissioning: A WECS shall be considered in discontinued use after 6 months without energy production, unless a plan is developed and submitted to the Brown County Zoning Administrator/Brown County Planning Commission outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities must be removed four (4) feet below ground level within 8 months of discontinuation of use. This period may be extended by the Brown County Zoning Administrator/Brown County Planning Commission following a written request by an agent of the owner of the WECS.
- (9.) Noise: No Commercial/Utility WECS shall exceed 45 dBA at the nearest structure occupied by humans.
- (10.) Interference: The applicant shall minimize or mitigate interference with electromagnetic communications such as radio, telephone, medical equipment, microwaves or television signals caused by any WECS. The applicant shall notify all communication tower operators within 5 (five) miles of the proposed WECS location upon communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

(11.) Roads Applicants shall:

- a. Not less than fifteen (15) days after application is approved, Developer shall provide Brown County with the names of the Highways and county roads they will be using along with a bond issued by a sound financial institution in a form reasonably acceptable to Brown County in the amount of \$1,000,000.00. The bond shall provide security to Brown County for Developer's obligations to Brown County. In order for Brown County to draw upon the bond, Brown County shall be obligated to first submit an invoice to the Developer prior to submitting to the financial institute that holds the bond.
- b. Developer (and Developer's mortgagee, if any) setting forth in detail the time, materials and charges incurred in the repairs necessitating such draw request
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
- d. Conduct a post-construction survey, in coordination with the appropriate jurisdiction to determine whether road conditions have been restored to pre-construction conditions and approved by the Brown County Board of Commissioners.

(12.) Drainage System: The applicant shall be responsible for immediate repair of damage to public and private drainage systems stemming from construction, operation or maintenance of the WECS.

(13.) Public Inquiries & Complaints:

- a. Should an aggrieved property owner allege that the WECS is not in compliance with the noise requirements of this Regulation, the procedure shall be as follows:

(i) Noise Complaint:

1. Notify the Brown County Zoning Administrator and Brown County Board of Commissioners in writing regarding concerns on all complaints.
2. If the Complaint is deemed sufficient by the Brown County Zoning Administrator and Brown County Board of Commissioners to warrant an investigation, the Brown County Zoning Administrator will request the owner of the WECS property to deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of these regulations.
3. If the WECS Owners(s) is in violation of the Regulation noise requirements, the Owner(s) shall reimburse the Brown County Zoning Administrator/Brown County for the noise level test and take immediate action to bring the WECS into compliance which may include ceasing operation of the WECS until Regulation violations are corrected.

(14.) Soil Testing: Initial report to be assessed by an independent soil lab that

is familiar with the Sandhills chosen by Brown County and paid for by WECS. This report and all subsequent reports must be provided to the Brown County Zoning Administrator/Brown County Planning Commission and Brown County Board of Commissioners. Assessment to occur prior to construction. The independent soil lab will identify soil types and their classifications located at each individual tower site. This information will then be forwarded to a third party Structural and Civil Engineer for review. This Engineer will then provide a report as to whether the soil will withstand the weight and height of a wind turbine-tower plus blades. This engineer will also provide guidelines in which the developer must meet in order to avoid any structural failure.

- (15.) Water Testing: Initial testing at each sited tower by an independent certified lab familiar with the Sandhills chosen by Brown County and paid for by WECS. This report and all subsequent reports must be provided to the Brown County Zoning Administrator/Brown County Planning Commission and Brown County Board of Commissioners, and will identify the location of the water table prior to construction. This report will then deem whether a site is suitable for a tower to be constructed. With this report, the consideration of the bottom of the concrete pad depth and width cannot come within twenty (20) feet of the water table. Secondary testing will occur annually by a third party professional Testing service to identify possible contamination. One station per 10 towers in a specified wind farm.
- (16.) Easements: All necessary easements for construction of wind turbine towers, transmission lines, and setbacks of property lines within three (3) miles, must be recorded with the Brown County Register of Deeds.
- (17.) Tower height: Tower height shall not exceed 300' from grade to hub.

6.57 DECOMMISSIONING PLAN

A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.

- (1.) A decommissioning plan must include:
 - a. the manner in which the facility will be decommissioned; and
 - b. a decommissioning schedule;
 - c. a detailed estimate of the cost of decommissioning a wind generation facility by a professional engineer licensed in the State of Nebraska that shall at a minimum include:
 - (i) dismantling and removal of all towers, turbine generators, transformers, overhead cables and debris of the wind generation facility;
 - (ii) removal of underground cables to a depth forty-eight (48) inches;
 - (iii) removal of foundations, buildings, and ancillary equipment to a minimum depth of 48 inches below grade;
 - (iv) site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil re-spread over the disturbed areas at a depth

similar to that in existence prior to the disturbance, and reseeding at achieve the same utility of native vegetation of the surrounding area to prevent adverse hydrological effects, unless the Brown County Board of Commissioners approves a signed request by the applicable landowner, identifying the surface features the landowner prefers to remain in place and a valid reason the landowner prefers those features to remain;

(v) repairs and reconstruction from damage to public roads, culverts and natural drainage ways resulting directly from the decommissioning of a wind generation facility;

(vi) all access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the county through official action of the county commissioners agrees to keep the road;

(vii) the current salvageable value of the facility, as determined by an independent evaluator;

(viii) all expenses related to the decommissioning shall be the responsibility of the wind generation facility owner, including any expenses related to releasing any easements.

d. copy of as-built plans including structural and electrical drawings of all facilities and all disturbances associated with the wind generation facility. The as-built plans must be certified by a professional engineer licensed in the State of Nebraska that the information included on depicted as-built plans is complete and accurate; and

(2) The Commission may reject a decommissioning plan if:

a. it finds that the plan does not provide for decommissioning as defined in Rule; and,

b. the plan does not adequately describe the cost of decommissioning.

6.58 DECOMMISSIONING BOND.

A decommissioning performance surety bonds is required for all approved special use permits granted for the installation of Commercial Wind Power Farms / Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner / operator of said bond until decommissioning has been satisfactorily completed or transfer to Brown County.

6.59 DETERMINATION OF BOND AMOUNT.

(1) The Brown County Planning Commission shall require submission of a bond by the owner in the amount of the estimated cost to Brown County if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Brown County Planning Commission to ensure compliance with this section.

(2) The bond amount must be based on:

a. the estimated costs submitted by the owner as determined by a licensed professional, subject to approval by the Planning Commission in accordance with this rule and costs estimated by using current

machinery production handbooks and publications or other documented costs acceptable to the Brown County Planning Commission;

- b. estimated costs to the Brown County Planning Commission that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform decommissioning and reclamation work;
- c. estimated costs to the Brown County Planning Commission that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be affected;
- d. unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
- e. such other cost information as may be required by or available to the Brown County Planning Commission.

6.510 BOND DEADLINE.

- (1) Except as provided in (3) below, and in accordance with rule, the owner shall submit to the Brown County Planning Commission a bond payable to the Brown County, Nebraska in a form acceptable by the Brown County Planning Commission and in a sum determined by the Brown County Planning Commission, conditioned on the faithful decommissioning of the wind generation facility.
- (2) Except as provided in (3) below:
 - a.) if a wind generation facility commenced commercial operation on or before January 1, 2019.
- (3) If a wind generation facility is repurposed, as determined by the Brown County Planning Commission in consultation with the owner, any existing bond must be maintained or a new bond acquired and submitted.

6.511 PENALTIES FOR FAILURE TO SUBMIT BOND.

- (1) If an owner does not submit an acceptable bond to the Brown County Planning Commission within the timeframe required by this rule, the Brown County Planning Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.
- (2) An owner may appeal the Brown County Planning Commission's penalty assessment to the board within 20 days after receipt of written notice of the penalty.

6.512 ADJUSTMENT OF BOND AMOUNT.

- (1) Once every 5 years, an owner may request a reduction of the required

bond amount upon submission of evidence to the Brown County Planning Commission proving that decommissioning work, reclamation or other circumstances will reduce the maximum estimated cost to the Brown County Planning Commission to complete decommissioning and therefore warrant a reduction of the bond amount.

- (2) The Brown County Planning Commission shall review each decommissioning plan and bond amount every 5 years. The cost of the review shall be incurred by the owner and the Study/review performed by a professional. The performance bond must be increased, as required by the Brown County Planning Commission, if the cost to decommission a wind generation facility increases. The Brown County Planning Commission shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within 90 days of receiving the Brown County Planning Commission's revised bond amount. If an owner does not submit an acceptable bond to the Brown County Planning Commission within the timeframe required by this rule, the Brown County Planning Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.

6.513 SURETY BONDS.

- (1.) Surety bonds are subject to the following requirements:
- a. Brown County may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.
 - b. Brown County may not accept surety bonds from a surety company for any owner in excess of three times the surety's maximum single obligation as provided in (a) above.
 - c. Brown County may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
 - d. A power of attorney must be attached to the surety bond.
 - e. The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to Brown County and the owner of:
 - (i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - (ii) cancellation by the owner; and
 - (iii) cancellation or pending cancellation by the surety.
 - f. Upon a determination by Brown County that a surety is unable to comply with the terms of the bond, the owner of a wind generation facility must be deemed to be without bond coverage. The owner shall replace the bond coverage within 90 days of notice from Brown County.

- g. Whenever operations are abandoned concurrent with cancellation of the bond, Brown County shall forfeit the bond and decommission the site.

6.514 CERTIFICATE OF DEPOSIT.

- (1.) Brown County may accept as bond an assignment of a certificate of deposit in a denomination not in excess of \$250,000, or the maximum insurable amount as determined by Federal Deposit Insurance Corporation(FDIC), whichever is less. Brown County may not accept a combination of certificates of deposit for a wind generation facility in excess of that limit.
- (2.) Brown County may only accept automatically renewable certificates of deposit issued by a bank insured by the FDIC or a credit union insured by the National Credit Union Administration (NCAU).
- (3.) Brown County shall require the owner to deposit sufficient amounts of certificates of deposit, to assure that Brown County will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required.
- (4.) Brown County shall require that each certificate of deposit be made payable to or assigned to Brown County, both in writing and in the records of the bank or credit union issuing the certificate. Brown County shall require banks or credit unions issuing these certificates to waive all rights of setoff or liens against these certificates.

6.515 EFFECT OF FORFEITURE.

- (1.) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by Brown County.
- (2.) Brown County may forfeit any or all bonds deposited for an entire wind generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire wind generation facility.
- (3.) In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. Brown County may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

6.6 SOLAR ENERGY CONVERSION SYSTEMS

6.61 PURPOSE.

This ordinance promotes the accommodation of on-site solar energy conversion systems in Brown County, with the intent to reduce energy consumption, regulate necessary equipment and promote adequate access to sunlight. This ordinance also addresses utility-scale solar energy conversion systems, or “solar farms”, intended for the sale of electricity to utilities, industries, and/or businesses. Solar energy conversion systems of up to 100 kW, excluding solar farms, shall be permitted in all zoning districts. Solar energy conversion systems above 100 kW, excluding solar farms, may be allowable as a Special Permitted use. Solar Farms shall be permitted in the “AG” Agriculture District as a Special Permitted use.

6.62 DEFINITIONS.

- (1.) **Battery Back-Up:** A battery system that stores electrical energy from a solar energy conversion system for use in the future.
- (2.) **Combiner or Junction Box:** Combines the electrical flows from multiple strings of solar panels into a single-source output circuit.
- (3.) **Electricity Generation** - The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).
- (4.) **Ground-Mount System** - A solar energy system that is attached to an anchor in the ground and wired to connect to the meter of a home or building.
- (5.) **Kilowatt (kW)** - Equal to 1,000 Watts; a measure of the use of electrical power.
- (6.) **Kilowatt-hour (kWh)** - A unit of energy equivalent to one kilowatt (1 kW) of power expended for 1 hour of time.
- (7.) **Megawatt (MW)** - Equal to 1,000 Kilowatts; a measure of the use of electrical power.
- (8.) **Megawatt-hour (MWh)** - A unit of energy equivalent to one Megawatt (1 MW) of power expended for one hour of time.
- (9.) **Net Metering:** A billing arrangement that allows customers with

grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.

(10.) **Photovoltaic (PV) System:** An energy producing system that utilizes semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight.

(11.) **Pole-Mount Systems:** A solar energy system that is directly installed on specialized pole-attached systems, anchored to a concrete foundation in the ground, and wired underground to the meter.

(12.) **PV-Direct Systems:** A Solar Energy Conversion System designed to only provide electricity during sunlight.

(13.) **Roof-Mount System** - A solar energy system consisting of solar panels installed directly on the roof of a primary or accessory structure.

(14.) **Solar Access:** The ability to receive sunlight across property lines without obstruction from another's property.

(15.) **Solar Array:** Multiple solar panels combined together to create one system.

(16.) **Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation and transfer of electricity.

(17.) **Solar Energy Conversion System:** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy which is then transferred to a point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation.

(18.) **Solar Farm:** An area of land designated use for the sole purpose of deploying photovoltaic power and generating electric energy.

(19.) **Solar Panel/Module:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

(20.) **Tilt:** The angle of the solar panels and/or solar collector.

(21.) **Watts (W)** - A measure of the use of electrical power (power (Watts) = voltage (volts) X current (Amps)).

6.63 SOLAR FARMS.

(1.) The height of the solar collector and any mounts within an established solar farm shall not exceed thirty (30) feet when oriented at maximum tilt.

(2.) Solar farms shall require a minimum setback of fifty (50) feet from all adjacent property lines.

(3.) Solar Farm Application Requirements.

(a) A site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines and location of the driveway(s). No portion of the system area may encroach into the required setbacks.

(b) Horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property and its relationship to adjacent roads or highways.

(c) If applicable, the applicant must apply and receive from the Nebraska Department of Transportation (NDOT) authorization for a private driveway or access easement from a State or Federal Highway, or submit documentation from NDOT that the existing site access is acceptable for the required use prior to final project approval.

(4.) Installation and Design.

(a) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

(b) All solar farms shall meet all requirements of the Nebraska State Fire Marshal and Electrical Division.

(c) Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the building for a roof-mounted system or on the property for a ground-mounted system, including the property lines.

6.64 SAFETY AND INSPECTIONS.

(1.) The design of the solar energy system shall be in conformance with the Nebraska State Fire Marshal and Electrical Division requirements for inspection and licensing.

(2.) The solar energy system shall comply with all applicable regulations of Brown County, so as to ensure the structural integrity of such solar energy system.

(3.) Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by Brown County staff.

(4.) Any connection to the public utility grid must be approved by the local public utility.

(5.) If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of Brown County and any other applicable laws and regulations relating to hazardous waste disposal.

(6.) Unless otherwise specified, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

6.65 DECOMMISSIONING PLAN.

A Decommissioning Plan for installed facilities and infrastructure must be submitted to the Planning Commission at the time of permit application.

(1.) A decommissioning plan must include:

(a) the manner in which the facility will be decommissioned; and

(b) a decommissioning schedule;

(c) a detailed estimate of the cost of decommissioning a solar generation facility by a professional engineer licensed in the state of Nebraska that shall at a minimum include:

(i) dismantling and removal of all towers, turbine generators, transformers, overhead cables and debris of the solar generation facility;

(ii) removal of underground cables to a depth forty eight (48) inches;

(iii) removal of foundations, buildings, and ancillary equipment to a minimum depth of forty-eight (48) inches below grade;

(iv) site restoration and reclamation to the approximate original topography that existed prior to the construction of the facility with grading, topsoil re-spread over the disturbed areas at a depth similar to that in existence prior to the disturbance, and reseeded to achieve the same utility of native vegetation of the surrounding area to prevent adverse hydrological effects, unless the Commission approves a signed request by the applicable landowner, identifying the surface features the landowner prefers to remain in place and a valid reason the landowner prefers those features to remain;

(v) repairs and reconstruction from damage to public roads, culverts and natural drainage ways resulting directly from the decommissioning of a solar generation facility;

(vi) all access roads shall be removed, cleared, and graded, unless a property owner agreement indicates otherwise or the county through official action of the county commissioners agrees to keep the road;

(vii) the current salvageable value of the facility, as determined by an independent evaluator;

(viii) all expenses related to the decommissioning shall be the responsibility of the solar generation facility owner, including any expenses related to releasing any easements.

(d) copy of as-built plans including structural and electrical drawings of all

- facilities and all disturbances associated with the solar generation facility. The as-built plans must be certified by a professional engineer licensed in the state of Nebraska that the information included on depicted as-built plans is complete and accurate; and
- (2.) The Commission may reject a decommissioning plan if:
- (a) it finds that the plan does not provide for decommissioning as defined in Rule; and,
 - (b) the plan does not adequately describe the cost of decommissioning.

6.66 DECOMMISSIONING BOND.

A decommissioning performance surety bonds is required for all approved special use permits granted for the installation of Commercial Solar Farms / Facilities. The surety bond must be transferable upon sale of the facilities to any new owner and may not be refunded to any owner / operator of said bond until decommissioning has been satisfactorily completed or transfer to the Brown County, Nebraska Planning Commission.

6.67 DETERMINATION OF BOND AMOUNT

- (1.) The Commission shall require submission of a bond by the owner in the amount of the estimated cost to the Commission if it had to perform the decommissioning and reclamation work required of an owner. This amount is based on the estimated cost to the Commission to ensure compliance with this section.
- (2.) The bond amount must be based on:
- (a) the estimated costs submitted by the owner as determined by a licensed professional, subject to approval by the Planning Commission in accordance with this rule and costs estimated by using current machinery production handbooks and publications or other documented costs acceptable to the Commission;
 - (b) estimated costs to the Commission that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the facility after its abandonment by the owner to perform decommissioning and reclamation work;
 - (c) estimated costs to the Commission that may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be effected;
 - (d) unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings; and
 - (e) such other cost information as may be required by or available to the Commission.

6.68 BOND DEADLINE.

(1.) Except as provided in (3) below, and in accordance with rule, the owner shall submit to the Commission a bond payable to the Brown County Nebraska in a form acceptable by the Commission and in a sum determined by the Commission, conditioned on the faithful decommissioning of the solar generation facility.

(2.) Except as provided in (3) below:

(a) if a solar generation facility commenced commercial operation on or before January 1, 2019.

(3.) If a solar generation facility is repurposed, as determined by the Commission in consultation with the owner, any existing bond must be maintained or a new bond acquired and submitted.

6.69 PENALTIES FOR FAILURE TO SUBMIT BOND.

(1.) If an owner does not submit an acceptable bond to the Commission within the timeframe required by this rule, the Commission may assess an administrative penalty of not more than \$1,500, and an additional administrative penalty of not more than \$1,500 for each day the bond is late.

(2.) An owner may appeal the Commission's penalty assessment to the board within 20 days after receipt of written notice of the penalty.

6.610 ADJUSTMENT OF BOND AMOUNT.

(1.) Once every 5 years, an owner may request a reduction of the required bond amount upon submission of evidence to the Commission proving that decommissioning work, reclamation or other circumstances will reduce the maximum estimated cost to the Commission to complete decommissioning and therefore warrant a reduction of the bond amount.

(2.) The Commission shall review each decommissioning plan and bond amount every 5 years. The cost of the review shall be incurred by the owner and the Study/review performed by a professional. The performance bond must be increased, as required by the Commission, if the cost to decommission a solar generation facility increases. The Commission shall notify the owner of any proposed bond increase and provide the owner an opportunity for an informal conference on the proposal. The owner shall increase the bond within 90 days of receiving the Commission's revised bond amount.

6.611 SURETY BONDS.

(1.) Surety bonds are subject to the following requirements:

(a) The Commission may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(b) The Commission may not accept surety bonds from a surety company for any owner in excess of three times the surety's

- maximum single obligation as provided in (a) above.
- (c) The Commission may not accept a surety bond from a surety company for any owner unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.
 - (d) A power of attorney must be attached to the surety bond.
 - (e) The surety bond must provide a requirement and a mechanism for the surety company to give prompt notice to the Commission and the owner of:
 - (i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;
 - (ii) cancellation by the owner; and
 - (iii) cancellation or pending cancellation by the surety.
 - (f) Upon a determination by the Commission that a surety is unable to comply with the terms of the bond, the owner of a solar generation facility must be deemed to be without bond coverage. The owner shall replace the bond coverage within 90 days of notice from the Commission.
 - (g) Whenever operations are abandoned concurrent with cancellation of the bond, the Commission shall forfeit the bond and decommission the site.

6.612 CERTIFICATE OF DEPOSIT.

- (1.) The Commission may accept as bond an assignment of a certificate of deposit in a denomination not in excess of \$250,000, or the maximum insurable amount as determined by Federal Deposit Insurance Corporation (FDIC), whichever is less. The Commission may not accept a combination of certificates of deposit for a solar generation facility in excess of that limit.
- (2.) The Commission may only accept automatically renewable certificates of deposit issued by a bank insured by the FDIC or a credit union insured by the National Credit Union Administration (NCAU).
- (3.) The Commission shall require the owner to deposit sufficient amounts of certificates of deposit, to assure that the Commission will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required by rule IV and rule VIII.
- (4.) The Commission shall require that each certificate of deposit be made payable to or assigned to the Commission, both in writing and in the records of the bank or credit union issuing the certificate. The Commission shall require banks or credit unions issuing these certificates to waive all rights of setoff or liens against these certificates.

6.613 EFFECT OF FORFEITURE.

(1.) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, is a final decision by the Commission.

(2.) The Commission may forfeit any or all bonds deposited for an entire solar generation facility. Liability under any bond, including separate bond increments or indemnity agreements applicable to a single owner must extend to the owner's entire solar generation facility.

(3.) In the event the estimated amount forfeited is insufficient to pay for the full cost of decommissioning and reclamation, the owner shall be liable for the remaining costs. The Commission may complete or authorize completion of decommissioning of the bonded area and may recover from the owner all costs of decommissioning in excess of the amount forfeited.

6.614 APPEALS.

(1.) If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Brown County Zoning Regulations.

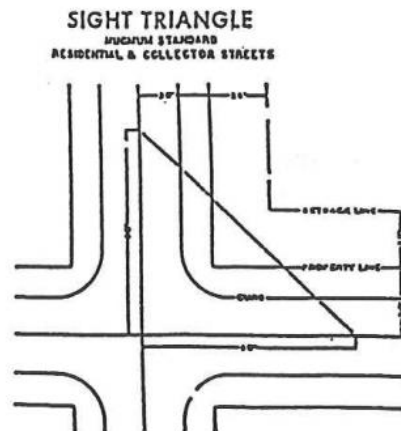
ARTICLE 7

PARKING REGULATIONS

- 7.1 **TRAFFIC VISIBILITY.** On a corner lot in “RR,” “HC” and “I-1” Districts continuous unobstructed sight distance shall be provided for safe traffic operations. No obstructions, including fences, hedges, walls, shrubbery or other manmade or natural obstructions, shall exist between a height of two and one-half (2 ½) and ten (10) feet within sight triangle. The following diagrams depict “sight triangles” in which obstructions are prohibited:

Local Streets – 75’ from centerline of intersecting streets.

Collector and Arterial Streets – 90’ from centerline of intersecting streets.



- 7.2 **LOADING REQUIREMENTS.** In all Districts loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.
- 7.3 **PARKING REQUIREMENTS.** In all Districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended or increased, off-street parking stalls for all vehicles in accordance with the following:
1. Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one and two family dwellings and a minimum of twenty-four (24) feet for all other uses.
 2. Size of each parking space shall be not less than 180 square feet exclusive of the space required for ingress and egress.
 3. Location is to be on the same lot as the principal use.

4. Surfacing. All off-street parking areas shall be graded and surfaced so as to reduce ambient dust conditions. Any parking area for more than five vehicles shall have aisles and spaces clearly marked.

5. Numbered of Parking Stalls Required:

Dwellings	1 stall for each residential Unit not including garage
Motels	1 stall for each guest room plus 1 stall for each three employees
Churches, Theaters, Auditoriums, Community Centers, Vocational and Night Schools, and Other Places of Public Assembly	1 stall for each 4 seats

7.4 **USES NOT LISTED.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

7.5 **MISCELLANEOUS.**

1. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use.
2. Where Fractional Spaces are required, the next nearest whole number shall be used.

ARTICLE 8

ACCESSORY USES

8.1 ACCESSORY BUILDING

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

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

8.2 HOME OCCUPATIONS

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

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

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

ARTICLE 9

COUNTY BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

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

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

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

9.2 MEETINGS

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

9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.01 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Zoning Regulations, but no such variance shall be authorized unless the Board finds that:
 - a. The strict application of the regulation would produce undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning District and the same vicinity;
 - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the District will not be changed by the granting of the variance; and
 - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
 - e. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable and practicable the formulation of a general regulation to be adopted as an amendment to the Zoning Regulations.

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

9.4 PROCEDURES FOR REQUESTING A HEARING

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

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any official or department. The appeal filed in writing shall define the appeal being requested and the grounds therefore. The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Adjustment all the paper constituting the record upon which the action appealed from was taken.

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

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

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

ARTICLE 10

**ADMINISTRATIVE PROVISIONS, ENFORCEMENT
AND FEES**

10.1 ENFORCEMENT

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

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

10.2 BUILDING PERMITS

10.21 ZONING PERMITS shall be required in all zones for the erection, construction, reconstruction, alteration, repair, or conversion of any nonfarm building or structure.

10.22 NON FARM BUILDINGS or other structures shall not be erected, moved, added to, or structurally altered without a zoning permit first having been issued by the Zoning Administrator. No zoning permit shall be issued unless the proposed construction or use is in conformance with all the provisions of this Resolution and with all other applicable codes, regulations and laws of Brown County and with all orders, and variances lawfully issued by the Board of Adjustment.

10.23 APPLICATION FOR ZONING PERMIT: All applications for a zoning permit shall be accompanied by reasonable and pertinent information as may be required by the Zoning Administrator for proper enforcement of the zoning Resolution.

10.24 APPROVAL OR DISAPPROVAL OF ZONING PERMIT: The Zoning Administrator shall examine all applications for zoning permits, and shall either approve or disapprove such applications within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the zoning permit and shall affix his/her signature to the zoning permit. Upon disapproval of the application, the Zoning Administrator shall refuse to issue the zoning permit and shall state in writing the reason(s) for disapproval, affix his/her signature and mark the zoning permit "Disapproved."

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

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

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

10.4 SCHEDULE OF FEES

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

The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 11

AMENDMENT

11.1 GENERAL

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

11.2 SUBMISSION TO PLANNING COMMISSION

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

11.3 AMENDMENT CONSIDERATION AND ADOPTION

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

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

11.4 PROTEST

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

ARTICLE 12

COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

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

12.2 PENALTIES

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

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

12.3 REMEDIES

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

ARTICLE 13

LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

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

13.2 PURPOSE OF CATCH HEADS

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

13.3 REPEAL OF CONFLICTING ORDINANCES

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

13.4 EFFECTIVE DATE

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