

**Zoning and Subdivision  
Regulations**

**Cheyenne County, Nebraska**

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**ZONING AND SUBDIVISION REGULATIONS  
CHEYENNE COUNTY, NEBRASKA**

**SECTION 1. TITLE**

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

**SECTION 2. PURPOSE AND INTENT**

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

1. To promote the health, safety, morals, comfort and general welfare of the present and future residents of Cheyenne County.
2. To secure safety from fire, flood, panic, and other dangers.
3. To preserve and protect property values throughout Cheyenne County.
4. To protect the tax base of Cheyenne County.
5. To regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population.
6. To create zoning districts within the unincorporated areas of Cheyenne County.
7. To regulate the location and use of buildings and land within each district or zone.
8. To enforce and maintain the objectives and policies of the Cheyenne County Comprehensive Plan.
9. To encourage the most appropriate use of land.
10. To lessen congestion in the streets.
11. To provide adequate light and air.
12. To prevent the overcrowding of land and avoid undue concentration.
13. To facilitate the adequate provision of transportation, water, sewage. schools, parks, and other public requirements.
14. To secure economy in government expenditures.
15. To preserve, protect, and enhance historical buildings, places, and districts.
16. To preserve quality agricultural lands.

**SECTION 3. AUTHORITY AND GENERAL PROVISIONS**

**3.01. Authority:** Cheyenne County is authorized by law to regulate zoning, planning, subdivision of land, and building by virtue of Section 23-114 RR Nebraska Statutes as amended, and is hereby declared to be in accordance with all provisions of these statutes.

**3.02. Jurisdiction:** This Resolution shall apply to the unincorporated areas within the boundaries of Cheyenne County, Nebraska in the planning and zoning jurisdiction set forth by Nebraska law, as may be amended when necessary.

**3.03. Scope:** Except as may hereinafter specified, no land, building structure, or premises, hereafter shall be used or occupied and no structure may be located, constructed, extended, converted, structurally altered or otherwise developed without full compliance with the terms of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 19.

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

A	Agriculture District
RE	Residential Estate District
RL	Residential Low Density District
CB	Community Business District
TS	Tourism Service District
LI	Light Industrial District
HI	Heavy Industrial District
FP	Floodplain District

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

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

**3.07. Disincorporation:** All territory which may hereafter become part of the unincorporated area of Cheyenne County, Nebraska which is regulated by this Resolution by the disincorporation of any city or village, or any part thereof, shall automatically be classified as lying and being in the RL Residential Low Density District until such classification shall have been changed by amendment of this Resolution as provided by law.

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

1. The district boundaries are the centerline of roads, alleys, waterways, or other public right-of-way, unless otherwise indicated; and where the designation of a boundary line coincides with the location of



### ***Section 3: Authority and General Provisions***

roads, alleys, waterways, or other public right-of-way, the centerline of the roads, alleys, waterways, or other public right-of-way shall be construed to be the boundary line of the district.

2. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with platted lot-lines, the lot-line shall be construed to be the boundary of the district.

3. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with section lines, quarter lines, quarter section lines, or quarter - quarter section lines, the section lines, quarter lines, quarter section lines, or quarter - quarter section lines shall be construed to be the boundary of the district.

4. Boundaries following railroad lines shall be construed to be midway between the main tracks.

**3.09. Exemptions:** The following structures and uses shall be exempt from the provisions of these regulations:

1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

2. Public signs, erected by or on behalf of a governmental entity.

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

1. Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

2. Overlapping or Contradicting Regulations: Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted.

3. Private Agreements: These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

4. Unlawful Uses: The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

**3.11. Separability:** It is hereby declared to be the intention of Cheyenne County that the provisions of these regulations are separable, in accordance with the following rules:

1. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgment shall not affect any other provisions of these regulations.

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

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

**3.13. Repeals:**

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

**SECTION 4. RULES AND DEFINITIONS:**

**4.01. Rules:**

1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
  - A. Words used in the present tense shall include the future tense.
  - B. Words in the singular number include the plural number and words in the plural number include the singular number.
  - C. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
  - D. The word "shall" is mandatory, the word "may" is permissive.
  - E. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
  - F. Unless otherwise specified, all distances shall be measured horizontally.
  - G. The word "County" means Cheyenne County, Nebraska.
  - H. The abbreviation N/A means not applicable.
  - I. In the event that there is any conflict or inconsistency between the heading of a section, subsection or paragraph of this Resolution and the context thereof, the headings shall not be deemed to affect the scope, meaning or intent of the context.
  - J. The words "County Board" shall mean the Cheyenne County, Nebraska Board of Commissioners
  - K. The words "Planning Commission" shall mean the Planning Commission duly appointed by the County Board.
  
2. Any word or phrase which is defined in this section, and used within this Resolution, shall have the meaning as so defined whenever the word or phrase is used, unless the definition is expressly limited in its meaning or scope.

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

1. **Accessory Building:** A subordinate building which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, barns, storage sheds, and all non-residential farm structures.
2. **Accessory Use:** A subordinate use which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, and small storage sheds.
3. **Adjacent:** When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line with a lot in question or which would share a boundary line were it not for the separation caused by a street or any other public right-of-way.
4. **Agriculture:** The act of using the land to raise crops or livestock on a farm along with the necessary accessory uses for packing, treating, or storing of the produce: provided, however, that the operation of such accessory uses be secondary to that of normal agricultural activities. (See farm)
5. **Alleys:** Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.
6. **Alteration:** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.
7. **Arterioles:** Consists of a group of highways of less importance than the state and federal system, permitting through travel within the County and linking areas of small population, not served by the state and federal system but still well traveled.
8. **Bed and Breakfast:** Any place of lodging that provides rented rooms to six (6) or fewer people for a period not to exceed seven (7) days per renter at a time, that is the personal residence of the owner, that is occupied by the owner at the time of rental.

#### *Section 4: Rules and Definitions*

9. **Building:** Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property, but not a fence or similar enclosure which is permanently affixed to the land, has one or more floors and a roof, and is bounded by either open space or the lot lines of a lot in any Residential District, any dwelling shall be deemed to be the principal building on the lot which the same is situated.
10. **Building, Height:** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top floor in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gabled, hip or gambrel roof. Chimneys, cooling towers, elevator head-houses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers/spires, church steeples, radio/television towers, antennas or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations.
11. **Cheyenne County:** Cheyenne County, Nebraska
12. **Collector:** Consists of a group of highways which pick up local traffic and carry it to community centers or to arterial systems. They typically are main school bus routes, mail routes and farm to market routes.
13. **Communication Tower:** Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
13. **Comprehensive Plan:** Is the plan or series of plans for the future development of Cheyenne County recommended by the Planning Commission and adopted by the County Board.
14. **Conditional Use Permit:** A Conditional Use Permit is written permit issued by the County Board. This Conditional Use Permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations.
15. **County:** shall mean Cheyenne County, Nebraska.
16. **County Board:** The Board of Commissioners of Cheyenne County, Nebraska.
17. **Developer:** The legal or beneficial owner or owners of any of the land proposed to be included in a given development, or the authorized agent therefore, including the holder of the option or contract to purchase, or other individual having an enforceable legal interest in such land.
18. **Development:** Any man-made change to alter the existing land use of a parcel of land including but not limited to: buildings, structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.
19. **District:** A section or sections of the area within the zoning jurisdiction of the County for which uniform regulations governing the use, height, area, size, density, and intensity of the use of buildings, land, and open spaces are established.
20. **Dwelling:** A building or portion thereof, designed and used for residential purposes, but not including recreational travel trailers or motor homes not used as a permanent residence.
21. **Dwelling, Accessory:** A dwelling located on the same lot as the principal or primary dwelling.
22. **Dwelling, Non-Farm:** A dwelling occupied by a person or persons in which either the head of the household or the spouse of the head of the household are not engaged in agriculture.
23. **Dwelling, Single Family:** A dwelling having accommodations for and occupied exclusively by one family other than a mobile home and intended to be occupied by not more than one family, and which has not less than one bathroom and a minimum floor area of 850 square feet unless otherwise specified within the appropriate zone district.
24. **Dwelling, Single-Family Attached or Town House:** A portion of a dwelling having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each dwelling may be sold independently of the other portions.
25. **Dwelling, Two-Family:** A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.

***Section 4: Rules and Definitions***

26. **Dwelling, Multiple-Family:** A dwelling having accommodations for and occupied exclusively by more than two families, independently with a minimum floor area of 500 square feet per unit including balconies. (Does not include motels or hotels)
27. **Dwelling Unit:** One room or rooms including at least one single kitchen; designed for or occupied as a unit by one family, for living and cooking purposes, located in a one family or multiple -family dwelling.
28. **Easement:** Is a grant by the property owner to the public, a corporation, or persons of the use of a tract of land for a specified purpose or purposes.
29. **Employees:** The gross number of persons to be employed in the building in question during any season of the year at any time of the day or night.
30. **Exotic Animal:** Any vertebrate animal except fishes and amphibians that is not defined herein as livestock or household pet.
31. **Farm:** An area of land 40 acres or larger from which \$1,000 or more of agricultural products are produced and sold
32. **Feedlot/Confinement:** A lot, yard, corral, building or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter or the sale of products derived from such animals. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze. All feedlot/confinement facilities located within 1/4 mile of any other feedlot/confinement facilities that are under the ownership or management of the same operation shall be considered a single feedlot/confinement operation. Additionally, feedlot/confinement operations shall be broken into three classes:  
Class I: Feedlot/Confinements with less than 250 animals.  
Class II: Feedlot/Confinements with 250 to 999 animals.  
Class III: Feedlot/Confinements with 1,000 or more animals.
33. **Feedlot/Confinement, Expansion:** To increase the facility's maximum capacity to confine or pen livestock.
34. **Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.
35. **Floor Area:** The gross floor area of the building measured along the outside walls of the building and including each above ground floor level, but not including basements, open balconies, garages.
36. **Guest House:** An accessory use designed for the temporary lodging of guests in a unit not having a kitchen or kitchen appliances.
37. **Home Occupation:** A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures. Home offices shall not be considered home occupations. (See Section 13.01 for requirement).
38. **Hotel or Motel:** A building or portion thereof, or a group of buildings, used as a transient abiding place with six or more guest rooms which may or may not serve meals and whether the establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court tourist cabin, tourist court, or other similar designations.
39. **Household Pet:** Any domestic dog, domestic cat, rodent, bird or non-venomous species of reptile. However, crocodiles, alligators, gorillas, baboons, chimpanzees, orangutans, members of the class apes, order falcons (e.g.: hawks, eagles, vultures, etc.) and animals defined as livestock shall not be considered pets.
40. **Kennel - Boarding:** Any place, area, building, or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner. For the purposes of this Resolution, no animals within a Boarding Kennel shall be considered pets.
41. **Kennel- Breeding:** Any place, area, building or structure where more than one dog is kept for purposes of breeding or raising for a fee. For the purposes of this Resolution, no animals within a Breeding Kennel shall be considered pets.

#### ***Section 4: Rules and Definitions***

42. **Landscaping or Landscaped:** Any combination of living plant materials such as trees, shrubs, grass, and herbaceous plants, and including but not limited to organic decorative materials such as gravel, rock, and bark, provided, however, that at least 25% of the required landscaped area be covered by living plant material.
43. **Livestock:** All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
44. **Local Street:** Consist of all remaining rural roads, generally described as land access roads providing service to adjacent land and dwellings.
45. **Lot:** A parcel of land occupied or designed to be occupied by one or more buildings, structures, or uses, together with such open areas as are required by this Resolution.
46. **Lot, Area:** The total horizontal area within the lot lines of a lot.
47. **Lot, Width:** The distance parallel to the front lot line, measured between side lot lines through that part of the building or structure where the lot is narrowest.
48. **Lot Line, Front:** The property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line and the shorter street frontage shall be considered the front line.
49. **Lot line, Rear:** The line opposite the front lot line.
50. **Lot Line, Side:** Any lot lines other than front lines or rear lines.
51. **Lot Reversed Corner:** A corner lot having its side street line substantially a continuation of the front lot line of the first lot of its rear.
52. **Manufactured Home:** A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with national manufactured home construction and safety standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development.
53. **Mining:** The act of recovering (and removing from the site) minerals, sand, gravel, rock, coal, or other resources from the land in the amount of 1,000 or more cubic yards when not associated with farming or ranching practices, water or soil conservation, or the construction of buildings or roads.
54. **Mobile Home:** A moveable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed with or without a permanent foundation for use year around living, which may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, which shall include a manufactured home.
55. **Mobile Home Park:** Any area of land upon which one (1) or more mobile homes or manufactured homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home or manufactured home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue for one (1) or more mobile homes or manufactured homes, connected to utilities and used by one (1) or more persons for living or sleeping purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park; and shall include any buildings, structures, tents, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of automobile transients.
56. **Modular Home:** Any prefabricated structure of conventional construction, built to the Uniform Building Code (UBC), used for dwelling purposes moved on to a site in essentially complete constructed condition, in which the metal frame is removed and the weight of the dwelling is distributed to the perimeter onto a permanent foundation with permanent connections, and when completed, is a single-family unit. Modular Homes, shall be considered single-family dwellings for the purposes of this Resolution. This does not include double-wide mobile homes or manufactured homes.

#### *Section 4: Rules and Definitions*

57. **Nonconforming Structure:** A structure which does not comply with the lot size requirement or regulations applicable to new structures in the zoning district in which it is located.
58. **Nonconforming Use:** An existing use of a structure or land which does not conform to the zoning regulations.
59. **Offset:** The horizontal distance between any building and a lot line, other than a street right-of-way
60. **Planning Area:** The statutory zoning jurisdiction of Cheyenne County.
61. **Planning Commission:** The Cheyenne County Planning Commission which is the appointed planning body designated by the County governing body as authorized by statute.
62. **Principal Use or Structure:** The predominant use of land or structures as distinguished from an accessory use.
63. **Professional Office:** An office for professions such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others, who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.
64. **Public Utility:** Any business which furnishes to the general public:
- A. Telephone service.
  - B. Telegraph service.
  - C. Electricity.
  - D. Natural gas.
  - E. Water, sewer and garbage collection.
  - F. Any other business affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
65. **Right-of-way:** An area dedicated to the public use which provides access to adjacent properties.
66. **Screened:** Construction and maintenance of fences, earth berms or the use of landscaping materials or other materials used to lessen the noise, light, or visual impacts of a land use on surrounding land uses.
67. **Setback:** The horizontal distance between any building and the established public or private street right-of-way line.
68. **Sign:** Any device which shall display or include any letter, word, model, flag, pennant, insignia, device, or representation used as, or which is in the nature of an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of governmental notice or official flag.
69. **Sight Triangle:** An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 66 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 66-foot distance shall be increased to 100 feet for each arterial leg of the intersection.
70. **Street:** A public thoroughfare with at least 30 feet of right-of-way which affords the principal means of access to abutting property.
71. **Structure:** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
72. **Structural Alterations:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:
- A. Attachment of new facade where structural supports are not changed.
  - B. Addition of fire escapes where structural supports are not changed.
  - C. New windows or doors.
  - D. Repair or replacement of non-structural members.
73. **Subdivider:** The owners, developers, or agents of persons or corporations affecting subdivision.

*Section 4: Rules and Definitions*

74. **Subdivision:** The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership, building development, or, if a new street is involved, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

75. **Temporary:** Less than six (6) months

76. **Unincorporated Community:** For the purpose of this Resolution, the unincorporated communities in Cheyenne County shall be Sunol, Brownson, Lorenzo, Western Nebraska Community Complex Residential Area, and any area designated as unincorporated after the adoption of this Resolution.

77. **Variance:** A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment under the provisions of Section 23.

78. **Yard:** That portion of the area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the District in which the lot is located.

79. **Yard, Front:** A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way and the front of the primary building.

80. **Yard, Rear:** A yard extending across the full width of the lot, the depth of which is the distance between a rear lot line and the rear of the primary building.

81. **Yard, Side:** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

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

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



**SECTION 5. "A" AGRICULTURAL DISTRICT**

**5.01. Intent:** It is intended that this district satisfy the basic needs of the Cheyenne County farming-ranching operations. With agriculture being one of the County's main industries, it is vital that agricultural operations be allowed and protected from encroachments of non-agricultural uses. Therefore, the mixture of intensive residential and other urban uses with agriculture is not encouraged within this district, nor is rezoning to urban use encouraged, unless it complies with the Comprehensive Plan.

Some agricultural and non-agricultural uses are, however, frequently found to exist in rural areas, frequently serving rural and urban needs without detriment to agricultural interests under normal conditions, with proper design and location. These uses may be permitted by special review and approval by the Planning Commission and County Commissioners.

**5.02. Permitted Uses:** In District "A" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved or altered as long as they are to be used for a permitted use:

1. The operation of a farm or ranch using normal and customary practices.
2. The cultivation, storage, and sale of crops, vegetables, plants, flowers, and nursery stock raised on the premises.
3. The grazing of livestock.
4. Class I & II Feedlot/Confinements.
5. Botanical Gardens
6. Apiaries
7. Fish Hatcheries.
8. Flood control and irrigation facilities.
9. Historic preservation areas (public) and related user services.
10. One (1) primary single-family dwelling per legal lot.
11. One (1) guest house per legal lot.
12. Accessory single family dwellings for persons customarily employed at or engaged in farming or ranching per legal lot. With the exception of mobile homes, ownership of said homes shall remain in ownership of the farmer-rancher employer.
13. Offices incidental to the operation of uses allowed by right.
14. Outdoor Arenas
15. Oil and gas drilling, production, separation and transmission.
16. Schools
17. Churches and church Facilities
18. Public parks and public recreation facilities.
19. Tourist Information Areas
20. Water storage and treatment.
21. Utility Transmission or distribution lines, provided they primarily serve areas with the A District

**Section 5.02 amended by Resolution No. 2022-27 after public hearing on December 5, 2022.**

**5.03. Conditional Uses:** The following conditional uses may be permitted in the "A" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 20.

1. Class III Feedlot/Confinements.
2. Experimental farms.
3. Keeping, raising boarding of exotic animals.
4. Dude Ranches.

**Section 5: "A" Agricultural District**

5. Kennels

6. Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:

- A. Grain and/or feed elevators
- B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation)
- C. Farm equipment sales, repair, and installation facilities.
- D. Veterinary clinics and hospitals and related facilities.
- E. Grain and Feed Sales.
- F. Commercial Grain Storage and drying.
- G. Fertilizer storage, mixing, blending, and sales,
- H. Seed production, processing, storage, mixing, blending, and sales.
- I. Sorting, grading and packing fruits and vegetables for the grower.
- J. Animal training and boarding facilities.
- K. Animal waste recycling and processing facilities.
- L. Custom meat processing.
- M. Livestock sales barns and facilities
- N. Forage dehydration facilities.

7. Mineral Resource Development Facilities including:

- A. Open pit mining and materials processing
- B. Asphalt and concrete batch plants
- C. Coal gassification facilities
- D. Coal slurry and sludge pipelines
- E. Mining or recovery of other mineral deposits located in Cheyenne County

8. Power generating facilities and related uses

9. Cellular, television, or radio towers.

10. Telephone Exchanges.

11. Utility office, repair or storage facilities, substations, transmission lines, relay stations, and towers.

12. Commercial junkyards and salvage yards

13. Solid waste disposal sites and facilities

14. Sewage and wastewater treatment operations

15. Trailer washout or containment lagoon

16. Cemeteries, mausoleums, and crematories

17. Airports and landing strips

18. Prisons

19. Colleges

20. Indoor Stadiums

21. Amusement parks

22. Fairgrounds

23. Race Tracks

24. Private Recreation and park facilities

25. Membership Clubs

26. Planned unit developments

27. Home occupations subject to the requirements in Section 13.01

28. Bed and Breakfast facility

29. Mobile Home parks

**Section 5: "A" Agricultural District**

30. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A District.

**5.04. Height Regulations:**

1. Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing County Resolution, state or federal law.

**5.05. Lot Regulations:**

1. Minimum lot size: 40 acres. (Any legal lot of less than 40 acres that existed prior to the adoption of this Resolution is exempt from the minimum lot size requirement.

2. Minimum frontage: Corner lots shall have at least 150 feet

All other lots shall have of at least 125 feet.

3. Minimum lot depth: 150 feet

4. Minimum setback: 30 feet

5. Minimum side yard: Interior lot side yard shall be equal to height of proposed structure.  
Corner Lot side yard shall be 30 feet.

6. Minimum rear yard: Principal building shall be at least 25 feet  
Accessory buildings shall be 5 feet

7. Fences: Fences are not required to comply with either the minimum setback or the minimum offset. Fences may be located on the property line. Fences located on corner lots abutting public right-of-way shall not obstruct the view of vehicle traffic at an intersection.

8. Sight Triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-85.

**5.06. Access Roads.** Access roads serving non-farm residences shall be separated by a distance of no less than 1,000 feet along county roads.

**SECTION 6. "RE" RESIDENTIAL ESTATE DISTRICT**

**6.01. Intent:** The intent of this district is to serve the needs of those who desire lots of one to 40 acres. Ideally, this district should occur on the outer fringes of the zoning jurisdiction of established communities, permitting extension of urban development in a manner which logically and efficiently extends municipal services.

**6.02. Permitted Uses:** In the "RE" District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. One (1) single family dwelling unit per lot.
2. Crop production, orchards, and gardens.
3. Irrigating facilities
4. Horses and other livestock.
5. Historic Sites
6. Public parks and public recreation areas.
7. Schools.
8. Utility transmission lines primarily serving uses within the Residential Estate District.
9. Any structure or use clearly incidental and accessory to a use allowed by right in the "RE" District

**6.03. Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Section 20 of this Resolution:

1. Airports and landing strips
2. Apiaries
3. Outdoor arenas
4. Churches
5. Cemeteries
6. Colleges
7. Flood Control and irrigation facilities
8. Mobile home unit
9. Oil and gas drilling
10. Private park and recreation facilities
11. Religious quarters
12. Planned Unit Development for residential developments
13. Public sewage and wastewater treatment facilities
14. Utility substations and major transmission lines when said lines primarily serve areas other than the Residential Estate District
15. Public water storage and treatment
16. Home occupations as defined in 13.01
17. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RE District.

**6.04. Height Regulations:**

1. Maximum structure height: 30 feet

**6.05. Lot Regulations:**

1. Minimum lot area: 1 acre
2. Minimum lot width: Interior Lot: 125 feet  
Corner Lot: 150 feet
3. Minimum lot depth: 150 feet
4. Minimum front yard: 30 feet
5. Minimum rear yard: Primary building: 25 feet  
Accessory building: 5 feet or 1 foot for every three feet of building height,  
whichever is greater
6. Minimum side yard: Interior lots shall have a total of both sides not less than 30 feet with one side  
being at least 10 feet.  
Corner lots shall have 20 feet adjacent to a street or road and not less than 10  
feet on opposite side.
7. Maximum Lot Coverage: 50%
8. Sight triangle: Development shall conform to the requirements of the sight triangle as defined in  
Section 4.02.-85.

**6.06. Livestock Regulations:**

1. No livestock shall be housed or penned within 200 feet from any adjacent residence.
2. No more than three head of livestock shall be permitted per lot

**SECTION 7. "RL" RESIDENTIAL LOW DENSITY DISTRICT**

**7.01. Intent:** The intent of this district is to serve the demand for single family housing on average sized urban lots, within unincorporated communities. Due to increased governmental services required by concentrations or permanently occupied housing units at the normal density allowed (2 - 4 units per acre approximately), this district will not normally be used in rural areas outside the unincorporated community. This district will also protect established areas of this density.

**7.02. Permitted Uses:** In the RL District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. One (1) single family dwelling unit per lot.
2. One duplex, three-plex or four-plex per lot.
3. Public parks and public recreation areas.
4. Schools.
5. Utility transmission lines primarily serving uses within the Residential Low Density District.
6. Any structure or use clearly incidental and accessory to a use allowed by right in the "RL" District

**7.03. Conditional Uses:** The following conditional uses may be permitted in the RL District subject to approval procedures outlined in Section 20 of this Resolution:

1. Churches
2. Mobile Home Unit
3. Mobile Home Park
4. Multi-family structures
5. Private park and recreation facilities
6. Religious quarters
7. Planned Unit Development for residential developments
8. Public Sewage and wastewater treatment facilities
9. Utility substations and major transmission lines when said lines primarily serve areas other than the Residential Low Density District
10. Public water storage and treatment
11. Home occupations as defined in 13.01
12. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RL District.

**7.04. Height Regulations:**

1. Maximum structure height: 30 feet

**7.05. Lot Regulations:**

1. Minimum Lot Size: 4,500 sq ft
2. Minimum Lot Width: 45 feet
3. Minimum Depth: 100 feet
4. Minimum Setback: 25 feet
5. Minimum side yard: Interior lots shall have a total of both sides being 15 feet with one side being at least 5 feet
6. Minimum rear yard: Principal building: 20 feet  
accessory building 5 feet
7. Sight triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-85

**SECTION 8. "TS" TOURIST SERVICE DISTRICT**

**8.01. Intent:** The intent of this district is to serve only those business uses which are frequently found near interchanges and busy highways. This district is not intended to serve all business activity since it then could detract from established business centers. Nor should this district be used to create an endless commercial strip along major highways. This district should be used at interchanges, recreation service areas and on limited locations within established communities on main highways. Tourist related business are the prime customers in this district.

**8.02. Permitted Uses:** In the TS District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Campgrounds subject to Section 8.08
2. Food and general merchandise within building that is set on permanent foundation
3. Restaurants and fast food services, including drive-ins within building set on permanent foundation
4. Gas service stations
5. Gift and souvenir shop.
6. Hotels and motels
7. Liquor sales (on-site consumption and carry-out sales as subordinate use to prime activity only)
8. Recreation, commercial
9. Museums
10. Historical sites
11. Public recreation facilities, public buildings, museums, and libraries
12. Tourist information centers
13. Planting, Nursery, or Landscaping services
14. Utility substations and transmission lines when said lines primarily serve the Tourist Service District and immediately adjacent areas
15. Accessory buildings, structures and uses shall be allowed in the TS district so long as they are clearly incidental and accessory to the uses allowed by right

**8.03. Conditional Uses in "TS" District:** The following conditional uses may be permitted which must be conducted in an enclosed building and in compliance with the approval procedures outlined in Section 20 of this Resolution:

1. Amphitheater and Clerkium
2. Aquariums
3. Outdoor arenas
4. Botanical gardens
5. Bus and taxi depot
6. Emergency services
7. Fairgrounds
8. Planned Unit Developments for commercial activities
9. Public sewage and wastewater treatment
10. Stadiums
11. Temporary vending of food or general merchandise (see Section 8.09)
12. Theaters

13. Utility transmission lines when said lines primarily serve areas other than the Tourist Service District and immediately adjacent areas
14. Public water storage and treatment facilities
15. Zoos

**8.04. Intensity of Use Regulations:**

1. Minimum setback: 25 feet from any street right-of-way and 25 feet from any alley centerline.
2. Minimum lot area: None
3. Minimum lot width: None

**8.05. Height Regulations:**

1. Maximum structure height: 40 feet.

**8.06. Landscaping Regulations:**

1. A landscaped area of at least 10 feet in width shall be provided adjacent to any street abutting the commercial site.
2. If across the street from a residential district, a landscaped area not less than 25 feet in width shall be provided paralleling the right-of-way.
3. Curb cuts may be permitted through the landscaped area.
4. When abutting a residential district, the yard between the zone district boundary and any building shall be not less than two times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

**8.07. Performance Standards:**

1. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
2. Uses located in the tourist service district shall have an adequate supply of potable water.
3. Uses located in the tourist service district shall have adequate sewage disposal facilities.
4. Uses in the commercial district involving outdoor storage of vehicles, equipment, or materials when permitted shall be screened from public right-of-way and all adjacent property.
5. Property located within the commercial district shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than twelve (12) inches. In no event shall the property owners allow the growth of noxious weeds.

**8.08. Campgrounds:**

1. No permanent residents allowed

**8.09. Temporary Vending:**

1. All temporary vendors shall obtain permits from the Department of Health, Department of Revenue, and Department of Roads.



**SECTION 9. "CB" COMMUNITY BUSINESS DISTRICT**

**9.01. Intent:** The intent of this district is to serve basic shopping and service needs in the unincorporated communities. Multi-purpose business uses typically found in downtown areas are permitted in this district. This district is intended to serve existing unincorporated communities and their respective trade area.

**9.02. Permitted Uses:** In the CB District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Amphitheaters and Clerkiums
2. Antiques, retail sales
3. Appliance and household items, repair and servicing
4. Aquariums
5. Auto repair and sales
6. Banking and Financial, including drive-in facilities
7. Bus and taxi depots
8. Communication centers
9. Dental and medical clinics
10. Duplicating, mailing and steno services
11. Electrical shops
12. Emergency Services
13. Flood control and irrigation facilities
14. Gas Stations
15. Government Facilities
16. Historic Sites
17. Hotels and motels
18. Libraries
19. Liquor Sales (on-site and carry out sales)
20. Membership clubs
21. Mortuaries
22. Motor bike sales and services
23. Museums
24. News syndicate services
25. parking garages
26. Personal service shops
27. Pre-schools
28. Printing and newspaper offices
29. Professional and business offices
30. Recreation and park facilities
31. Rental agencies
32. Restaurants
33. Retail sales
34. Telephone exchange

**Section9: "CB" Community Business District**

35. Theaters, excluding drive-ins
36. Tires, batteries, and accessories
37. Tourist information
38. Train depots
39. Utility substations and transmission lines a when serving the neighborhood and adjacent areas
40. Veterinary hospitals
41. Water storage and treatment
42. Accessory buildings, structures and uses shall be allowed in the CB district so long as they are clearly incidental and accessory to the uses allowed by right

**9.03. Conditional Uses in the CB district:** The following conditional uses may be permitted which must be conducted in an enclosed building and in compliance with the approval procedures outlined in Section 20 of this Resolution:

1. Car wash facilities
2. Colleges
3. Farm equipment dealers
4. Hospitals
5. Lodges
6. Planned Unit Developments
7. Plant nursery
8. Pre-schools
9. Religious living quarters
10. Drive-in restaurants
11. Public sewage and wastewater treatment facilities
12. Veterinary hospital
13. Utility transmission lines when such lines serve areas other than the neighborhood and adjacent lines
14. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the CB District

**9.04. Intensity of Use Regulations:**

1. Minimum lot area: None
2. Minimum lot width: None
3. Minimum setback: 10 feet from any street right-of-way and 10 feet from any alley centerline
4. Minimum setback from residential district: When abutting a residential district, the yard between the zone district boundary and any building shall not be less than two times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

**9.05. Height Regulations:**

1. Maximum structure height: 40 feet.

**SECTION 10. "LI" LIGHT INDUSTRIAL DISTRICT**

**10.01. Intent:** The intent of this district is to serve industrial activities within and adjacent to existing communities. The uses are not obnoxious and are fully enclosed or screened from public view. With proper design, landscaping and traffic control, this district can contain desirable industrial parks in desirable settings.

**10.02. Permitted Uses:** In the LI District, no building, structure, land or premises shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any Use allowed in the CB District
2. Gas storage and distribution
3. Governmental facilities
4. Printing and newspaper facilities
5. Public recreation
6. Related commercial activities such as offices, restaurants, or gas stations and other commercial activities which primarily serve industrial activities
7. Train depots
8. Utility substations, transmission lines, offices, and storage yards
9. Water storage and treatment
10. Accessory buildings, structures, and uses that are incidental and accessory to the uses allowed by right

**10.03. Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Section 20 of this Resolution:

1. Any manufacturing, processing, fabrication, or warehousing activity that is completely confined within a closed building and does not normally emit noise, smoke, or odor outside of the building beyond the site property line.
2. Oil and gas drilling
3. Airports and landing strips
4. The raising, breeding and grazing of livestock
5. Colleges
6. Implement Sales and service
7. Planned Unit Developments for office and industrial developments
8. Power generating
9. Sewage and wastewater treatment
10. Those industrial uses which normally are associated with noise, odor, or smoke, but due to size or method of design, can be compatible with the neighborhood and the intent of the district
11. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RL District

**10.04. Height Regulations:**

1. No height regulations as long it complies with all other county, state, and federal regulations

**10.05. Yard Regulations:**

1. Setback: 25 feet from any street right-of-way and 25 from any alley centerline.
2. When abutting a residential district, the yard between the zone district boundary and any building shall not be less than three times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

**10.06. Hazardous Materials:** The storage, dispensing, using or handling of hazardous materials shall be identified and reported to Region 21 Emergency Management Office, PO Box 217, 1000 10th Avenue, Sidney NE 69162 in accordance with state and federal regulations.

**SECTION 11. "HI" HEAVY INDUSTRIAL DISTRICT**

**11.01. Intent:** The intent of this district is to serve the much heavier industrial activities requiring heavy truck traffic, noise, smoke, and odor. This district will frequently serve the needs of agricultural related business. It is also intended to be used within and adjacent to existing communities.

**11.02. Permitted Uses:** In the HI District, no building, structure, land or premises shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. All those uses which meet the requirements of the Light Industrial District and are listed as permitted uses.
2. Manufacturing, processing and warehousing activities which do not generate smoke, excessive noise, or odor.

**11.03. Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Section 20 of this Resolution:

1. Those manufacturing, processing and warehousing activities which generate noise, smoke, or odor that is not maintained on the site.
2. Alfalfa dehydrates.
3. The raising, breeding and grazing of livestock.
4. Auto wrecking yards and other salvage operations.
5. Colleges.
6. Planned Unit Developments for industrial developments.
7. Cement, lime or gypsum processing.
8. Chemical plants.
9. Slaughterhouses.
10. Stockyards.
11. Tanneries.
12. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RL District.

**11.04. Height Regulations:**

1. No height regulations as long as building is in accordance with all other county, state, and federal regulations.

**11.05. Yard Regulations:**

1. Setback: 25 feet from any street right-of-way and 25 from any alley centerline.
2. When abutting a residential district, the yard between the zone district boundary and any building shall not be less than three times the height of the proposed building. In addition, a plant hedge or solid fence six feet high shall be constructed and maintained on the zone district boundary.

**11.06. Landscaping Regulations:**

1. If across from a residential district, a landscaped area not less than 25 feet in width shall be provided paralleling the right-of-way.
2. Curb cuts may be permitted through the landscaped areas.

**11.07. Hazardous Materials:** The storage, dispensing, using or handling of hazardous materials shall be identified and reported to Region 21 Emergency Management Office, PO Box 217, 1000 10th Avenue, Sidney, NE 69162 in accordance with state and federal regulations.

**SECTION 12. "FP" FLOOD PLAIN OVERLAY DISTRICT**

**12.01. Intent:** Certain areas in the County, particularly flood plains, should not be intensely developed, since development of structures could risk life or damage property. Use of land for most purposes not requiring permanent structure is acceptable as listed below. This district then, will help protect life and property from future hazardous conditions.

**12.02. Permits:** No person, partnership or corporation shall erect, construct, enlarge, or improve any building or structure in Cheyenne County or cause the same to be done without first obtaining a Flood Plain Development Permit for each building or structure.

**12.03. Procedure:** Any person, partnership, or corporation seeking a Flood Plain Development Permit within Cheyenne County's Zoning jurisdiction shall meet the requirements specified in Section 12. There are two steps in the Flood Plain Development Permit process:

**Step 1: Apply for a Flood Plain Development Permit:**

- A. Submit an application for a Flood Plain Development Permit to the zoning administrator. The application shall provide the following information:
  - 1. Identify and describe the work to be covered by the permit for which the application is made.
  - 2. Describe the land on which the proposed work is to be done by lot, block tract house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
  - 3. Indicate the use or occupancy for which the proposed work is intended.
  - 4. Be accompanied by plans and specifications for the proposed construction.
  - 5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  - 6. Within designated flood prone areas, be accompanied by elevations of the lowest floor including basements or in the case of floodproofed non-residential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the County Planning Commission.
  - 7. Give such other information as reasonably may be required by the County Planning Commission.
- B. A sworn statement by the applicant attesting that all information is true and correct to the best of their knowledge.

**Step 2: Permit Approval:**

- A. The Cheyenne County Planning Commission shall review all Flood Plain Development Permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State Law:
- B. The Planning Commission, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments will:
  - 1. Obtain, review, and reasonably utilize, if available, any regulatory flood elevation data from Federal, State, or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as 100 year flood plain on the official map that the following performance standards be met:
    - A. Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to one foot above the base flood elevation.
    - B. Non-residential Construction: New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the lowest floor, including the basement, elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is water

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tight with walls substantially impermeable to the passage of water and with structure components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local enforcement official.

- C. Requirements for all new construction and substantial improvements: That fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the minimum criteria:
1. A minimum of two openings having a total net area of not less than one square foot of enclosed area subject to flooding shall be provided.
  2. The bottom of all openings shall be no higher than one foot above grade.
  3. Openings may be equipped with screens, leavers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Require the use of construction materials that are resistant to flood damage.
  3. Require the use of construction methods and practices that will minimize flood damage.
  4. Require that new structures be designed or modified and adequately anchored to prevent floatation, collapse, or lateral movement or the structure resulting from hydrodynamic and hydrostatic loads, including buoyancy.
  5. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering and accumulating within the components during conditions of flooding.
  6. Assure that all manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes, and the Federal Emergency Management Agency guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be used:
    - A. Over-the-top ties be provided at each of the four corners of the manufactured homes with two additional ties per side at the intermediate locations and manufactured homes less than fifty feet long requiring one additional tie per side.
    - B. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty feet long requiring four additional ties per side.
    - C. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
    - D. Any additions to manufactured homes be similarly anchored.
  7. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of line 6 of subparagraph B in Step 2 of Section 12.03.
- C. The County Board of Cheyenne County, Nebraska shall review all subdivision applications and other proposed new developments, including manufactured home parks or subdivisions, and shall make findings of fact and assure that:

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1. All such proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than five (5) acres or fifty lots, whichever is less, include within such proposals regulatory flood elevation data in areas designated Zone A.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to eliminate flood damage.

**12.04. New Water and Sewer:** New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

**12.05. Maintained Flood Carrying Capacity:** The County Board of Cheyenne County, Nebraska will insure that the flood carrying capacity within altered or relocated portion of any watercourse is maintained. The County will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency. Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

**SECTION 13. SUPPLEMENTARY DISTRICT REGULATIONS**

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

1. Restrictions and Limitations:

- A. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling unit.
- B. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
- C. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure or accessory building.
- D. No sign shall be illuminated or exceed two (2) square feet in area.
- E. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
- F. Parking needs generated by the conduct of a home occupation shall be provided off-street.

2. Particular Home Occupations Permitted: Permitted home occupations (not exclusive) which are subject to the above restrictions and limitations include:

- A. Art, dancing and music schools, provided that instruction is limited to five (5) pupils at one time.
- B. Artists, sculptors or authors.
- C. Beauty and barber shops, and other services customarily performed by these shops such as manicures and hair removal salons.
- D. Bed and breakfast services
- E. Day care home.
- F. Home crafts and hobbies such as model making, rug weaving, knick knacks, cabinet making
- G. Home party products.
- H. Offices for salespersons, sales representatives and manufacturing representatives
- I. Radio, television, recording studio or small appliance and electronics repair service.
- J. Tailoring, alterations, seamstresses, shoemaking and shoe repair.
- K. Physicians, dentists and chiropractors

3. Particular Home Occupations Prohibited: Permitted home occupations shall not, in any event, include the following:

- A. Animal hospitals and veterinary clinics.
- B. Automobile and vehicle repair service.
- C. Equipment rental.
- D. Funeral services and mortuaries.
- E. Machine shops.
- F. Commercial photo developing.
- G. Restaurants.
- H. Second-hand merchandise.

**13.02. Temporary Uses Permitted**

1. A temporary permit may be obtained from the Planning Commission (or its authorized staff representative) upon the filing of an application requesting a temporary use. Temporary stands, structures, motor vehicles, and trailers shall be removed on the date of termination of the permit unless a specific date is stated herein. Temporary structures shall be shown to be so constructed as to not constitute a fire hazard or hazard to the health or safety of the public prior to the issuance of the permit. Such temporary stands or structures shall not be constructed of materials which are substantially deteriorated, nor shall any of the above temporary stands, structures, motor vehicles or trailers be allowed to deteriorate to the point where they shall constitute a fire or other hazard to the health, safety, or general welfare of the public.

2. The following uses may be allowed by temporary permit and need not be enclosed within a building:

- A. Temporary construction yard or building for construction materials and equipment; mobile home for office use, and concrete batch plants, incidental and necessary for construction. Each permit shall specify the location of the building, mobile home office, yard or batch plant.



### ***Section 13: Supplementary District Regulations***

No area more than two miles distant shall be served by such temporary building, mobile home office or yard. Each permit shall be valid for a period of not more than six calendar months and may be renewed for three successive six-month periods at the same location.

- B. Temporary office incidental and necessary for the sale of new construction by the permittee. Each permit shall specify the location of the office and the area within which such sales may be made. No area more than two miles distant from the office shall be served. Each permit shall be valid for a period of not more than six calendar months and may be renewed for three successive six-month periods at the same location.
- C. Mobile homes may be used for temporary living quarters incidental and necessary for the construction of a residence on the property. Application fee is not required herein for residential purposes.

3. Temporary group assemblages of 50 or more persons for one week and on public or private lands not currently improved for such group assembly (“improved” meaning having adequate improved parking, permanent restrooms, permanent water supply, and permanent fixed buildings or structures to house a large group) shall only be permitted after a public hearing has been held by the County Commissioners, and they have approved, or conditionally approved the request.

The request for such temporary use shall be submitted at least 30 days prior to said assemblage to the County Clerk who shall set a hearing date and notify adjacent property owners. The application should include the written authorization of the property owners. The application should include the written authorization of the property owner, a legal description of the property, a description of the proposed use or activity and a description of the facilities to be provided to serve the crowd; i.e., water, restrooms, parking, trash collection and removal, police protection and others as may be appropriate.

An application fee of \$50 shall be submitted with the request. This fee may later be returned in part or in total if so ordered by the County Commissioners.

The County Commissioners shall, after hearing the matter, approve, approve with conditions, or deny the request. Conditions of approval, if applied, may include those conditions deemed necessary to protect the public health, safety, and welfare.

4. The following temporary uses may be permitted without a temporary use permit:

- A. Christmas Tree Sales: Christmas tree sales in "C" & "A" Districts only for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations, provided that no trees shall be displayed in the sight triangle.
- B. Seasonal Sales: Seasonal sales of farm produce in "C" & "A" Districts only. Structures incidental to the sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used. All permanent structures must comply with the front yard requirements.
- C. Garage, Yard, Basement or Porch Sales: The sale of tangible personal property consisting of household goods and personal effects by an individual at his or her residence, or if more than one individual's property is involved, at the residence of one of the individual's, not occurring at any residence for more than three (3) days during the calendar year, and none of the individuals conduct or engage in a trade or business in which similar items are sold, and when such property was originally acquired for and used for personal use.

**13.03. Fences, Hedges, and Walls:** Fences, hedges, and walls may be permitted in the various districts as accessory uses in accordance with the following limitations:

- 1. No fence shall exceed 6 feet in height except fences the Agricultural District, fences used for the enclosure of utility facilities, and fences used to enclose swimming pools.
- 2. Ornamental fences, walls, and hedges not to exceed three and a half feet (3.5') shall be permitted in the front yard in any district. This regulation does not apply to the Agricultural District.
- 3. Fences, hedges, and walls higher than three and a half feet (3.5') shall be set back from the front lot line three feet (3') for each foot of fence height. This regulation does not apply to the Agricultural District
- 4. All outdoor swimming pools shall be enclosed by a fence or wall at least 6 feet but no more than 8 feet in height with a gate or gates that can be securely locked.

**13.04. Supplementary Lot Area and Lot Width Regulations:**

1. Where an individual lot was held in separate ownership from adjoining properties, or was platted prior to the effective date of this Resolution, is in a recorded subdivision and has less area or less width than required in other sections of this Resolution, such a lot may be occupied according to the permitted uses provided for the District in which it is located, provided no lot area or lot width is reduced more than one-third of the zoning requirements otherwise specified by this Resolution.
2. For the purpose of complying with the provisions of this Resolution, no part of an area or width of a lot shall be included as an area or width required for another lot.
3. No lot shall have a front lot line or street frontage of less than 40 feet.

**13.05. Supplementary Yard Regulations.**

1. Developed Areas: In any district, where lots comprising 50 percent or more of the frontage on one side of a street between intersecting streets have been improved with buildings at the time of passage of this Resolution, the average front yard or setback of such buildings shall be the minimum front yard or setback required for all new construction in such block. Vacant lots shall be calculated at the present Resolution setback requirement to determine the block average. In no instance shall the setback be less than 10 feet.
2. Reduction: No part of a yard required for any building for the purpose of complying with the provisions of this Resolution shall be included as a yard for another building, and all yards shall be open and unobstructed except as otherwise provided herein.
3. Architectural features: Cornices, canopies, eaves or similar architectural features may extend into a required yard not more than 2 feet.
4. Fire escapes: Fire escapes may extend into a required yard not more than six feet.
5. Patios and uncovered porches: Patios and uncovered, unenclosed porches may extend into a required front or rear yard not more than 6 feet and a side yard of not more than 3 feet.
6. Reversed corner lots: The side yard along the street side of a reversed corner lot shall not be less than the required front yard for principal buildings along such a side street.
7. Accessory buildings: Permitted accessory buildings may be located only in the required rear yard of a principal building, provided such accessory buildings are located at least three feet from any property line and located at least five feet from another accessory building.
8. Setback: Within 150 feet of a road intersection, no structure, storage areas and solid fences will be permitted.

**13.06. Building Height Regulations:**

1. It shall be unlawful to construct, build, or establish any building, trees, smokestack, chimney, flagpole, wire, tower or other structure or appurtenance thereto which may constitute a hazard or obstruction to the safe navigation, landing, and take-off of aircraft at a publicly used airport.
2. Approvals of buildings of heights greater than permitted herein may occur when approved by the County.

**13.07. Off-Street parking Requirements:**

1. Each new building or change of use, or addition to any use, shall provide off-street parking spaces as hereinafter designated:

Building Type	Spaces Required
Auto repair shop	1 per 150 square feet of gross floor space plus 1 per employee
Auto, truck, implement, and mobile home sales	1 per employee
Animal hospital or kennel	1 per employee
Boarding or lodging house, tourist home	1 per guest bedroom and resident family
Commercial recreation	1 per 200 square feet of gross floor space plus one per employee
Car wash	1 per employee

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Single and two family residential dwelling	2 per dwelling unit
Multiple dwellings	1 1/2 per one bedroom unit. 2 per 2 bedroom unit. 2 1/2 per 3 bedroom unit. 3 per 4 bedroom unit. 3 plus 1/2 for each additional bedroom unit over 4.
Gas Station	1 per 50 square feet gross floor space
Hotel, Motel	1 per guest bedroom plus 1 per each 3 employees
Membership clubs	1 per 6 members
Mobile Home park	2.2 per mobile home
Professional office in a residential building	1 per 100 square feet of floor space used by such office
Clerkium, stadium, theater, convention hall or similar place of public use	1 per 4 seats; bench capacity at one seat per 20 inches
Bowling alley	3 per lane
Churches	1 per 7 seats in principal place of assembly
Drive-in restaurant or stand	1 per 25 square feet of floor space
Funeral Home	1 per 75 square feet of assembly room
Hospital	1 per 3 beds
Manufacturing, processing, or bottling or general industrial	1 per 2 employees on maximum shift or not less than 1 per 500 square feet of gross floor space.
Medical office or clinic	1 per 150 square feet gross floor space.
Offices and office building	1 per 300 square feet gross floor space.
Schools (Commercial)	1 per 50 square feet gross floor space.
Public library, gallery, or museum	1 per 300 square feet gross floor space
Research institute or laboratory	1 per 2 employees at maximum shift
Restaurants, cafe, and drinking places	1 per 300 square feet gross floor space
Retail store, shop, and bank.	1 per 200 square feet gross floor space
Elementary, junior high school, and private schools (non-commercial)	1 per 1/2 classroom or parking for Clerkium, whichever is greater
Senior High School	1 per 1/4 classroom and parking for Clerkium required
Warehouse and storage buildings	1 per employee

2. Parking requirements for buildings containing more than one use shall be established by determining the required number of spaces for each separate use.

3. In lieu of locating parking spaces required by this Resolution on the lot which generates the parking requirements, such parking spaces may be provided on any lot or premises owned by the owner of the parking generator, within 300 feet of the property generating such parking requirements, for any business, commercial, or industrial use. Ownership in this regard may include participation in a parking district or other joint venture to provide off-street parking areas to the extent that each zoning requirement can be met by a proportionate or greater number of off-street parking spaces in the lot held in joint ownership.

4. All area counted as off-street parking space shall be unobstructed and free of other uses.

5. Unobstructed access to and from a street or alley should be provided for all off-street parking spaces.

6. Parking lot lighting shall be reflected away from residential areas.

7. Parking lot shall not be located in the required front yards of any residential district.

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8. Off-street parking spaces may be provided in areas designated to serve jointly two or more buildings or users provided that the total number of off-street parking spaces shall not be less than the required by this Resolution for the total combined number of buildings or uses.

9. No part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this Resolution shall be included as a part of an off-street parking space similarity required for another building or use and no part of an off-street parking space required for any building or use for the purpose of complying with the provisions of this Resolution shall be converted to any use other than parking unless additional parking space is provided to replace such converted parking space and to meet the requirements of any use to which such parking space is converted.

**13.08. Airport Requirements:** The “Amended Airport Zoning Regulations” enforced by the Sidney-Cheyenne County Joint Airport Zoning Board shall continue in effect and control use and height in those instances where the “Amended Airport Zoning Regulations” are more restrictive than the provisions of the Cheyenne County Zoning Resolution.

**13.09. Tree Planting Requirements:** In all Zoning Districts, trees shall be planted the following distances from the centerline of the road:

- A. Trees to the north and west of a road: Trees shall be planted at least 150 feet from the centerline of the road.
- B. Trees to the south and east of a road: Trees shall be planted at least 80 feet from the centerline of the road.
- C. The minimum setback for the tallest row of trees to be 150 ft. with no row of trees being planted closer than 80 feet from the centerline of the County Road, regardless whether it is on a North, South, East or West road.
- D. Penalty: Penalty shall be as follows:  
The owner planting trees shall notify the County Road superintendent, in writing, within fifteen (15) days after planting, and also advise the Superintendent of the party designing the wind break. If trees are planted and do not comply to regulations, they must be removed within thirty (30) days of notification of non-compliance by the County Attorney. The land owner shall remove tree at their sole expense. If non-complying trees are not removed withing sixty (60) days, the landowner shall be fined up to \$500.00. After sixty (60) days, a penalty of up to \$250 each day shall accrue as continuing violation.

**Sections 13.09 C and D included by Resolution of the Cheyenne County Planning Commission after public hearing on April 25, 2005.**

**13.10. Penalty:** Whoever violates or fails to comply with any of the provisions of Section 1, shall be subjected to the following:

- A. If non-compliance is not corrected within sixty (60) days, the landowner shall be fined up to but not more than five hundred dollars(\$500.00).
- B. Non-compliance beyond sixty (60) days shall be subjected to a fine of not more than three times the permit fee or two hundred fifty dollars (\$250.00) for each day the non-compliance continues.

**Section 13.10 included by Resolution 2009-24, after public hearing on September 8, 2009.**

**SECTION 14. MOBILE HOME PARK REGULATIONS**

**14.01. Intent:** It is intended that the requirements for mobile home parks shall be such that the quality of a neighborhood is not detrimentally affected by the adjacent location of a mobile home park. The mobile home park is basically a low to medium density residential use and shall be treated as such. Since this form of single-family housing physically contrasts substantially with typical on-site constructed housing, it is necessary to review each request via the procedures of Section 20 “Conditional Uses”. This review procedure allows design adjustments to fit the constraints of any site.

**14.02. Development Standards:** In those districts where mobile home parks are listed as Conditional Uses, all applications must first be processed via the procedures of Section 20. In addition to possible conditions being attached as the result of the conditional use, the following standards shall also apply:

1. Minimum size of mobile home area: 5,000 square feet
2. Minimum lot width: the average lot width shall not be less than 40 feet
4. Setback: Mobile homes shall not be placed within 20 feet of any boundary that is not a street and 25 feet from any boundary that is adjacent to a street.
5. Minimum Separation between homes: based on the distance between mobile home units measured from the closest point or edge of the mobile home as follows:
  - A. 15 feet between mobile homes if the units are placed end (width) to end (width).
  - B. 20 feet between mobile homes if the units are placed side (length) to side (length).
  - C. 18 feet between mobile homes if the units are placed side (length) to end (width).
  - D. Ends (width) of mobile homes that are greater than 16 feet in width, shall be considered to be sides of the mobile home in measuring distances between mobile home units.
  - E. A mobile home shall have a minimum offset of 5 feet or 1 foot for every three feet in height, whichever is greater, from the perimeter of the mobile home park or from any adjacent property which is not approved to be utilized for a mobile home.
  - F. Accessory buildings and structures on the same lot or space as a mobile home shall have a minimum clearance of 10 feet from any structure or mobile home on any other lot.
  - G. Commonly owned or utilized building which are accessory to the park shall have a minimum clearance of 10 feet from any other structure or mobile home.
6. Access to dedicated streets shall be provided. The County may require mobile home parks over 50 units to have additional access points for emergency access purposes.
7. Lighting: Adequate lighting shall be provided.
8. Architectural Control: The County may set architectural standards for a mobile home park, including requirements of wood siding or similar design features.
9. Landscaping: A landscaping concept plan shall be submitted for review and approval.
10. Storage: Storage units shall be designed as an integral part of the site.
11. Utilities: All utilities shall be placed underground. Potable water and a sewage disposal system meeting Department of Health requirements shall be provided.
12. Trash Collection: Trash receptacles shall be provided and properly screened from view.

**14.03. Bonding:** Bonding or some guarantee in a form acceptable to the County Attorney shall be provided to guarantee performance of plans.

**14.04. Livestock:** No livestock shall be kept, housed, penned or otherwise in any mobile home park.

**SECTION 15. SIGN REGULATIONS**

**15.01. General Regulations:** The following regulations shall govern the locations, areas, heights, and types of signs in all districts:

1. All signs hereafter constructed, erected, painted, or otherwise established, moved, altered, or changed shall comply with these regulations. Nonconforming signs existing at the time of enactment of this Resolution may be repaired or maintained, but may not otherwise be established, moved, altered or changed except in compliance with the provisions of this Resolution.
2. "Revolving beacon," "flashing," or "fountain" effects or signs with such effects are prohibited in all zoning districts, as are all other lighting effects which could impair a motorist's vision.
3. No sign in any district shall interfere with clear and unobstructed vision of any sign or device used for the control of traffic, or with clear and unobstructed vision of traffic on any street.
4. Sign regulations in this Resolution shall not apply to official Federal, State, County, or City signs, including traffic signs, signs erected and intended for public information, direction, safety, or control.
5. Signs used solely for the purpose of identifying hazards are exempt from these regulations, provided the sign itself does not create a hazard.

**15.02. Residential Areas:** Only the following signs shall be permitted in RE and RL Districts:

1. In the RL District only, one identification sign per residential use provided such sign does not exceed two (2) square feet in area per side. Such sign may be illuminated by indirect lighting methods only.
2. One identification sign and/or bulletin board per church, school, or other public or semi-public use, provided each sign and/or bulletin board shall not exceed twenty (20) square feet. Such sign may be illuminated by indirect lighting methods only.
3. One real estate sign provided such sign does not exceed five (5) square feet and is unlighted.
4. One construction sign per lot on which construction or major modification or a building or structure is in progress, provided such sign does not exceed twenty (20) square feet in area, and is unlighted. Such sign shall be removed from the lot upon completion of the structure.
5. All signs in residential areas must be set back at least ten (10) feet from any lot line.
6. In any subdivision for which a plat has been approved by the County, non-illuminated subdivision signs not to exceed 130 square feet may be erected.

**15.03. Agricultural Areas:** Only the following signs shall be permitted in the A District:

1. Those signs permitted in residential areas defined in Section 15.02.
2. One on-site identification sign for the principal permitted use provided the sign does not exceed 16 square feet per face and does not exceed 20 feet in height.
3. Off-site directional signs must meet all Department of Roads requirements.

**15.04. Commercial and Industrial Areas:** All types of on-site signs authorized by this resolution may be installed in TS, CB, LI, and HI Districts. However, the surface area of all signs for a single business shall be limited to two hundred (200) square feet.

**15.05. Advertising Signs and Billboards:**

1. Advertising signs or billboards (those signs advertising products not sold on the same site as the sign location) shall not be permitted in any zoning district other than the LI and HI Districts.

**15.06. Temporary Signs:**

1. Temporary signs shall not exceed seventy-five (75) square feet in area.
2. Temporary signs shall not remain in place for a period of more than thirty (30) days, except however, that the Zoning Administrator may extend this time period for an additional fifteen (15) days. Any further time extension shall thereafter be applied for the Board of Adjustment and said Board may grant such time extension as it deems reasonable and necessary.

**15.07. Political Signs:**

1. Political signs may be either permanent or temporary type signs.
2. Political signs shall not be permitted on the public right of ways.

**SECTION 16. FEEDLOT/CONFINEMENT REGULATIONS**

**16.01. Feedlot/Confinement Permit:** No feedlot or confinement operation (unless excluded by Section 16.02) which meets the definition of a Class III feedlot/confinement operation shall operate or be developed without a valid feedlot/confinement permit from Cheyenne County. Likewise, any existing feedlot or confinement facility shall not be expanded without first obtaining a feedlot/confinement permit from Cheyenne County if such expansion will result in the feedlot/confinement operation meeting the definition of a Class III feedlot/confinement operation.

**16.02. Grandfather Clause:** Feedlot/confinement operations existing prior to the passage of this Resolution do not need a feedlot/confinement permit to operate unless the expansion of such feedlot/confinement operation requires such a permit as outlined in Section 16.01.

**16.03. Permit Validity.** A Feedlot/Confinement Permit will not be considered valid until the Class III feedlot/confinement operation applying for the permit has received a conditional use permit and a permit for a waste control facility from the Department of Environment Quality.

**16.04. Procedure:** Any person, partnership, or corporation seeking a feedlot/confinement permit within Cheyenne County's zoning jurisdiction shall meet the requirements specified in Section 16. There are two steps in the feedlot/confinement permit process:

**Step 1. Apply for a feedlot/confinement permit from Cheyenne County.**

A. Submit an application for a feedlot/confinement permit to the zoning administrator.

The application should provide the following information:

1. The names and addresses of all surface owners located within 1 mile of the feedlot/confinement operation.
2. An estimate of the maximum number of livestock to be confined at any single time.
3. Narrative taken from the Cheyenne County Soil Survey explaining the suitability and limitations of soil types located on the feedlot/confinement operation site
4. Nuisance waivers, if applicable.
5. A vicinity map drawn to scale showing:
  - A. The location of the feedlot/confinement operation.
  - B. The names and location of all property owners within 1 mile of the feedlot confinement operation.
  - C. The names and location of all public roads and rights-of-way, drainage ditches, and wells located within 1 miles of the feedlot confinement operation.
  - D. The location of any flood hazard areas located within 1 mile of the feedlot/confinement operation.
  - E. Any other information determined to be reasonably necessary by the Planning Commission or County Board.
6. A site map drawn to scale showing:
  - A. The size, location and intended use of all existing and planned structures located on the property.
  - B. The type and location of any existing or planned screening (i.e.: fencing, treelines, etc.)
  - C. Existing topographical contours at ten foot intervals drawn from available data, such as US Geological Survey maps.
  - D. Soil type by boundary taken from the Cheyenne County Soil survey.
  - E. The names and location of all public roads, rights-of-way, drainage ditches, and wells
  - F. Any other information determined to be reasonably necessary by the Planning Commission or County Board.

B. A Waste Management Plan shall be submitted with the application which includes:

1. Description of the manner in which manure will be disposed.
2. The annual gallons of animal waste that will be land applied.
3. The location and number of acres of land that have been designated to



## ***Section 16: Feedlot/Confinement Regulations***

receive land applied waste.

4. A statement explaining how runoff will be managed.
- C. A sworn statement by the applicant attesting that all information is true and correct to the best of their knowledge.

**Step 2: Permit Approval.** The process of applying for a Feedlot/Confinement Permit may concur with an application for a conditional use permit. An application for a Feedlot/Confinement Permit, though, must follow the permit approval process as follows:

- A. A public hearing on the permit shall be held by the Planning Commission.
  1. All surface owners located within 1 mile of the feedlot/confinement facility shall be notified of the hearing at least ten days in advance.
  2. Public notice of the hearing shall be given at least ten days in advance.
- B. The Planning Commission shall make a recommendation on the Feedlot/Confinement permit. The secretary of the Planning Commission shall forward the recommendation to the County Board within ten days.
- C. The County Board shall deny, approve or conditionally approve the permit within 45 days of receiving the Planning Commission's recommendation.
- D. The Planning Commission shall then make a recommendation on a conditional use permit as outlined in Section 20. (Upon the applicant's request, an application for a Feedlot/Confinement Permit may concur with an application for a conditional use permit.)
- E. The County Board shall deny, approve or conditionally approve the Conditional Use permit as outlined in Section 20. (Upon the applicant's request, an application for a Feedlot/Confinement Permit may concur with an application for a conditional use permit.)

**16.05. Feedlot/Confinement Development Standards:** All new or newly expanded feedlot/confinement facilities shall conform to the following development standards:

1. New feedlots shall not be developed within 3 miles of an incorporated town.
2. New feedlots shall not be developed within 1 miles of a residence or a school without first receiving a signed nuisance waiver from the homeowner or school board.
3. Existing feedlots shall not be expanded within 3 miles of an incorporated town.
4. Existing feedlots shall not be expanded within 1 miles of a residence or a school without first receiving a signed nuisance waiver from the homeowner or school board.
5. All feedlots shall meet the environmental standards established by the Department of Environmental Quality.

**16.06. Financial Assurance.** No Class III feedlot/confinement permits shall be issued for feedlots which exceed 1,000 head of livestock until financial assurance is provided to the County Board to enable Cheyenne County to correct any environmental damage caused by leaks, spills, runoff, or abandonment. Thus, all Class III feedlot/confinement operations in excess of 1,000 head of livestock seeking a Class III feedlot/ confinement permit must submit to the County Board a written estimate in current dollars of the cost to clean up environmental damage or abandoned feedlots. The owner or operator must annually adjust the cost estimate for inflation using the U.S. consumer price index for rural areas. The cost estimate shall be calculated as follows:

1. Amount of financial assurance required. The sum of the costs determined under Section 16.06 subparagraphs 2 and 3 minus any credit given in 16.06 subparagraph 4 shall be the financial assurance amount required under the provisions of this Section.
2. The cost of cleaning above ground facilities by a third party. The cost shall be determined by:
  - A. Disposing of all manure stored on site.
  - B. Cleaning or removing all above ground structures. For the purpose of this calculation, it shall be assumed that the manure storage container is 100% full. The estimate submitted shall explain how the cost was determined.
3. The cost of remediation of off-site contamination. The cost of remediation of off-site contamination shall be calculated by multiplying the animal weight capacity (the product of multiplying the maximum number of animals which are confined at any one time by the average weight during a production cycle) of the operation by one dollar (\$1.00) for those facilities which store manure in earthen manure storage basins; by fifty cents (\$0.50) for those

**Section 16: Feedlot/Confinement Regulations**

facilities which store manure in anaerobic lagoons; and by twenty-five cents (\$0.25) for those facilities which store manure in formed manure storage structures.

4. Credit shall be given for maintaining wells. The financial assurance amount shall be reduced by fifty percent (50%) for a facility that has installed groundwater monitoring wells with at least one well located upgradient and two wells located downgradient from the manure lagoon, basin, or structure provided the test results are submitted to the County Board annually and reveal no groundwater contamination. Using EPA approved methods and procedures for chemical analysis, each water sample drawn shall be tested for the following chemical constituents: pH, temperature, ammonia-nitrogen, sulfate, total dissolved solids, total organic carbon, nitrate-nitrogen, conductivity, total alkalinity, total kjeldahl nitrogen, chloride, chemical oxygen demand and sodium. If appropriate, the facility may substitute vadose zone monitoring devices for groundwater monitoring wells with the approval of the County Board.

**16.07. Allowable financial assurance mechanisms.** The mechanisms used to demonstrate financial assurance must ensure that the funds necessary to meet the costs of clean-up and remediation (as established in Section 16.06) will be available when they are needed. In establishing financial assurance, feedlot/confinement operations must choose from the following options:

1. Surety Bond. A facility may demonstrate financial assurance by obtaining a payment or performance surety bond which conforms to the requirements of this Section. The bond must be effective and a copy of the bond must be filed with the County Board before a feedlot/confinement permit is issued. At a minimum, the surety company issuing the bond must be among those listed as acceptable sureties on federal bonds and Circular 570 of the US Department of the Treasury. In addition, the bond shall:
  - A. Be in an amount at least equal to the cost estimates established in Section 16.06.
  - B. Provide that the surety will become liable under the bond obligations when the facility fails to perform as guaranteed by the bond.
  - C. Provide that surety may cancel the bond by sending notice of certified mail to the facility and to the County Board one hundred twenty (120) days in advance of the cancellation. If the surety cancels the bond, the facility must obtain alternate financial assurance or cease operations.
2. Insurance. A facility may demonstrate financial assurance by obtaining insurance which conforms to the requirements of this Section. The Insurance policy must be effective and a copy of the policy must be filed with the County Board before a feedlot/confinement permit is issued. At a minimum, the insured must be authorized to transact the business of insurance in Nebraska. The policy shall provide:
  - A. All funds will be available for any on-site or off-site cleanup resulting from the operation. The policy must also guarantee that once environmental cleanup has begun, the insurer will be responsible for the paying out of funds to the facility or persons authorized to conduct the cleanup in an amount equal to the face amount of the policy.
  - B. The policy must be issued for an amount at least equal to the cost estimate for financial assurance established pursuant to Section 16.06
  - C. The policy must contain a provision allowing assignment of the policy to a successor facility. Said assignment may be conditional upon consent of the insurer, provided that such consignment is not unreasonably refused.
  - D. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insurer with the option of renewal at the amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the feedlot/confinement operation and to the County Board one hundred twenty (120) days in advance of the cancellation. If the insurer cancels the policy, the facility must obtain alternate financial assurance or cease operation. If the feedlot/confinement can obtain equivalent insurance coverage at a lower premium rate through a different insurer, the feedlot/confinement may change insurers provided that the new insurance policy becomes effective on or before the date of expiration of their previous insurance coverage.

**SECTION 17. TOWER REGULATIONS, WIND GENERATION AND ZONING REGULATIONS**

Entirety of original Section 17 amended by Resolution No. 2009-24, "Exhibit A", on September 8, 2009.

Entirety of revised Section 17 amended by Resolution No. 2010-29, "Exhibit B," on August 2, 2010.

In any zoning district, a Conditional Use Permit is required to allow wind energy conversion systems, including such devices as wind charger or wind turbine; subject to the regulations established in this section.

**17.01. Small Wind Energy Systems less than 100 kW**

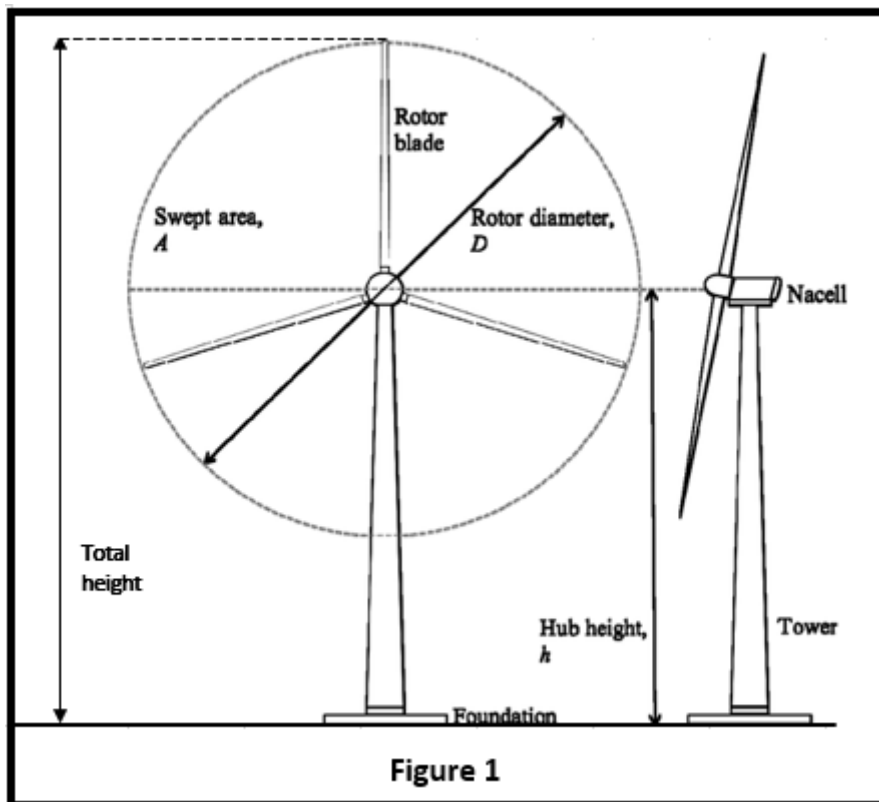
**17.01.1 Purpose**

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

**17.01.2 Definitions**

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

- A. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power.
- B. *Tower Height* shall mean the height above grade of the hub portion of the tower, excluding the rotor blades shown in Figure 1.
- C. *Total height* shall not exceed any existing height regulations in Cheyenne County Comprehensive Plan and Zoning Regulations.



*Section 17: Tower Regulations, Wind Generation, Meteorological and Communication*

**17.01.3 Requirements**

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

**17.01.4 Tower Height**

Tower height shall not exceed existing zoning regulation.

**17.01.5 Setback**

No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

**17.01.6 Noise**

- A. Small wind energy systems shall not exceed 60 dB, as measured at the closest property line.
- B. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

**17.01.7 Compliance with Zoning Codes**

- A. Applications for small wind energy systems shall be accomplished by standard drawing of the wind turbine structure, including the tower base, and footings.
- B. Wet stamps shall not be required.

**17.01.8 Compliance with FAA Regulations**

Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations within one (1) mile of any airport, public or private.

**17.01.9 Compliance with National Electrical Code**

Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installations conforms to the National Electrical Code.

**17.01.10 Utility Notification**

- A. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. The County Zoning Administrator must receive written notification from the utility company prior to a permit issuance.
- B. Off-grid systems shall be exempt from this requirement.

**17.01.11 Permit Fee**

Applicant(s) shall remit an application fee of \$100 per tower. Applicants failing to obtain permits prior to construction of installations will be required to remove or meet requirements at their own expense. A penalty fee of \$500 will be assessed for failure to obtain a permit prior to work.

**17.02. Commercial/Utility Grade Wind Energy Systems Greater than 100 kW**

**17.02.1 Purpose**

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

**17.02.2 Definitions**

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

## ***Section 17: Tower Regulations, Wind Generation, Meteorological and Communication***

- A. *Aggregate Project* shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
- B. *Commercial Wind Energy Conversion Systems (CWECS)* shall mean wind generating system of equal to greater than 100 kW in total name plate generating capacity.
- C. *Decommissioning* shall mean the complete removal of a wind generation tower and all supporting equipment and infrastructure to a minimum of 48 inches below grade.
- D. *FAA* is the Federal Aviation Administration.
- E. *Fail Radius* shall mean the furthest distance from the tower base, in which a tower will collapse. This radius is the total height of the structure.
- F. *FCC* is the Federal Communication Commission.
- G. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers association with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
- H. *Meteorological Tower* shall mean, for purposes of tis regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to setting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
- I. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades shown in Figure 1.
- J. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines.
- K. *Total Height* shall mean the highest point, above grade, reached by a rotor tip or any other part of the CWECS shown on Figure 1.
- L. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
- M. *Transmission Line* shall mean the electrical power lines used to carry electric energy over medium to long distances rather than directly interconnection and supplying electrical energy to retail customers.
- N. *USGS* is the United States Geological Survey.
- O. *Wind Energy Conversion System (WECS)* shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
- P. *Wind Turbines* shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to utilize the wind.
- Q. *Non-Participating Landowner(s)* shall mean any surface real property owner.

### **17.02.3 Permit Requirements**

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any zoning district where the use is listed and allowed. The following requirement and information shall be met and supplied with the application:

- A. The name(s) of project applicant.
- B. The name of the project owner.
- C. The legal description and address of the project.
- D. A description of the project 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.

**Section 17: Tower Regulations, Wind Generation, Meteorological and Communication**

- E. Site layout, including the location of property lines, residential structure, wind turbines, electrical grid, and all related accessory structure. This site layout shall include distances and be drawn to scale. Electrical grid shall include Feeder Lines and Transmission Lines.
- F. Certification by an Engineer competent in disciplines of CWECS.
- G. Documentation of land ownership or legal control of the property.
  
- H. The applicant shall supply the latitude, longitude, using NAD 83) and elevation of individual wind turbines. Elevation shall be measured to the tip of the blade at the highest arc. Applicant shall supply a map displaying the zoning setback.
- I. A USGS topographical map, or map with similar data, of the property and surrounding area with 1/2 mile of the proposed CWECS.
- J. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
- K. FAA written approval.
- L. Location of and evidence that there will be no interference with any commercial and/or public safety communication towers within two miles of the proposed CWECS.
- M. Decommissioning Plan per tower as required by this regulation.
- N. Description of potential impacts on nearby CWECS and wind resources on adjacent properties.
- O. Data pertaining to the machine's turbine safety and stability shall be filed with application. Such data shall include turbine safety and acceptance results from test conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.
- P. Applicant(s) shall remit an application fee of \$5,000 per tower in the proposed CWECS.
- Q. Applicants failing to obtain a Conditional Use Permit prior to construction or installation of any part of infrastructure, towers or project system will be required to remove or meet requirements at their own expense. A penalty fee of \$15,000 per turbine will be assessed for failure to obtain permits prior to work for each Turbine in the project.

**17.02.4 Roads**

Applicants shall:

- A. Identify all county, municipal or township roads to be used for the purpose of transporting CWECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- C. The applicant shall be responsible for restoring the road(s), bridges, and Right-of-Ways to preconstruction conditions. All county road improvements shall remain.
- D. The General Contractor shall be liable and responsible for all their sub-contractors.

**17.02.5 Aggregated Projects**

- A. Aggregated projects may jointly submit a single application to the Cheyenne County Planning and Zoning Commission and the Cheyenne County Board of Commissioners and be reviewed under joint proceedings, including notices, public hearing, reviews and as appropriate approvals.
- B. Permits shall be issued and recorded separately for each generation unit.
- C. Joint projects will be assessed fees as one project based on the total number of turbines.
- D. Setbacks to property lines (not road rights-of-way), may be less when adjoining property owners are within the same aggregate project.
- E. A site plan shall be provided for the permitting process showing the location of each proposed generation unit, feeder line, transmission line, and substation location in

## ***Section 17: Tower Regulations, Wind Generation, Meteorological and Communication***

relationship to residential structures, road right -of-ways, and all other generating units in the aggregated project.

- F. The applicant shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operations, unless adequate accessibility to the wind is provided on the site.
- G. Property tax shall be assessed on the aggregate total of MW/Yr. and shall be determined by the Assessor's Office, Cheyenne County.

### **17.02.6 Special Safety and Design Standards**

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

- A. No wind generation turbine shall be constructed within a radius of ten (10) miles from geographical center of the nearest municipal airport.
- B. Clearance of rotor blades or airfoils must maintain a minimum of twenty-five (25) feet from the lowest tip of the rotor to the ground.
- C. All commercial/utility CWECS 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.
- D. All wind turbines, which are a part of a commercial/utility CWECS, shall be installed with a tubular, monopole type tower.
- E. Consideration will be given to painted aviation warnings on all towers less than 200 feet. Color and finish: All wind turbines and towers that are part of a commercial/utility CWECS shall be matte white or grey in color. Blade finishes shall be matte of non-reflective.
- F. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during night-time illumination to reduce impacts on neighboring uses and migratory birds. When production is terminated, on any and all wind generation towers of the system, the FAA approved warning beacons shall continue to operate until the tower is removed. Red pulsating incandescent lights should be avoided.
- G. All signage shall comply with the sign regulation found in these regulations.
- H. All communications and feeder lines installed as part of a CWECS shall be buried. Feeder lines installed as part of a CWECS shall not be considered an essential service.
- I. Transmission lines shall not be installed in the County Road Right-of-Ways. Easements shall be obtained and approved by the Planning Commission and the Board of Commissioners.
- J. Solid and hazardous wastes, including but limited to crates packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site and disposed of in accordance with all applicable local, state and federal rules and regulation.
- K. A CWECS shall be considered a, "Discontinue Use", after one year without energy production, unless the owners develop and submit a written plan outlining the steps and schedule for returning the CWECS to service to the County Zoning Administrator. This period may be only extended by action of the County Board of Commissions.
- L. After discontinuation of energy production, all CWECS shall meet decommissioning section of this regulation within 180 days of discontinuation of use.

### **17.02.7 Interference**

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CWECS. The applicant shall notify all communication tower operators withing five (5) miles of the proposed CWECS location upon application to the county for a permit. Generator and transmission lines shall not cause interference with radio and television reception at an adjoining property.

### **17.02.8 Drainage System**

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

**Section 17: Tower Regulations, Wind Generation, Meteorological and Communication**

**Setbacks Table 1:** All towers shall adhere to the setbacks established in the following table:

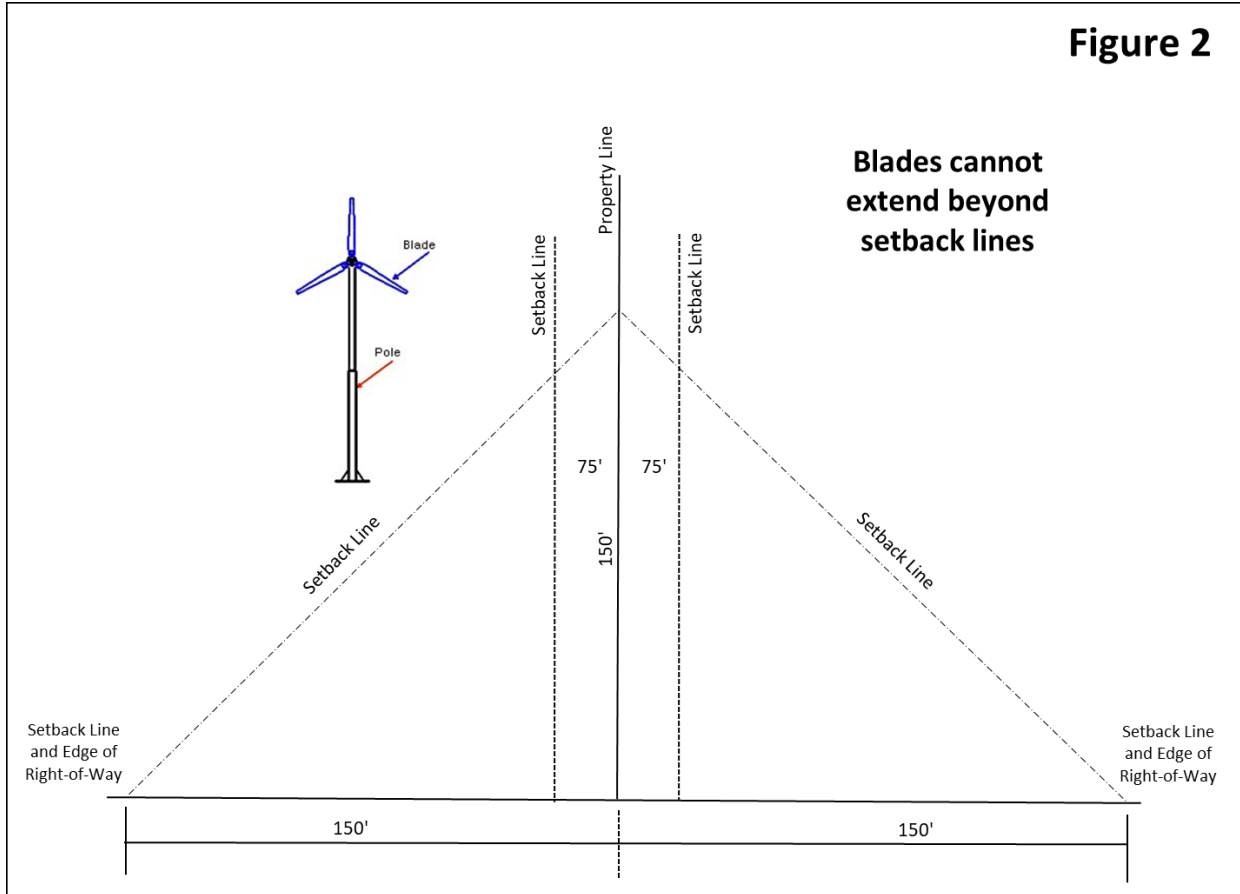
	<b>Wind Turbine Non-Commercial</b>	<b>CWECS Wind Turbine Commercial/Utility CWECS</b>	<b>Meteorological and Communications Towers</b>
Property Lines (other than right angle corners)	Diameter plus applicable building setback	Diameter plus applicable building setback	1.5 times the total height
Right angle corner property lines	Diameter plus applicable building setback from both property lines	Behind a line on the property lines drawn between two point 150' 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. <b>See Figure 2</b>	1.5 time the total height from both property lines
Road Right-of-Ways**	Diameter plus applicable building setback	1.5 times the total height	1.5 times the total height plus applicable building setback
Other Right-of-Ways	1 times the height plus applicable building setback	1.5 times the total height	1.5 times the total height plus applicable building setback
Neighboring Dwelling Units	1 times the height plus applicable building setback	1.5 times the total height plus applicable building setback	1.5 times the total height plus applicable building setback
Other structures not on the applicant's site	NA	1.5 times the total height	1.5 times the total height

The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a Commercial/Utility CWECS.

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



Figure 2



**17.02.9. Noise and Shadow Flicker**

- A. No Commercial/Utility CWECS shall exceed 60 dB at the nearest property line.  
**Exception:** A Commercial/Utility CWECS may exceed 60 dB during periods of severe weather as defined by the US weather Service or during shut down or restart for normal maintenance.
- B. Shadow flicker at any occupied building on a non-participating landowner’s property caused by the blades from the generator located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.
- C. Noise and/or shadow flicker provisions may be waived if the following conditions are met:
  - i. Property owners may waive the noise and/or shadow flicker provisions of this regulation by signing a waiver of their rights.
  - ii. The written waiver shall notify applicable property owner(s) of the noise and/or flicker limits required by this regulation, described how the Wind Energy Facility is not in compliance, and state that consent is granted for the Wind Energy Facility to waive noise and/or flicker limits as required by this regulation.
  - iii. Any such waiver shall be signed by the applicant and the Non-Participating Landowner(s), and recorded in the County Clerk’s Office.

**17.02.10 Decommissioning**

- A. The Wind Energy facility Owner shall have six (6) months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
- B. Decommissioning shall include removal of wind turbines, building, cabling, electrical components, roads and any other associated facilities down to 48 inches below grade.

***Section 17: Tower Regulations, Wind Generation, Meteorological and Communication***

- C. Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface area not be restored.
- D. The contract between the landowner and the WECS shall identify the financial resources that will be available to pay for decommissioning as stated in B.
- E. Road removal shall be done only by the request of the land owner or County Department of Roads Superintendent.

**17.03 Meteorological Towers**

**17.03.1 General Requirements**

- A. Applicant(s) shall obtain a Conditional Use Permit for all Meteorological Towers.
- B. All applications for a Conditional Use Permit for a Meteorological Tower shall contain the following items:
  - i. A vicinity map showing all permanent structures, roads, and utility lines within a two-mile radius of the proposed tower.
  - ii. Written evidence that the Meteorological Tower meets the requirements listed in Section 17.03.2.
  - iii. All Meteorological Towers must meet the setback requirements on the Setback Table 1.
- C. Applicant(s) shall pay a permit fee of \$1,000 per tower.
- D. Owner shall follow decommissioning requirements of Section 17.02.10.

**17.03.2 Safety**

Meteorological Towers in excess of 50 feet shall meet the following safety requirements:

- A. The top one-third must be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower.
- B. Two marker balls must be attached to and evenly spaced on each of the outside guy wires.
- C. The area surrounding each point where a guy wire is anchored to the ground must have a contrasting appearance with any surrounding vegetation.
- D. One or more seven-foot safety sleeves must be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.
- E. Owners of pre-existing towers will have one (1) year from the approval date of this regulation to comply with marking regulations (B to D) of this section.

**17.04 Communications Towers**

**17.04.1 General Standards**

The following minimum standards shall apply to all communications towers when seeking a Conditional Use Permit:

- A. The height of a communications tower shall not exceed the distance between the base of a tower and any permanent structure, utility line or road.
- B. Communications towers shall not be constructed unless evidence is demonstrated that the communications transmitter(s) in question cannot be practically located on either an existing structure or an existing communications tower.
- C. All new communication towers shall be constructed in a manner that will allow such tower to accommodate at least three additional communications transmitters.
- D. Communications towers shall not contain transmitters which interfere with commercial or residential radio or television signals.
- E. All communications towers must comply with FAA regulations.
- F. Applicant(s) shall pay a permit fee of \$1,000 per tower.

*Section 17: Tower Regulations, Wind Generation, Meteorological and Communication*

**17.04.2 Application Requirements**

All applications for a Conditional Use permit for a communications tower shall contain the following items:

- A. A vicinity map showing all permanent structures, roads, and utility lines within a two-mile radius of the proposed tower.
- B. Written evidence that the communications tower meets the requirements listed in Section 17.04.1.

**SECTION 18. MINING REGULATIONS**

**18.01. General Standards:** The following minimum standards shall apply to all approved open pit mining operations:

- A. The operator shall maintain haulage roads in a reasonably dust free condition if within 1/4 mile of a previously established residential subdivision.
- B. The hours of operation shall be limited to a period between 6:00 a.m. and 10:00 p.m. if the operation is located within one-fourth mile of a previously established subdivision.
- C. Excavations shall not occur nearer than 10 feet from any property line, nor nearer than 150 feet from any residence, unless written consent of the owner of the residence or property is provided to the Planning Commission. Excavation shall occur not nearer than 25 feet from any public road.
- D. The slopes of any excavation shall not exceed 2 feet horizontal to one-foot vertical slope.
- E. A reclamation plan shall be submitted with the conditional use request. This plan shall include the following:
  1. Use of area excavation.
  2. Methods and type of vegetation proposed.
  3. Description of final grading concept which will remove rough contours, smoothing ridges, mounds, etc., into a more natural condition.
  4. Any other plans or description which will further define the operator's intent to reclaim the site.
  5. A reclamation staging program.
- F. A bond may be required by the County as a condition of approval to ensure full compliance with conditions of reclamation.

**SECTION 19. NON-CONFORMING USES**

**19.01. General:** There are three types of nonconforming uses:

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

**19.02. Nonconforming Lots of Record:** The Zoning Administrator may issue a building permit for a nonconforming lot of record provided that:

1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations.
2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations.
3. The lot can meet all yard regulations for the district in which it is located.

**19.03. Nonconforming Structures:**

1. Authority to Continue: Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
2. Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired or remodeled, provided, however, that no enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof.
3. Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than forty (40) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of forty (40) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six (6) months and restoration is actually begun one year after the date of the partial destruction and is diligently pursued to completion.
4. 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.

**19.04. Nonconforming Uses:**

1. Authority to Continue: Any lawfully existing use of part or all of a structure or any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with these requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
2. Ordinary Repair and Maintenance:
  - A. Normal maintenance and incidental repair or replacement, installation or relocation of non-

**Section 19: Non-conforming Uses**

bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

- B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.
3. Extension: A nonconforming use shall not be extended, expanded, enlarged or increased either in land area or floor area without first having received a Conditional Use Permit.
  4. 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 the use shall then conform to the regulations of district in which it is located unless first having received a Conditional Use Permit.
  5. 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, to the extent of more than forty (40) percent of its replacement value, the structure shall not be restored unless the structure and its use shall then conform to all regulations of the zoning district in which it is located. When the damage or destruction is forty (40) percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of the partial destruction and is diligently pursued to completion.
  6. Moving: No structure that is devoted in whole or in part to a nonconforming use and no 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 its use and the use of the land shall then conform to all regulations of the zoning district in which it is located after being so moved. Manufactured homes and mobile homes may be replaced on an existing utility hookup outside a manufactured home park.
  7. 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 premises may be changed to another nonconforming use, provided that the County Board, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting a change, the County Board, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.
  8. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed, and any later use or occupancy of the land or buildings shall comply with the regulations of the zoning district in which the land or buildings are located.
  9. Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.
  10. Nonconforming Residential Uses: Notwithstanding the provisions of Section 9, any structure which is devoted to a residential use and which is located in a "CB" District may be remodeled, expanded or enlarged. The structure shall not be used to accommodate a greater number of dwelling or lodging units than the structure accommodated prior to the work.
  11. Change of Ownership: A nonconforming use may be continued, but not increased, by a new owner of such property.

**SECTION 20. CONDITIONAL USES:**

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

- A. The Cheyenne County Commissioners may approve the establishment of a conditional use by granting a Conditional Use Permit. All requests for a Conditional Use Permit shall be reviewed by the Cheyenne County Planning Commission. The Planning Commission recommendation shall be forwarded to and considered by the County Board.
- B. Any person filing an application for a Conditional Use Permit shall comply with the County procedures and regulations as set forth herein. Any expansion or enlargement of a Conditional Use shall be treated as a new use and shall require a new application under the provisions of this section.
- C. Ordinary repairs and maintenance may be performed upon structures associated with a Conditional Use so long as such repairs and maintenance do not have the effect of expanding or enlarging the use.
- D. If the Conditional use has not commenced from the date of approval or is discontinued for a period of three (3) consecutive years it shall be presumed inactive. Cheyenne County shall initiate an administrative hearing to consider whether to grant an extension of time to commence the use or revoke the Conditional Use. If the Conditional Use is revoked, it shall be necessary to follow the procedures and requirements of this Section in order to re-establish any Conditional Use.

**20.02. Application requirements for a Conditional Use Permit:** The following supporting documents shall be submitted as part of the application.

1. The following general information shall be submitted:
  - A. Name, address, and telephone number of the applicants.
  - B. Name, address, and authorization of the owner of the property proposed for the conditional use if different from above.
  - C. Legal description of the property under consideration.
  - D. Total acreage of the parcel under consideration.
  - E. Existing land use of the parcel under consideration.
  - F. Existing land uses of all the properties adjacent to said property.
  - G. Signatures of the applicant and fee owners or their authorized legal agent.
  - H. A list of the names, addresses and the corresponding Parcel Identification Number assigned by the Cheyenne County Assessor of the surface owners of the property within five hundred (500) feet of the property subject to the applicant. The source of such records shall be the records the Cheyenne County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Cheyenne County Clerk. If the list was assembled from the records of the County Assessor, the applicant shall certify that such list was assembled thirty (30) days of the application submission date.

**Section 20.02.1.H amended by Resolution No. 2015-32 on September 21, 2015.**

2. A detailed description of the proposed operation and use shall be supplied. Details for the following items, when applicable, are required:
  - A. Type of use for which the application is being made.
  - B. Proximity of the proposed use to residential structures.
  - C. The number of shifts to be worked and the maximum number of employees, if applicable.
  - D. The maximum number of users, patrons, members, buyers, or other visitors that the Conditional Use facility is designed to accommodate at any one time.
  - E. Types and numbers of animals to concentrated on the site at any one time, if applicable.
  - F. Types and numbers of operating and processing equipment to be utilized, if applicable.
  - G. Type, number, and uses of the proposed structures to be erected.
  - H. Type, size, weight, and frequency of vehicular traffic and access routes that will be utilized.
  - I. Domestic sewage facilities.

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- J. Size of stockpile, storage, or waste areas to be utilized.
  - K. Method and time schedule of removal or disposal of debris, junk, and other wastes associated with the proposed use.
  - L. A time table showing the periods of time required for the construction of the operation.
  - M. Proposed landscaping plans.
  - N. A statement delineating the need for the proposed use.
  - O. A description of the proposed fire protection measures.
  - P. Such additional information as may be required by the Planning Commission or County Commissioners in order to determine that the application meets the requirements of this Resolution and the policies of the Cheyenne County Comprehensive Development Plan.
3. The applicant shall submit the following statements:
- A. A statement explaining that the proposal is consistent with the Cheyenne County Comprehensive Plan.
  - B. A statement which explains that the proposal is consistent with the intent of the district in which the use is located.
  - C. A statement which explains that the uses which would be permitted will be compatible with the existing surrounding land uses.
  - D. A statement which explains that the uses which would be permitted will be compatible with the future development of the surrounding area as permitted by the existing zone and with future development as projected by the comprehensive plan.
  - E. A statement which explains that if the use is proposed to be located in an agricultural district, that the applicant has demonstrated a diligent effort has been made to conserve productive agricultural land in the locational decision for the proposed use.
  - F. A statement which explains that there is adequate provision for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and the county.
4. A vicinity map must be submitted containing the following specifications:
- A. Have a suitable scale approved by the zoning administrator.
  - B. The vicinity map shall delineate all of the required information within a one-half mile radius of the property proposed or a conditional use.
  - C. The following information shall be shown on the vicinity map:
    - 1. Section, township, and range.
    - 2. Scale and north arrow.
    - 3. Outline of the perimeter of the parcel proposed for the conditional use.
    - 4. The general classifications and distribution of soils over the parcel under consideration. Soil classification names and agricultural capability classifications must be noted in the legend.
    - 5. Location and names of all roads, irrigation ditches, and water features.
    - 6. Location of all residences within a 1/2 mile radius, existing and proposed accesses to the property proposed for the conditional use, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.
5. A plot plan of the conditional use area shall be drawn to the following specifications:
- A. The scale of the plot plan at a suitable scale approved by the Zoning Administrator.
  - B. The plot plan should outline the boundaries of the parcel of land.
  - C. The plot plan shall identify and locate all of the following items within the boundaries of the parcel and those items within 200' of the parcel:
    - 1. All public rights-of-way.
    - 2. All existing and proposed structures.
    - 3. All utility easements or rights-of-way for telephone, gas, electric, water, and sewer.
    - 4. Irrigation ditches.
    - 5. Adjacent property lines and respective owners' names if not shown on vicinity map.
    - 6. All hydrographic features including streams, rivers, ponds, and reservoirs (named)
    - 7. Location of all moderate or severe soil limitations.
    - 8. Location and design of storm water management devices or structures.
    - 9. Location, amount, size and type of any proposed landscaping, fencing, walls, berms, or other screening.



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10. Such additional information as may be reasonably required by the Planning Commission or County Board.

**20.03. Duties of the Zoning Administrator:** The Zoning Administrator shall be responsible for processing all applications for Conditional Use Permits in the unincorporated area of Cheyenne County. The Zoning Administrator shall also have the responsibility of ensuring that all application submittal requirements are met prior to initiating any official action. Upon receipt of filing fee and determination that the application submittal is complete, the Zoning Administrator shall:

1. Set a Planning Commission hearing date not more than forty-five (45) days after the complete application has been submitted along with the application fee.
2. Give notice of the application for a Conditional Use Permit and the public hearing date to those persons listed in the application as surface owners of property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such a list or the Zoning Administrator in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
3. Post a sign for the applicant on the property under consideration for Conditional Use Permit. The sign shall be posted adjacent and visible from a publicly maintained road right-of-way. In the event the property under consideration is not adjacent to a publicly maintained road right-of-way, one sign shall be placed at the most prominent point place on the property and a second sign posted at the point at which the access drive intersects a publicly maintained road right-of-way. The sign shall be posted at least ten (10) days prior to the hearing and shall contain the following information:
  - A. Date and place of public hearing.
  - B. Location and phone number of the public office where additional information may be obtained.
  - C. Applicant's name.
  - D. Size of parcel of land.
  - E. Type of request.
4. Arrange for the legal notice of said hearing to be published in the newspaper designated by the County Board for publication of notices. At the Discretion of the County Board, a second notice may be published in a newspaper which is published in the area in which the Conditional Use is proposed. Failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
5. Refer the application to the following agencies, when applicable, for their review and comment. The agencies named shall respond within fourteen (14) days after the mailing of the application by the County. The failure of an agency to respond within fourteen (14) days may be deemed to be a favorable response to the Planning Commission. The reviews and comments solicited by Cheyenne County are intended to provide the County with information about the proposed Conditional Use. The Planning Commission and County Board may consider all such views and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by a referral agency are recommendations to the county. The authority and responsibility for making the decision to approve or deny the request for a Conditional Use Permit rests with the Officials of Cheyenne County.
  - A. The Planning Commission or Governing Body of any town or county whose boundaries are within a three (3) mile radius of the parcel under consideration.
  - B. Any irrigation ditch company with facilities on or adjacent to the parcel under consideration.
  - C. The South Platte Natural Resource District (if applicable)
  - D. Nebraska Department of Health
  - E. Nebraska Department of Environment Quality
  - F. Nebraska Department of Game and Parks
  - G. Nebraska Historical Society
  - H. Nebraska Department of Roads
  - I. U.S. Soil Conservation Service
  - J. U.S. Forest Service
  - K. U.S. Bureau of Land Management

- L. Any other agencies or individuals whose review the Zoning Administrator(s), the Planning Commission, or the County Board deems necessary.

6. Prepare a report outlining findings and recommendations which will assist the Planning Commission in making a decision in the matter. The report shall be referred to the Planning Commission and the applicant at least three days prior to the scheduled hearing date.

**20.04. Duties of the Planning Commission:** The Planning Commission shall hold a hearing to consider the application for the Conditional Use Permit. The Planning Commission shall provide recommendations to the County Board of Commissioners concerning the disposition of the requested Conditional Use Permit. The Planning Commission shall approve the request for the Conditional Use Permit only if it finds that the applicant has met the standards or conditions of Section 20.04, Section 20.06 and Section 20.07. The applicant has the burden of proof that the standards and conditions of Section 20.04, Section 20.06 and Section 20.07 are met.

1. The applicant shall demonstrate the following:

- A. That the proposal is consistent with the Cheyenne County Comprehensive Plan
- B. That the proposal is consistent with the intent of the district in which the use is located.
- C. That the use which would be permitted will be compatible with the existing surrounding uses
- D. That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
- E. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district, if applicable.
- F. That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
  - 1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
  - 2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
  - 3. A service district or other means are established to maintain and operate any public facilities created in the area.
  - 4. Environmental constraints are applied to control erosion and sewage affluent.
  - 5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
  - 6. The development is not disruptive to existing agricultural activities.
  - 7. It is demonstrated that there is a recognized need for such development at this site.
  - 8. The development is secure from fire, floods and other dangers.

2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record, which includes the case file, to the Clerk of the Board of County Commissioners. within ten (10) days after said recommendation has been made.

3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for the hearing by the County Board of Commissioners, then the ten (10) day period shall commence upon submission of the items by the applicant to the Zoning Administrator.

**20.05. Duties of County Board of Commissioners:** The Board of County Commissioners duties:

1. The County Board shall set a Board of County Commissioners public hearing to take place not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed Conditional Use Permit.

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2. Arrange for a legal notice of said hearing to be published in the newspaper designated by the County Board for publication notices. At the discretion of the Board of County Commissioners, a second notice may be published in a newspaper which is published in the area in which the Conditional use is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
3. Give notice of the application for a Conditional Use Permit and the public hearing date to those persons listed in the application as surface owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of surrounding property owner to receive such information.
4. Arrange for the Zoning Administrator to post a sign on the property under consideration for a Conditional Use permit according to the requirements of Section 20.02.-4
5. The County Board shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed Conditional Use, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing, and the information contained in the official record which includes the case file. The County Board shall approve the request for a Conditional Use only if it finds that the applicant has met the standards or conditions of Sections 20.05, 20.06, and 20.07. The applicant has the burden of proof to show that the standards of Sections 20.05, 20.06, and 20.07 are met. The applicant shall demonstrate:
  - A. That the proposal is consistent with the Cheyenne County Comprehensive Plan
  - B. That the proposal is consistent with the intent of the district in which the use is located.
  - C. That the use which would be permitted will be compatible with the existing surrounding uses
  - D. That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
  - E. That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
    1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
    2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
    3. A service district or other means are established to maintain and operate any public facilities created in the area.
    4. Environmental constraints are applied to control erosion and sewage affluent.
    5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
    6. The development is not disruptive to existing agricultural activities.
    7. It is demonstrated that there is a recognized need for such development.
    8. The development is secure from fire, floods and other dangers.
7. Where reasonable methods or techniques are available to mitigate any negative impacts which would be generated by the proposed use upon the surrounding area, the County Board may condition the decision to approve the Conditional Use upon implementation of such methods or techniques and may require sufficient performance guarantees to be posted with the County to guarantee such implementation.
8. Upon the County Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the Clerk to the Board.
9. If the Conditional Use Permit is approved, the County Board shall arrange for the Zoning Administrator to record the Conditional Use Permit in the office of the Cheyenne County Clerk.

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**20.06. Design Standards for Conditional Use Permit:** An applicant for a Conditional use Permit shall demonstrate compliance with the following design standards in the application and shall continue to meet these standards if approved for development:

1. Adequate water service in terms of quality, quantity, and dependability is available to the site to serve the uses permitted.
2. Adequate sewer service is available to the site to serve the uses permitted.
3. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated how much limitations can and will be mitigated.
4. Adequate fire protection measures are available on the site for structures and facilities permitted.
5. The use shall comply with all offset and setback requirements of the zoning district.
6. Uses by Conditional Use in the A Districts shall be located on the least productive soils on the property in question unless the applicant can demonstrate why such a location would be impractical or infeasible.

**20.07. Operation Standards for Conditional Uses:** An applicant for a Conditional use Permit shall demonstrate conformance with the following operation standards in the Conditional Use Permit application:

1. Neither direct or reflected light from any light source may create traffic hazards on public or private streets, no colored lights may be used which may be confused with traffic lights.
2. Property shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than twelve (12) inches. In no event shall the owner allow the growth of noxious weeds.

**SECTION 21. PLANNED UNIT DEVELOPMENTS “PUDs”**

**21.01. Intent:** It is the intent of this Section to augment normal zoning requirements by achieving the following:

- A. To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings.
- B. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economics may ensure to the benefit of those who need homes.
- C. To lessen the burden of traffic on streets and highways.
- D. To encourage the building of new neighborhoods incorporating the best features of modern design.
- E. To conserve the value of land.
- F. To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site’s natural characteristics.
- G. To encourage integrated planning in order to achieve the above purposes and in order to achieve the objectives of the Cheyenne County Comprehensive Plan.

**21.02. Procedures:**

1. All requests for Planned Unit Developments shall be processed under the procedures of Section 20 Conditional Uses. In addition to the information required therein, additional plans and details should be provided as needed to describe the project. The Planning Commission, if deemed necessary, can require additional information if needed to properly evaluate the proposed request.
2. If desired, the applicant may, prior to submitting complete plans, submit a general plan for the subject site. This general plan will define location and density of land use, access, and other schematic concepts to provide a general concept of the project. This general or master plan shall be submitted to the Planning Commission for review and comment only. No official action is taken, the review is for information purposes only.
3. The final plan and development standards, after approval by the County, shall be recorded in the County Clerk’s and Recorder’s office. Thereafter, all permits issued for development shall substantially conform to the approved recorded PUD plans. Deviations from the recorded plats can only occur after reapplication, following the same procedures for new applications.
4. In those instances where land is also intended to be sold, the requirements of the County Subdivision regulations shall also be met. To the extent logical, PUD plans and subdivision plans can be processed simultaneously.

**21.03. Standards:** Since it is the stated intent of the PUD to encourage variety, development standards shall be kept to a minimum. It is felt, however, that standards for open space and density must be defined to preserve the concepts of the comprehensive plan. The following standards and conditions shall apply to all PUD plans:

1. Public open spaces shall be dedicated, reserved for future use, or developed as a private park based on the following formula:  $(\text{Gross Density} \times 2) + 5 + \%$  of public open space required. (Example: 10 units per acre gross density  $\times 2 + 5 + 25$  or 25% public open space required). This public open space shall be used for public recreation and open space purposes only. This may include up to 50% of a school site. This public open space may also be placed in a recreation district. In lieu of dedication of land as set forth hereinabove, the County Commissioners may decide to implement one or a combination of the following policies:
  - A. The County Commissioners may determine that the PUD applicant shall pay to the County in cash an amount based upon the average market value of the PUD property and based upon the average market value of the PUD property and based upon the formula as set forth

**Section 21: Planned Unit Developments “PUDs”**

hereinabove. The fee shall be negotiated with the applicant and if the County and the applicant fail to agree on the value of the land, such value shall be fixed by a real estate appraisal by two qualified appraisers who are acceptable to both the applicant and the County. If appraisers are required to satisfy negotiations, the cost of said appraisals shall be the applicant’s responsibility.

- B. In lieu of dedicating land within the proposed PUD site, the applicant may dedicate an alternate parcel of land, consisting of the same number of acres which would be required to be dedicated from the proposed PUD site based upon the above formula, in another area to which he has title which, in the sole and exclusive opinion of the County Commissioners.
2. In determining which of the above policies to implement, the Planning Commission and the County Commissioners shall consider the following:
- A. The size of the proposed PUD development and its adequacy for accommodating a public use site.
  - B. The public facility aspects of the County Comprehensive Plan and the applicable school district’s master plan.
  - C. The existing parks and other public uses in the area.
  - D. The topography, geology, and location of land within the proposed PUD site available for public dedication.
  - E. The needs of the people in the area and any other appropriate factors.
3. Common private open space shall also occur in PUD area at a rate not less than forty percent (40%) of the total size. Up to fifteen percent (15%) of the forty percent (40%) requirement may be in private open space.
- A. Common private open space as required herein is shared jointly with all PUD residents and is used for recreation or visual open space relief but is not used by the general public and is considered to be that portion of the site not developed as public (dedicated) open space, building pads, storage areas, driveways, and parking areas. The twenty five percent (25%) common private open space requirement shall not apply to areas developed with single family detached homes where the minimum lot size is 7,000 sq feet.
  - B. Private open space as required herein is outdoor space deeded to an individual resident of the PUD which may be used for personal recreation space, visual relief, or for similar purposes by the owner of said space.
4. The applicant shall provide for and establish an organization for the ownership and maintenance of any common open space, or show that other adequate arrangements for the ownership and maintenance thereof be made. Regardless, approval of the organizational concept shall be part of the approved PUD plan.
5. To encourage development of private common area in a manner usable by adjacent residents, the following incentives shall be applicable:
- A. Recreation Building: Each (1) square foot of building ground coverage is counted as two (2) square feet of required open space.
  - B. Enclosed Swimming Pool: Each (1) square foot of building ground coverage is counted as two (2) square feet of required open space.
  - C. Open Swimming Pool: Each (1) square foot of water surface is counted as one and a half (1.5) square feet of required open space.
  - D. Tennis Court: Each (1) square foot of court is counted as one and a quarter (1.25) square feet of required open space.
  - E. Putting Greens: Each (1) square foot of putting green is counted as one and a quarter (1.25) square feet of required open space.
  - F. Play Equipment: Each (1) square foot of designated play area or equipment is counted as one and a quarter (1.25) square feet of required open space.
6. To encourage use of the PUD concepts, and to recognize the fact that good residential planning can effectively accommodate more people, densities may be increased in approved PUD’s over the density permitted outright in each zone as follows:

	<b>Permitted by Right</b>	<b>Permitted by PUD</b>
A	0.2 unit per acre	0.3 unit per acre
RE	0.9 units per acre	1.1 units per acre
RL	4 units per acre	4.5 units per acre

***Section 21: Planned Unit Developments “PUDs”***

7. If approved by the County, a residential PUD may include all forms of housing (single-family, farm house, mobile, multi-family, etc.). The design, however, shall protect the welfare of existing and future residents within and adjacent to the project.

**SECTION 22. SUBDIVISION REGULATIONS**

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

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

**22.03. Definitions.** For the purposes of Section 22, a subdivision shall be defined as: The separation in any manner of a parcel or tract of land into two or more lots for the purpose of either immediate or future transfer of ownership or of building or commercial land development. (Division of 40 or more acres in the A zoning district for agricultural purposes is exempt from this definition.) The definition includes resubdivision and shall relate to the process of subdividing or to the land subdivided. For the purpose of recording any separation of land, a plat of such division shall be submitted for approval in accordance with Section 22.04.

Transfer of a lot or parcel by will, intestate succession or court ordered partition is to be excluded from the provisions of this section. A plat must show the signature of the County Board Chairman before it can be recorded.

For the purposes of Section 22, a subdivider or developer shall be defined as: Any person, firm, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sales or lease of a subdivision.

**22.04. Applicability:**

1. Each separate principal use building within the planning area of the County shall be situated on a separate and single subdivided lot of record.
2. No subdivision of land shall be permitted within the County Planning Area unless a plat is approved in accordance with the provisions of these Regulations.
3. These Regulations shall apply not only to subdivision as herein set forth but shall also apply, insofar as payment of costs for improvement of subdivision is concerned, to those subdivisions, or parts thereof, already platted and approved, which are undeveloped, wholly or partially.
4. These regulations shall not apply to subdivision of burial lots in cemeteries.
5. These regulations shall not apply to a division of land for agricultural purposes into lots or parcels of five (5) acres or more and not involving a new street.

**22.05. Procedure:** Any person, partnership, or corporation intending to subdivide land within Cheyenne County's planning jurisdiction shall submit plans and plats as required by and specified by this Resolution to the Planning Commission and the County Board for review and approval. There are six steps in the subdivision process:

1. Pre-Application Procedure:
  - A. Before filing a preliminary plat, the subdivider shall consult with the Planning Commission or its staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographical survey map shall be



**Section 22: Subdivision Regulations**

submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterioles and existing community facilities.

- B. The Planning Commission or its staff shall inform the subdivider of the requirements pertaining to the proposed subdivision as such requirements are established by these Regulations.
- C. The pre-application procedure does not require formal application, fee, or filing of plat with the Planning Commission.

2. Change of zone: The subdivider should apply for a change of zone as outlined in Section 24.

3. Preliminary Plat Plan:

- A. The subdivider shall submit to the zoning administrator five (5) copies of the preliminary plat and supplemental material specified with written application for conditional approval. Twelve (12) copies are needed if plat is larger than 11" x 17." Said complete submittal shall occur at least 21 days prior to the regular meeting of the Planning Commission at which the request will be heard.
- B. A plat review fee shall accompany the application for conditional approval at \$20.00 per subdivision, plus \$5.00 per each lot.
- C. A preliminary plat plan shall be submitted with the following information:
  - 1. A copy of a title commitment issued by a title insurance company
  - 2. A certificate from the County Treasurer showing no delinquent taxes for the preliminary plan area.
  - 3. A description of the types of uses proposed for the subdivision.
  - 4. A summary explaining how the developer will address any problems or concerns that were identified in the pre-application.
  - 5. The total number of lots proposed.
  - 6. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bikepaths, or trails.
  - 7. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.
  - 8. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.
  - 9. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
  - 10. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
  - 11. The proposed method of financing with an estimate of the infrastructure construction costs related to the proposed subdivision. Cost estimates shall include, but not limited to the following:
    - A. Streets and related facilities.
    - B. Water distribution systems.
    - C. Storm drainage facilities.
    - D. Sewage collection systems.
    - E. Other utilities and infrastructure as may be required.
  - 12. A list of all public utilities and water service providers located within five hundred feet (500') of the proposed subdivision
  - 13. A list of any covenants, grants of easements, and restrictions imposed upon any land, buildings, and structures within the proposed subdivision.
  - 14. A list of the names, addresses, and the corresponding parcel identification numbers assigned by the Cheyenne County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.

**Section 22.05(3)(B) amended February 2011 and (C)(14) amended by Resolution 2015-32 on September 21, 2015.**

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- D. A preliminary plan vicinity map shall be submitted showing the following:
    - 1. The perimeter outline of the proposed subdivision. The location of all existing and proposed accesses to the proposed subdivision.
    - 2. The location and name of all roads and highways within five hundred feet (500') of the perimeter of the proposed subdivision.
    - 3. The perimeter outline and identification of subdivisions, zone districts, and any special districts within five hundred feet (500') of the perimeter of the proposed subdivision.
  - E. A preliminary plat shall be submitted at a scale of 1"=200' showing the following:
    - 1. North arrow, subdivision name, total acreage, and legal description of the proposed subdivision.
    - 2. The location of tree clusters (need not show location of all trees)
    - 3. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
    - 4. The street layout for the subdivision. All streets shall be named and shall conform to the E911 numbering system.
    - 5. The layout of future streets adjacent to the subdivision shall be shown as a dashed line.
    - 6. Topographical contour lines showing elevations two (2) foot intervals (or five (5) foot intervals at 1"=200' scale).
    - 7. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
    - 8. A utility service statement block shall appear on the preliminary plan plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
      - A. The name of the utility company.
      - B. A dated signature and statement from the representative of the utility company indicating one of the following:
        - 1. Service is available.
        - 2. Service is available subject to the following specific conditions.
        - 3. Service is not available for the subdivision.
    - 9. A drainage report.
  - F. The subdivider shall indicate by letter when improvements as required will be provided. Any proposed restrictive covenants for the land shall accompany the letter.
4. Preliminary Plan Approval:
- A. At least ten days prior to the Planning Commission meeting at which the Preliminary Plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the school board of each school district which the proposed development affects, and shall notify the school board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.
  - B. After review of the Preliminary Plat and negotiations with the subdivider, the Planning Commission shall reject or conditionally approve the Preliminary Plat within 40 days after the official meeting at which the Plat was considered.
  - C. The action of the Planning Commission shall be noted on three copies of the Preliminary Plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider, one copy to the County Commissioners and copy to be retained by the Planning Commission.
  - D. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval or conditional approval of the submitted Plats a guide for the preparation of the Final plat, which will be subject to further consideration by the Planning Commission and County Commissioners. Any approval of the Preliminary Plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.

**Section 22: Subdivision Regulations**

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

- A. A preliminary plat plan shall be submitted with the following information:
  - 1. A copy of a title commitment issued by a title insurance company.
  - 2. A description of the type of uses proposed for the subdivision.
  - 3. A summary explaining how the developer will address any problems or concerns that were identified in the preliminary plat plan.
  - 4. The total number of lots proposed.
  - 5. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bikepaths, or trails.
  - 6. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.
  - 7. A statement indicating if on-street parking will be permitted within the proposed subdivision.
  - 8. If the applicant is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent from the appropriate public agency stating it will accept the lands to be dedicated.
  - 9. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.
  - 10. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
  - 11. A copy of a contract or some tangible guarantee providing for a common water supply if water is required to be supplied by a water district, municipality, or other.
  - 12. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
  - 13. A list of any covenants, grants of easement, and restrictions imposed upon any land, buildings and structures within the proposed subdivision.
  - 14. A copy of a Nebraska Department of Roads access permit if a new street intersects with a state highway.
  - 15. Proof of an existing easement or dedicated right-of-way when it is contiguous to an easement or right-of-way of the proposed subdivision.
  - 16. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Cheyenne County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.
- B. A final plat map shall be submitted at a scale of 1" = 100' showing the listed requirements:
  - 1. The plat shall be delineated in black ink on tracing cloth, mylar, or similar material.
  - 2. The final plat shall contain the original signatures and seals of all parties required.
  - 3. North arrow, subdivision name, total acreage, date, total acreage, total number of lots, name and address of the owner(s) of record, legal description of the proposed subdivision, and scale.
  - 4. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.



**Section 22: Subdivision Regulations**

C. Certificate of Approval by the County Board:

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

Witness my hand and the corporate seal of Cheyenne County,  
Nebraska  
this \_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_

\_\_\_\_\_  
Chairman, Cheyenne County Board of Commissioners, Nebraska

ATTEST:

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Cheyenne County Clerk

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

C. Protective covenants in form for recording.

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

**22.06. Natural Resource Regulations:** Each request and application for a subdivision in Cheyenne County may be accompanied by a Resource Conservation Plan prepared by the South Platte Natural Resource District, recommending measures needed to control erosion, flooding, and the reduction of sedimentation according to minimum standards and specifications of the South Platte Natural Resources District.

The Cheyenne County Planning Commission and the Cheyenne County Commissioners shall find and determine the ultimate Resource Conservation Plan that shall be implemented and provide for the terms of such development.

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

1. General Guidelines:

- A. Subdivision design shall conform to standards of the Comprehensive Plan and to the County zoning regulations.
- B. Each lot in a subdivision shall abut a public street unless otherwise recommend by the Planning Commission and on exception approved by the County Commissioners.
- C. All subdivision designs shall indicate that consideration was given for economic aspects of maintenance of safe, convenient, comfortable and attractive community facilities.
- D. After the effective date of these regulations, no newly subdivided lot shall have access to an arterial street as such street is indicated in the Comprehensive Plan.

2. Streets:

- A. Right-of-way, street grade, and paving design shall be in conformance with minimum standards suggested in the Comprehensive Plan or as approved by the Engineer. (See Exhibit A for Standards)

**Section 22: Subdivision Regulations**

- B. Arterial streets and collector streets shall be properly integrated with the existing and proposed system of streets and highways.
- C. No subdivision shall prevent the extension of arterial and collector streets through and beyond the subdivision in a direction away from the center of a nearby City. The subdivider may plat and design the collector streets not extended on the Comprehensive Plan subject to approval of the Planning Commission.
- D. Minor streets shall be designed to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewer systems; and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- E. Cul-de-sac streets designed to have one end permanently closed shall not exceed 600 feet in length and shall be posted as a non-through street. The terminating end of a cul-de-sac shall have a turn-around with a minimum property line radius of 50 feet.
- F. The Planning Commission and County Commissioners may require dedicated passage (alleys) in commercial and industrial districts for off-street loading and service access.
- G. Minor streets shall not be designed for extension beyond the subdivision shown on the Preliminary Plat submitted for approval, unless the adjoining land is land locked without road access, or for some other reason access is desired by the Planning Commission or County Commissioners.
- I. Curves in Streets -Horizontal and Vertical:
  - 1. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
  - 2. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made. The minimum radii of curves shall be:
 

<u>Street Type</u>	<u>Minimum Curve Radius</u>
Arterial	300 feet
Collector	300 feet
Minor	100 feet
  - 3. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

**Exhibit A: Street Standards**

<u>Type of Road</u>	<u>Number of Lanes</u>	<u>Shoulder Width</u>	<u>Minimum ROW</u>	<u>Surfacing</u>	<u>Surface Width</u>	<u>Maximum Grade</u>	<u>Curb/Gutter</u>	<u>Sidewalk</u>
<b>Perimeter Systems</b>								
Arterioles	2-4	10 ft	100 ft	Paved	24-48 ft	6%	No	No
Collectors	2	10 ft	80 ft	Paved	24 ft	7%	No	No
Local	2	8 ft	60 ft	Gravel	24 ft	7%	No	No
<b>Interior System</b>								
Arterioles	2-4	10 ft	100 ft	Paved(1)	24-48ft(2)	7%	Yes(1)	Yes(1)
Collectors	2	10 ft	80 ft	Paved(1)	28(2)	8%	Yes(1)	Yes(1)
Local	2	8 ft	60 ft	Paved(1)	28(2)	10%	Yes(1)	Yes(1)

(1) May be optional depending on use of street in the subdivision and the density proposed (see Exhibit B)

(2) Add greater width for parking and turning lanes if they are to be provided.

Additional widths can be determined by using the following guides:

- Travel lane width.....10 to 12 feet
- Turning Lane width..... 8 to 10 feet
- Parking Lanes..... 8 feet

**Exhibit B: Guide for Basic Improvement Desired**

	<u>Central Sewage Treatment</u>	<u>Central Water</u>	<u>Paved Streets</u>	<u>Curb/Gutter Sidewalk</u>	<u>Park and Recreation Area</u>	<u>Storm Drainage</u>	<u>Landscaping/Screening</u>	<u>Street Signs &amp; Number System</u>	<u>Street Lights</u>
5-10 acre lots		X						X	
1-5 acre lots	V	X	O	O	O	O	O	X	O
8,000 sq ft-1 acre	X	X	X	X	X	X	O	X	X

**Section 22: Subdivision Regulations**

4,000-8,000 sq ft	X	X	X	X	X	O	O	X	X
Mobile Homes	X	X	X	X	X	X	X	X	X
Multiple-Family	X	X	X	X	X	X	X	X	X
Seasonal Housing	X	X	X	X	O	X	O	X	X

X = Yes

O = Optional, depending on topography, location, size of project, adjacent uses

V = Variable, depending on soils and lot size.

3. Intersection of Streets:

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

4. Easements:

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

5. Blocks:

- A. The length, widths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control, and safety of street traffic, and the limitations and opportunities of topography. Block lengths in residential areas shall not as a general rule be less than 600 feet in length between street lines unless dictated by exceptional topography or other limiting factors of good design.
- B. Pedestrian ways or crosswalks, not less than ten (10) feet in width, shall be provided near the center and entirely across the block 900 feet or more in length where deemed essential, in the opinion of the Planning Commission, to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities. Said pedestrian ways shall be dedicated to the public use unless other written agreement, deed restriction, etc., guarantees maintenance. To the extent practical subdivision design should give high priority to the convenience and safety of the pedestrian.
- C. All utility lines for electric power and telephone service shall be placed underground except where, in the opinion of the Planning Commission, such location is infeasible or too costly. Poles for permitted overhead lines shall be placed in rear lot line easements.

6. Lots:

- A. The size, shape, and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and proper architectural setting for the building contemplated.
- B. Minimum lot dimensions for “Residential” type subdivisions shall conform to the requirements of the County Zoning Regulations.
- C. Where residential lots border a railroad right-of-way the depth of adjacent lots shall be increased by at least 25 feet more than the otherwise required minimum.

**Section 22: Subdivision Regulations**

**22.08. Required Improvements:** The following subdivision improvement are required by Cheyenne County:

1. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size, and length as may be approved by the Engineer.
2. Utility and Street Improvements:
  - A. Utility and Street rights-of-way shall be provided in each new subdivision in accordance with the requirements of Exhibits A and B. Standards for improvements shall be approved by the Engineer and shall be in accordance with the Comprehensive Plan.
  - B. Each of the following improvements may be required in each subdivision. Actual improvements required shall be negotiated with each subdivider:
    1. Curb, gutter, and sidewalks.
    2. Street grading and paving.
    3. Street name signs.
    4. Street lights.
    5. Paved alleys (when platted)
    6. Bridges, culverts or other drainage facilities (when required)
    7. Complete public water system.
    8. Complete public sewage collection and treatment.
    9. Fire hydrants.
    10. Other improvements as may be required by the County.
  - C. Subdivisions with lots all larger than one (1) acre in size may be exempted from the above mentioned curb, gutter, and sidewalk requirement if so approved by the County Commissioners. (Note Exhibit B)
  - D. Subdivisions with all lots larger than five (5) acres in size may be exempted from the above mentioned curb, gutter, sidewalk, sewage system and water system requirements if so approved by the County.

**22.09. Public Lands and Reservations:**

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

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

**22.11. Variances:**

1. The Planning Commission may recommend and the Legislative Body may grant variances from the provision of the regulations in Section 22, but only after determining:
  - A. There are unique circumstances or conditions affecting the property.



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- B. The variance is necessary for the reasonable and acceptable development of the property in question.
  - C. The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.
2. The requirement of filing and recording a plat for subdivision shall not be waived.
3. The Planning Commission and County Commissioners may also grant reasonable variances to these regulations if the subdivider concurrently submits an application for, and obtains approval of, a Planned Unit Development. The subdivider shall indicate where their plans vary from these regulations and shall present sufficient evidence to support their request, indicating why their request will not be detrimental to the public health, safety and welfare.

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

**SECTION 23. BOARD OF ADJUSTMENT**

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

**23.02. Board of Adjustment Meetings:** The Board of Adjustment shall consult the recommendation of the Planning Commission on all planning and zoning matters. Meetings of the Board of Adjustment shall be held at such times as the Board of Adjustment may designate, or at such other times as the Chairperson, in his or her discretion, calls a meeting. Special meetings may also be held upon the call of any three (3) members of the Board of Adjustment. The Chairperson or, in the Chairperson's absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. Any resident or property owner in the County or within the area over which it exercises zoning jurisdiction shall have the right to appear before the Board of Adjustment regarding any matter in which they have a reasonable interest. The Board of Adjustment shall keep minutes of its proceedings showing the vote. Records of its examinations and other official actions shall be immediately filed in the office of the County Clerk and shall be public record. A majority of the Board of Adjustment shall constitute a quorum for the purpose of doing business.

**23.03. Duties:** The Board of Adjustment is authorized, upon the recommendation of the Planning Commission:

1. To hear and decide appeals where it alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location of soundness of structures.
2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any zone.
3. To authorize a variance where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation under this Resolution would result in peculiar and exceptional practical difficulties or exceptional and undue hardships upon the owner or the property. Upon an appeal relating to the property, a variance from the strict application of this Resolution may be granted to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any Resolution or resolution. In granting a variance, the Board of Adjustment may impose certain conditions, safeguards and restrictions upon the premises benefited by the variance which may be necessary to reduce or minimize any potentially injurious effect of the variance upon other property in the neighborhood. A request for a variance shall not be granted unless there is a finding by the Board of Adjustment that all of the following conditions have been met:
  - A. The strict application of the zoning regulation would produce undue hardship.
  - B. The hardship is not shared generally by other properties in the same zoning district.
  - C. The authorization of the 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.
  - D. The granting of the variance is based upon reason of demonstratable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
  - E. The conditions which gave rise to the request are not created by an action or actions of the property owner or applicant.
  - F. The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to these zoning regulations.

**Section 23: Board of Adjustment**

4. In exercising the above-mentioned powers the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. To that end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

**23.04. Applications:**

1. Procedure: The procedure for requesting a hearing before the Board of Adjustment shall be as follows:
  - A. All applications for a variance to the Board of Adjustment shall be in writing and filed with the Planning Commission. If the Planning Commission provides for an application form, then that form shall be used. The application shall include the following:
    1. The description of the lot, tract of land, building or structure for which the variance is requested.
    2. The name or names of the owner or owners.
    3. The nature of the relief requested.
  - B. After receiving the recommendation of the Planning Commission, a hearing shall be held by the Board of Adjustment within sixty (60) days of the filing of the application unless delayed by request of the applicant. Notice of the hearing shall be given as required by this Resolution.
  - C. An application shall be accompanied by a 50 dollar (\$50) fee. A separate filing fee will be required for each additional request.
2. Additional Requirements: In addition to the above requirements, certain applications require additional information as follows:
  - A. Appeals and Interpretations:
    1. An application for an appeal or interpretation must be filed within fifteen (15) working days after a ruling has been made by the Board of Adjustment.
    2. A copy of the order, requirement, decision or determination of the Board of Adjustment which the applicant believes to be in error shall be submitted.
    3. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the applicant's position.
    4. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
  - B. Variance:
    1. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the conditions as set out in this Resolution.
    2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing lot or lots included in the application; the structures existing; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application should be included.
3. Performance: In making any decision varying or modifying any provisions of the zoning regulations, the Board of Adjustment shall impose any restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.

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

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

*Section 23: Board of Adjustment*

**23.05. Variances and Building Permits:** If the Board of Adjustment grants the application for the variance and a building permit will be necessary, the building permit shall not be issued until the statutory period for appeal from the decision of the Board of Adjustment has expired. No building permit may be issued while an application for a variance is pending before the Board of Adjustment or if the Board of Adjustment denies the application unless the Board of Adjustment's decision is reversed by a court. Once a variance is granted, the right to the variance shall expire unless the required building permit is applied for within six (6) months after the granting of the variance.

**23.06. Appeals from the Board:** Any person or persons aggrieved by any decision of the Board of Adjustment, or any officer, department or Board of the County may appeal to the District Court of Cheyenne County as provided by law.

**23.07. Board of Adjustment Decisions:** When authorizing a variance, four concurring votes for the variance request are needed.

**SECTION 24. AMENDMENTS TO ZONING RESOLUTION MAP (Change of Zone)**

**24.01. Amendment to the Zoning Resolution Map:** The Board of County Commissioners may amend the official Zoning Map of Cheyenne County. All requests for such changes of zone must be reviewed by the Cheyenne County Planning Commission whose recommendation shall be sent to and considered by the Board of County Commissioners. Such amendments shall be made in compliance with Nebraska Statutes and with County procedures and regulations as established herein:

1. Only the Board of County Commissioners, the Cheyenne County Planning Commission or the fee owner of a property, or a person with legal interest in a property in the unincorporated area of Cheyenne County may request amendment of the Official Zoning Map of Cheyenne County for said property.
2. Any person filing an application for a change of zone is required to comply with the appropriate procedures and regulations as stated in Section 24. Provided, however, that when the Cheyenne County Planning Commission or Board of County Commissioners desires to undertake a rezoning, to create and apply new zoning districts, the only public notice requirement shall be publication in the newspaper designated by the Board of County Commissioners for publication of legal notices.
3. Applications for a change of zone shall be completed as set forth in Section 24.7. Provided, however, that any zone change initiated by the Cheyenne County Planning Commission or Board of County Commissioners shall only be required to meet the applicable requirements of Section 24.5 for the Planning Commission and Section 24.6 for the Board of County Commissioners. The completed application and application fees shall be submitted to the Zoning Administrator.

**24.02. Duties of Zoning Administrator(s):** The zoning administrator(s) shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

1. The Zoning Administrator(s) shall be responsible for processing all applications for changes of zone in the unincorporated area of Cheyenne County. The Zoning Administrator(s) shall also have the responsibility of ensuring that all application submittal requirements are met prior to initiating any official action. Upon determination that the application submittal is complete, the Zoning Administrator(s) shall:
  - A. Set a planning Commission Hearing date not less than thirty (30) days nor more than sixty (60) days after the complete application has been submitted.
  - B. Arrange for legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices. At the discretion of the Board of County Commissioners, a second notice may be published in a newspaper which is published in the area in which the rezoning is proposed. Failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
  - C. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Zoning Administrator(s) in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
  - E. Post a sign for the applicant on the property under consideration for a rezoning. The sign shall be posted adjacent to and visible from a publicly maintained right-of-way. In the event the property under consideration is not adjacent to a publicly maintained road right-of-way, one sign shall be posted in the most prominent place on the property and second sign posted at the point at which the access drive intersects a publicly maintained road right-of-way. The sign shall be posted at least ten (10) days prior to hearing. The sign shall contain the following information:
    1. Rezoning request number.
    2. Date and place of public hearing.
    3. Location and phone number of the public office where additional information may be obtained.
    4. Applicant's name.
    5. Size of the parcel of land
    6. Type of rezoning request

*Section 24: Amendments to Zoning Resolution Map*

- F. Refer the application to other interested agencies and County department, when applicable, for their review and comment. The agencies shall respond within fourteen (14) days after the application by the County. The failure of any agency to respond within fourteen (14) days may be deemed to be a favorable response to the Planning Commission. The reviews and comments solicited by Cheyenne County are intended to provide the County with information about proposed change of zone. The Planning Commission and County Board may consider all such reviews and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by a referral agency are recommendations to the County. The authority and responsibility for making the decision to approve or deny the request for change of zone rests with the Officials of Cheyenne County.

**24.03. Duties of Planning Commission:** The Planning Commission shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

1. The Planning Commission shall hold a public hearing to consider the application for the change of zone. The Planning Commission shall provide recommendations to the County Board concerning the disposition of the requested change. The Planning Commission shall recommend approval of the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 24.03 and Section 24.5. The applicant has the burden of proof to show that the standards and conditions of Section 24.03 and Section 24.5 are met. The applicant shall demonstrate:

- A. The proposal is consistent with the Cheyenne County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone;
- B. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
- C. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
- D. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
  - 1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
  - 2. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including: streets, water, sanitary sewer and parks if applicable.
  - 3. A service district or other means are established to maintain and operate any public facilities created in the area.
  - 4. Environmental constraints are applied to control erosion and sewage affluent.
  - 5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
  - 6. The development is not disruptive to existing agricultural activities.
  - 7. It is demonstrated that there is a recognized need for such development.
  - 8. The development is secure from fire, floods and other dangers.
- E. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
  - 1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.
  - 2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.

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2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record and case file to the Board of County Commissioners within ten (10) days after said recommendation has been made. (See also 24.03.-03.)
3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for hearing by the County Board, then the ten (10) day period shall commence upon submission of the items by the applicant to the Planning Commission.

**24.04. Duties of the Board of Commissioners:** The Board of Commissioners shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

1. Set a Board of Commissioners' public hearing to take place not less than fifteen (15) days and not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed change of zone. Notification of the public hearing shall be undertaken using the following procedures:

- A. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices. At the discretion of the Board of Commissioners, a second notice may be published in a newspaper which is published in the area in which the rezoning is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least fourteen (14) days prior to the hearing.
- B. Arrange for the Zoning Administrator(s) to post a sign on the property under consideration for rezoning according to the requirements of Section 24.02.-01-E.
- C. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.

2. The Board of County Commissioners shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed change of zone, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing and the information contained in the official record which includes the case file. The Board of County Commissioners shall approve the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 24.04.-02 and Section 24.05. The applicant has the burden of proof to show that the standards and conditions of Section 24.04.-02 and Section 24.05 are met. The applicant shall demonstrate:

- A. The proposal is consistent with the Cheyenne County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone;
- B. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
- C. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
- D. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
  1. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including: streets, water, sanitary sewer and parks if applicable.
  2. A service district or other means are established to maintain and operate any public facilities created in the area.
  3. Environmental constraints are applied to control erosion and sewage affluent.
  4. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.

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5. The development is not disruptive to existing agricultural activities.
  6. It is demonstrated that there is a recognized need for such development.
  7. The development is secure from fire, floods and other dangers.
- E. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.
  2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.
3. Upon the Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the County Clerk.
4. The Board will arrange for the Cheyenne County Clerk to record the resolution, and if the proposed change of zone is approved, the rezoning plat.

**24.05. Application Requirements for a Change of Zone Classification:** The purpose of the application is to give the petitioner an opportunity to demonstrate through written and graphic information how the proposal complies with the standards of this Resolution through the following procedures:

1. An application form for a request for a zoning change can be obtained from the Zoning Administrator(s). The following information shall be submitted on the application along with a \$50.00 fee:
  - A. Name, address, and telephone number of applicant.
  - B. Name and address of the fee owners of the property proposed for the change of zone if different from Section 24.05.-01.-A.
  - C. Legal description of the property under consideration as determined from a certified boundary survey (at the option of the applicant, the certified boundary survey may be submitted subsequent to the Planning Commission hearing but prior to final approval of the County Board if the Zoning Administrator(s) approves a general legal description describing the site)
  - D. Total acreage of the parcel under consideration.
  - E. Address of the parcel, if available.
  - F. Present Zoning Classification.
  - G. Proposed zoning classification.
  - H. Signatures of the applicant and fee owners or their authorized legal agent.
  - I. A list of the names, addresses, and the corresponding Parcel Identification Number assigned by the Cheyenne County Assessor of the owners of property within five hundred (500) feet of the property subject to the application. The source of such list shall be the records of the Cheyenne County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from records of the Cheyenne County Clerk. If the list was assembled from the Cheyenne County Assessor, the applicant shall certify that such list was compiled within thirty (30) days of the application submission date.
  - K. Such additional information as may be required by the Planning Commission or the Cheyenne County Board of Commissioners in order to determine that the application meets the standards and policies set forth in this Resolution and the Cheyenne County Comprehensive Plan.

**Section 24.05(1)(I) amended by Resolution 2015-32 on September 21, 2015.**

2. A vicinity and land use map of the area shall be submitted as part of the General Application. These maps shall be drawn to the following specifications:
  - A. The maps shall be delineated on reproducible material approved by the Zoning Administrator(s).
  - B. The dimensions of the land use map shall be at a suitable scale approved by the Zoning Administrator(s)



**Section 24: Amendments to Zoning Resolution Map**

- C. The following information, when applicable, shall be shown:
    - 1. Outline of the perimeter of the parcel proposed for the change of zone.
    - 2. Title, scale, and north arrow.
    - 3. Ditches on or within two hundred (200) feet of the property.
    - 4. Location of rivers and other drainage systems on or within two hundred (200) feet of the property.
    - 5. Location of easements, rights-of-way, and other similar interests of record on the parcel and within 50 feet of the parcel.
    - 6. Location of all existing utilities (electricity, gas, water, and sewer) on the parcel as well as within 50 feet of the parcel.
    - 7. Flood hazard areas on the property.
  - 8. Areas of geological hazards on the property.
    - 9. Mineral resource areas on the property.
    - 10. Areas of moderate or severe soil limitations as defined by the Soil Conservation Service or by the Cheyenne County Soil Survey.
    - 11. Other information as may be reasonably required by the Zoning Administrator(s).
3. A rezoning plat shall be submitted as part of the General Application. If the applicant elects the option provided in Section 24.05-.01-C, the rezoning plat will not be required until the certified boundary survey has been made. The rezoning plat shall be made to the following specification:
- A. The map shall be delineated in drawing ink on acceptable material
  - B. The dimensions of the map shall be eight and a half inches wide by fourteen inches high.
  - C. The following information shall be shown:
    - 1. Certified boundary survey of the parcel under consideration, showing all bearings and distances outside the perimeter boundary lines.
    - 2. Legal description, including total area involved, as certified by the surveyor.
    - 3. Title, scale and north arrow.
    - 4. Date of drawing.
  - D. The following certificates shall appear on the map:
    - 1. Surveyor's certificate.
    - 2. Planning Commission certificate.
    - 3. Board of County Commissioners certificate.
  - E. Space shall be provided on the rezoning plat for the addition of the following information:
    - 1. Zoning case number.
    - 2. Current zone classification
    - 3. Requested zone classification.
4. An applicant may submit as part of the general application any pertinent documents that support their case for a zoning change.

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

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

**SECTION 25. AMENDMENTS TO THE TEXT OF ZONING RESOLUTION**

**25.01. Amendments to the Text of the Zoning Resolution:** The Cheyenne County Board of Commissioners may upon its own motion or upon petition of the Planning Commission amend the text of the Official Cheyenne County Zoning Resolution. The proposed amendments must be reviewed by the Cheyenne County Planning Commission whose recommendation shall be sent to and considered by the Cheyenne County Board of Commissioners. Such amendments shall be made in compliance with the Nebraska State Statutes and with county procedures and regulations as established herein.

**25.02. Duties of Zoning Administrator(s):** Upon submission of a request from the County Board for any proposed amendments to the text of the Zoning Resolution, the Zoning Administrator(s) shall:

- A. Draft all text amendments as directed by the County Board with County Attorney counsel.
- B. Set a Planning Commission hearing date after the completion of the proposed amendment.
- C. Arrange for legal notice of said hearing to be published once in the newspaper designated by the County Board for publication of notices. The date of publication shall be at least ten (10) days prior to the hearing.
- D. Upon final approval of the proposed text amendments, arrange for the public notice of the Zoning Resolution
- E. Perform other tasks as assigned by the Planning Commission and the County Board.

**25.03. Duties of the Planning Commission:** Upon submission of a request for any proposed amendments to the text of the Cheyenne County Zoning Resolution, the County Planning Commission shall:

- A. The Planning Commission shall hold a hearing to consider the proposed amendment to the text of the Zoning Resolution. The Planning Commission shall recommend to the County Board approval or denial of the proposed amendment.
- B. In making its final recommendation, the Planning Commission shall determine:
  1. That the existing Resolution is in need of revision as proposed.
  2. That the proposed amendment will be consistent with the future goals and needs of Cheyenne County as set out in the Cheyenne County Comprehensive Plan.
  3. That the proposed amendment will be consistent with the overall intent of the Cheyenne County Zoning Resolution.
  4. The Secretary of the Planning Commission shall forward the official recommendation and the information contained in the official record which includes the case file to the Cheyenne County Commissioners.

**25.04. Duties of the Board of Commissioners:** Upon submission of a recommendation for any proposed amendments to the text of the Cheyenne County Zoning Resolution from the Cheyenne County Planning Commission, the Cheyenne County Board of Commissioners shall:

- A. Set a Board of County Commissioners public hearing date.
- B. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of Commissioners for publication of notices. The date of public hearing shall be at least fourteen (14) days prior to hearing.
- C. The Board of County Commissioners shall hold a public hearing to consider the proposed text amendment and take final action.
- D. In making its final determination, the County Board shall:
  1. Take into consideration the recommendation of the Planning Commission.
  2. Find that the existing Resolution is in need of revision as proposed.
  3. Find that the proposed amendment will be consistent with the future goals of Cheyenne County as set out in the Cheyenne County Comprehensive Plan.
  4. Find that the proposed amendment is consistent with the overall intent of the Cheyenne County Zoning Resolution.
  5. At the close of the public hearing the County Board may amend the Resolution.
  6. The Board shall arrange for the recording of the Resolution.

**SECTION 26. ADMINISTRATION**

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

1. To administer, establish rules for, and enforcing the terms of these regulations.
2. To receive all notices for permits to construct, alter, repair, occupy and use or change the use of land, buildings, and structures as required by these regulations.
3. To collect fees for administration where required by these regulations.
4. To make all inspections necessary to the performance of the Administrator's duties.
5. To order work or activities stopped by written notice served on the proper person, firm or corporation when the work is being done contrary to the provisions of this Resolution or any other Resolution dealing with building construction or codes.
6. To receive notices of intent to build, according to applicable County Resolutions and building codes.
7. To deny any permit which would allow violations of the terms of this Resolution.
8. Any other duties and responsibilities outlines in this Resolution.
9. Any other duties and responsibilities as may be deemed necessary by the Planning Commission or County Board of Commissioners.

**26.02. Notices of Intent to Build Required:** No building or other structure shall be erected, constructed, reconstructed, moved or structurally altered without first providing notice of intent to build to the zoning administrator.

**26.03. Liability for Damages:** This Resolution shall not be construed to hold the County responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect.

**26.04. Minor Variations:** When in the public interest, the zoning administrator, without publishing, posting, or mailing of notice and without public hearing, may consider and render decisions on minor variances involving slight modifications to the provisions of the Resolution, but limited to the following:

- A. Reduction of a minimum lot area and/or minimum floor area by not more than the following amounts:
  1. Maximum lot area reduction: 10%
  2. Maximum floor area reduction: 5%
- B. Reduction of yards and open areas by permitting portions of a building to extend into and occupy not more than ten (10) percent of the distance of a required yard.

In granting a minor variance, the zoning administrator shall make a finding that the granting of this variance conforms to the intent of Section 23.

**Original Sections 26.01 through 26.05 amended and renumbered by Resolution No. 2015-32 on September 21, 2015.**

**SECTION 27. NOTICES**

**27.01. References to Notice Requirements:** Where reference is made in this Resolution to notice being given as required by this Resolution, then the notice shall be given as provided for in section 27.02 below.

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

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

**27.03. Exceptions to Notice Requirement:** Notice by posting or mailing shall not apply if:

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

**SECTION 28. ENFORCEMENT**

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

**28.02. Violations and Penalties:** It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of any provision of the Cheyenne County Zoning Resolution. Any person, firm, or corporation violating any provision of this Resolution is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than two hundred fifty dollars (\$250), or by imprisonment in the county jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense. Whenever a violation exists in these regulations, the County may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine and penalty imposed, enter an order of abatement as a part of the judgment in the case.

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

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

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

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

**SECTION 29. WELLHEAD PROTECTION REGULATIONS**

The protection of potable water supplies, produced from both public and private water supply wells, is of critical importance to the current and future residents of Cheyenne County, Nebraska. When public water supply wells are drilled and completed, and wellhead protection areas are established, outside of the jurisdictional limits of any incorporated city or village within Cheyenne County, the standoff distances from municipal water supply wells, as set forth in this section, shall apply to offsetting landowners constructing various types of facilities listed in Section 29.03(B).

**30.01.** The State of Nebraska Department of Health, Title 179, Chapter 7, provides guidelines for water system design which shall be considered by the entity constructing the system.

**30.02.** Chapter 71, Article 53, RSN, the NEBRASKA SAFE DRINKING WATER ACT, requires that plans and specifications for major construction, extension and alteration of public water supply systems in Nebraska be prepared by a Professional Engineer and reviewed and approved by the Nebraska State Department of Health. These guidelines are established under this authority in conformance with NEBRASKA STATE DEPARTMENT OF HEALTH, RULE 5, REGULATIONS GOVERNING PUBLIC WATER SUPPLY SYSTEMS.

**30.03.** The MANUAL OF WATER WELL CONSTRUCTION PRACTICES, published by the United States Environmental Protection Agency, Office of Water, and RECOMMENDED STANDARDS FOR WATER WORKS, 1987 Edition, published by the Great Lakes-Upper Missouri River Board of State Sanitary Engineers, were adopted by the Nebraska State Department of Health as guidelines for water system design and shall be considered by the entity constructing the system.

A. The guidelines for water system design provide that every well, infiltration line, or spring, serving or intended to provide water for a public water supply system, insofar as possible, should be located, constructed, or modified in such a manner that neither underground nor surface contamination by any biological, chemical or radioactive substance, or by the physical property of any substance from any cesspool, privy, septic tank, subsurface tile system, sewer drain pit below ground surface, abandoned well, animal or avian wastes, or any other possible source of pollution, cannot adversely affect such water supply.

B. The minimum horizontal distance, in feet, separating public water supply wells from potential sources of contamination are as described in State of Nebraska, Title 179, Chapter 7. No person or entity can install or construct facilities, as listed below, within closer proximity to an existing public water supply well than the minimum distances herein stated. As of April 4, 2010, the prescribed distances for horizontal separation distances were as shown below. However, upon the application of the landowner to the Zoning Administrator requesting approval of the intent to construct a facility type listed below which is closer than those prescribed, approval of the location of any below uses may be given by the Cheyenne County Board of Commissioners when circumstances require such location and when, in the opinion of the Director of the State of Nebraska Department of Health, the applicant and its technical representatives demonstrates that such location will not constitute a pollution hazard to the supply.

<u>Facility Type</u>	<u>Horizontal Separation Distance, FT</u>
Water Well	1,000
Sewage Lagoon	1,000
Land application of municipal/industrial waste material	1,000
Feedlot or Feedlot Runoff	1,000
Underground disposal system (septic system, cesspool, etc.)	500
Corral	500
Pit Toilet/Vault Toilet	500
Wastewater Holding Tanks	500
Sanitary Landfill/Dump	500
Chemical or Petroleum Product Storage	500
Sewage Treatment Plant	500
Sewage Wet Well	500
Sanitary Sewer Connection	100
Sanitary Sewer Manhole	100
Sanitary Sewer Line	50

***Section 29: Wellhead Protection Regulations***

When surface runoff or underground movement from potential sources of contamination may adversely affect the quality of water from such supplies, the distance separating these potential sources of contamination and the well should be greater than that listed in the above schedule.

C. A test hole will be required for all proposed well sites for any new public water supply system. Well logs and all other technical information obtained from the test hole shall be made available to the Cheyenne County Board of Commissioners upon request.

**Section 29, Wellhead Protection Regulations, was added by Resolution No. 2023-10, after public hearing on March 6, 2023.**





**SECTION 30. CONSERVATION EASEMENTS**

**30.01. Purpose:** The Conservation and Preservation Easements Act, Section 76-2111 through 2118, RSN, is a voluntary, incentive-based program to decertify irrigated acres. A Conservation Easement imposes a limitation on the rights of the landowner or imposes an affirmative obligation upon the landowner to assure the land's availability for the following purposes: agricultural, horticultural, forest, recreational, wildlife habitat, open space use, protection of air quality, water quality and of other natural resources and for such other conservation purposes that would qualify as a charitable contribution under the Internal Revenue Code.

**30.02. Procedure:**

- A. The Cheyenne County Commissioners shall determine if property subject to the Conservation Easement is within the jurisdiction of the Cheyenne County Commissioners.
- B. The Cheyenne County Commissioners shall refer the proposed Conservation Easement to the Cheyenne County Planning Commission for approval or denial.
- C. Before consideration by the Cheyenne County Planning Commission, an application together with a \$50.00 filing fee must be filed with the Planning and Zoning Administrator. The Administrator will place the matter on the Commission agenda for consideration.
- D. Within 60 days of the referral, the Planning Commission will provide comments regarding the conformity and approval or denial of the proposed Conservation Easement to the Cheyenne County Commissioners.
- E. If such comments are not received by the Cheyenne County Commissioners within the 60-day period, the proposed Conservation Easement shall be deemed to be approved by the Planning Commission.
- F. Upon approval by the Cheyenne County Planning Commission, the Cheyenne County Commissioners will consider the Conservation Easement and adopt a Resolution either approving or denying the Conservation Easement

**Section 30, Conservation Easements, was added by Resolution No. 2023-10, after public hearing on March 6, 2023.**

**SECTION 31. MISCELLANEOUS**

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

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

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

**31.04. Publication:** Publication of this Resolution shall be in pamphlet form.

**Section 31, Miscellaneous, was renumbered, from former Section 29 to new Section 31, by Resolution No. 2023-10 on March 6, 2023.**

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The foregoing Resolution No. 2023-13 was, on motion duly made and seconded, adopted on the 20th day of March, 2023.

*Darrell J. Johnson*

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Darrell J. Johnson, Chairman, Cheyenne County Board of Commissioners

ATTEST:

*Beth E. Fiegenschuh*

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Beth E. Fiegenschuh, Cheyenne County Clerk

Effective date of this Resolution: March 20, 2023

