

Zoning Regulations

of

Hayes County, Nebraska

2011

TABLE OF CONTENTS

ARTICLE 1 GENERAL PROVISIONS

Section 101 - Title	4
102 - Jurisdiction	4
103 - Purpose	4

ARTICLE 2 APPLICATION OF REGULATIONS

Section 201 - General Application	5
202 - Zoning Affects Every Building and Use	5
203 - Yard and Lot Size Reductions Prohibited	5
204 - Provisions Declared to be Minimum Requirements	5

ARTICLE 3 CONSTRUCTION AND DEFINITIONS

Section 301 - Construction	5
302 - General Terminology	6
303 - Definitions	6

ARTICLE 4 ESTABLISHMENT AND DESIGNATION OF DISTRICTS

Section 401 - Planning Commission Recommendations	17
402 - Districts Created	17
403 - Official Zoning Map	17
404 - Official Zoning Map Changes	17
405 - Official Zoning Map Replacement	18
406 - Rules for Interpretation of District Boundaries	18
407 - Annexation Rule	19

ARTICLE 5 ZONING DISTRICTS

Section 501 - AG - G, General Agricultural District	19
Table 501.04 - Minimum Separation Distances from Abutting and Neighboring Uses	24
502 - AG - TA, Rural Residential District	26

ARTICLE 6 SUPPLEMENTAL DISTRICT REGULATIONS

Section 601 - Application	29
602 - Setback (Yard) Requirements	29
603 - Fences and Walls	29
604 - Setback (Yard) Exemptions	30
605 - Division of Lots	30
606 - Conversions of Use	30
607 - Accessory Uses	30
608 - Home Occupations and Home Based Businesses	30
609 - Tree/Windbreak Setback	30

ARTICLE 7 NON-CONFORMING USES

Section 701 - Intent	31
702 - Limitations on Expansion	31
703 - Hardship	31
704 - Exception	31
705 - Non-Conforming Lots of Record	31
706 - Non-Conforming Uses of Land	32

707 - Non-Conforming Use of Buildings/Structures and Land in Combination	32
708 - Repairs and Maintenance	33
709 - Use Under Conditional Uses	34
ARTICLE 8 ADMINISTRATION AND ENFORCEMENT	
Section 801 - Organization	34
802 - Authorities	34
803 - Responsibilities	36
804 - Zoning Permits Required	37
805 - Application for a Zoning Permit	37
806 - Limitation of Issuance of Zoning Permit	38
807 - Expiration of a Zoning Permit	38
808 - Certificates of Zoning Compliance for New Uses or Change of Use	39
809 - Failure to Obtain Zoning Permit/Certificate of Zoning Compliance	39
ARTICLE 9 BOARD OF ADJUSTMENT	
Section 901 - Establishment and Procedure	39
902 - Terms of Office	40
903 - Election of Officers	40
904 - Secretary of the Board of Adjustment	40
905 - Records of the Board of Adjustment	40
906 - Quorum and Voting	40
907 - Powers and Duties	40
908 - Public Hearings	43
909 - Board has Powers of Administrative Official on Appeals	43
910 - Appeals	43
ARTICLE 10 CONDITIONAL USES	
Section 1001 - General Powers	44
1002 - Application Requirements	44
1003 - Referral to Planning Commission	45
1004 - Planning Commission Public Notice	45
1005 - Public Hearing, Consideration and Procedures	45
1006 - County Board of Commissioners Public Notice	45
1007 - Public Hearing, Consideration and Procedures	46
1008 - Requirements Governing Review and Approval of Conditional Uses	46
1009 - Conditions, Safeguards and Limitations of Use	47
1010 - Expiration of Conditional Use Authorizations	47
1011 - Intent to Construct a Livestock Management Facility or Livestock Waste Handling Facility	47

ARTICLE 11 AMENDMENTS	
Section 1101 - Authority	49
1102 - Public Notice and Public Hearings	50
1103 - Amendment Consideration and Adoption	50
1104 - Amending Official Zoning Map	51
1105 - Protests	51
ARTICLE 12 COMPLAINTS, VIOLATIONS, REMEDIES AND PENALTIES	
Section 1201 - Complaints regarding Violations	51
1202 - Penalties for Violation	51
1203 - Remedies	52
ARTICLE 13 SCHEDULE OF FEES	
Section 1301 - Authority	52
1302 - Non-Payment of Fees	52
ARTICLE 14 LEGAL STATUS PROVISIONS	
Section 1401- Separability	53
1402 - Purpose of Catch Heads	53
1403 - Repeal of Conflicting Resolutions	53
1404 - Effective Date	53
ARTICLE 15 COMMUNICATION TOWER REGULATIONS	
Section 1501 - Conditional Use Permit Requirement	53
1502 - Minimum Requirements	53
1503 - Special Requirements	54
ARTICLE 16 WIND ENERGY SYSTEMS	
Section 1601 - General Standards	55
1602 - Noncommercial Wind Energy Systems (Small)	56
1603 - Meteorological Towers	57
1604 - Commercial/Utility Wind Energy Systems (Large)	58

ARTICLE 1 - GENERAL PROVISIONS

SECTION 101 - TITLE

These regulations shall be known and referred to as the Zoning Resolution of Hayes County, Nebraska.

SECTION 102 - JURISDICTION

The provisions of this Resolution shall apply within the boundaries of Hayes County, Nebraska, excluding the land included, now or in the future, in the corporate limits of the incorporated municipalities within the County and any legally established planning and zoning jurisdictional areas of these municipalities as may be defined on any Official Zoning Map of these municipalities.

SECTION 103 - PURPOSE

In pursuance of and in compliance with the authority conferred to Nebraska counties by Section 23 of the Nebraska Statutes as amended, this Resolution is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Hayes County and for implementation of the duly adopted Hayes County Comprehensive Plan. This Resolution is also enacted to preserve and protect the customs and culture of the people of the County and the following specific purposes:

- 1) Developing both urban and non-urban areas;
- 2) Lessening congestion in the streets or roads;
- 3) Reducing the waste of excessive amounts of roads;
- 4) Securing safety from fire and other dangers;
- 5) Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
- 6) Providing adequate light and air;
- 7) Preventing excessive concentration of population and excessive and wasteful scattering or population or settlement;
- 8) Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
- 9) Protecting the tax base;
- 10) Protecting property against blight and depreciation;
- 11) Securing economy in governmental expenditures;
- 12) Fostering the state's agriculture, recreation, and other industries;
- 13) Encouraging the most appropriate use of land in the County, and;
- 14) Preserving, protecting, and enhancing historic buildings, places and districts.

ARTICLE 2 - APPLICATION OF REGULATIONS

SECTION 201 - GENERAL

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

SECTION 202 - ZONING EFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, and enlarged, moved or structurally altered except in conformity with all zoning regulations herein specified for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution, except that non-residential farm buildings shall be exempt from the requirements of this Resolution, but further provided that the uses within such buildings, if not considered agricultural uses under the definitions and terms of this Resolution, shall not be exempt from the requirements of this Resolution. Further, waste handling facility uses which may be associated with any farm building shall not be exempt from the requirements of this Resolution.

SECTION 203 - SETBACK AND LOT SIZE REDUCTION PROHIBITED

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

SECTION 204 - PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

ARTICLE 3 - CONSTRUCTION AND DEFINITIONS

SECTION 301- CONSTRUCTION

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

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

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

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

GENDER: The masculine shall include the feminine and the neuter.

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

SECTION 302 - GENERAL TERMINOLOGY

The word "County" shall mean the County of Hayes, Nebraska The words "County Board" shall mean the Hayes County Board of Commissioners. The words "Planning Commission" shall mean the Hayes County Planning Commission duly appointed by the Hayes County Board of Commissioners. The words "Board of Adjustment" and Board shall mean the Hayes County Board of Adjustment duly constituted in accordance with this Resolution. The words "Zoning Administrator" shall mean that person duly appointed by the Hayes County Board of Commissioners to administer and enforce these zoning regulations.

SECTION 303 - DEFINITIONS

Words or terms not herein defined shall have their ordinary meanings in relation to the context. For the purposes of this Resolution, certain words and terms used herein are defined as follows:

ABUT: Any situation where a lot borders directly on another lot or is separated from an adjoining lot by a public road right-of-way which is twenty (20) feet or less in width.

ACCESSORY USE OF BUILDING: A building or use which is subordinate and incidental to that of the main or principal building or use on the same lot or tract.

AEROBIC DIGESTION PROCESS: Any process for digestion of waste in which the waste is digested using free oxygen, wherein sufficient oxygen is available to satisfy fifty percent (50%) of the daily chemical/biological oxygen demand inflow.

AGRICULTURAL USE: The business and science of using the land in a manner that involves raising and harvesting crops; or for the raising, breeding, management, or pasturing of livestock, poultry, fish, bees, and other animals. Also to include truck farming, forestry or orchards and the non-commercial storage and processing of agricultural products produced on the premises. An animal feeding operation containing three hundred (300) or more animal units is considered to be either confined or intensive/stables animal feeding operations and will not be considered an agricultural use. Confined or intensive/stables animal feeding operations, in accordance with Section 54-2417 Neb. Rev. Stat., are considered a commercial use and in the County require a conditional use permit. Confinement of an unrestricted number ruminant animals for birthing, weaning, or backgrounding purposes for less than forty five (45) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a confined or intensive animal feeding use.

ANAEROBIC DIGESTION: Any process for digestion of waste in which the waste is digested where free oxygen is not available.

ANIMAL HUSBANDRY: The care and raising of animals.

ANIMAL UNIT: The relationship of various animals with regard to manure production based upon one thousand pounds of animal(s) regardless of type. For purposes of this Resolution, the following relationship with regard to manure production shall be as follows:

<u>TYPE OF ANIMAL</u>	<u>ANIMAL UNIT(S)</u>
Beef Animal (500 – 1,200 pounds)	1.00
Beef or Dairy Calf (150-500 pounds)	0.50
Young Dairy Stock (500-1,000 pounds)	0.75
Replacement Heifers	1.00
Dairy Cow	1.40
Horse	2.00
Swine (55 pounds or heavier)	0.40
Swine (less than 55 pounds)	0.04
Swine (sow and litter)	0.50
Sow or Boar	0.40
Sheep	0.10
Chicken	0.01
Turkey	0.02
Ostrich	0.04

ANIMAL WASTE: Any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.

ANIMAL WASTE WATER: Any liquid, including rainfall, which is directly or indirectly used in the operation of the animal feeding operation or waste handling facility use for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding or waste handling operation facilities; direct contact swimming, washing or spray cooling of animals; or dust control. This also includes spent foot bath water and any liquid that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding.

AQUACULTURE: The cultivation of aquatic animals or plants for food; it is also referred to as aquafarming.

BASEMENT: A building space wholly or partially underground and having more than one-half (1/2) of its height, measured from its floor to the top of its average wall height, below the average elevation of the finished grade of the soil around said space.

BED AND BREAKFAST, BOARDING OR LODGING HOUSE: a building, other than a hotel or motel, where for compensation and by arrangement for definite periods, meals and/or lodging are provided for customers.

BUILDABLE AREA: The portion of a lot or tract of land remaining after the front, side and rear setbacks, as herein defined, have been provided.

BUILDING: A structure having a roof or having a roof and walls used or intended to be used for sheltering of persons, animals or property. When divided or separated by other than common walls, each portion or section of a building shall be considered a separate building.

BUILDING HEIGHT: The vertical distance, measured from the average ground level at the front of a building or structure to the highest point of the building roof, excluding chimneys, antennas or other similar appurtenances or the highest point of a structure.

CAMPGROUND: Any premises where two (2) or more camping units are parked or placed for camping purposes or any premises used to set apart for supplying camping space for two (2) or more camping units for camping purposes to the public. Campground shall include any buildings, structures, vehicles or enclosures used or intended to be used wholly or in part for the accommodation of campers.

CAMPING UNIT: Any vehicle, trailer, tent or other movable shelter used for camping purposes.

CERTIFICATE OF ZONING COMPLIANCE/CERTIFICATE OF OCCUPANCY: A certificate issued by the zoning administrator, stating that the premises has been inspected after erection, construction, reconstruction, alteration or moving of a building or structure or after a change in the use of land stating that the premises complies in all respects with the requirements of this Resolution and may be occupied for the use declared.

CEMETERY: A place in which human remains and cremated remains are buried.

COMMERCIAL USE: A use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold or provided for profit. Confined and intensive animal feeding uses shall be considered commercial uses.

COMMERCIAL/UTILITY WIND ENERGY SYSTEMS (LARGE): Shall mean a wind energy system of equal to or greater than 100 kW in total generating capacity.

COMMUNICATION TOWER: Shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves.

COMPATIBLE USE: A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other.

COMPREHENSIVE PLAN: The plan or series of plans for the future development of the County, recommended by the Planning Commission and adopted by the County Board of Commissioners.

CONDITIONAL USE: A land use that would not be generally compatible with other permitted land uses in a zoning district, but which if controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote the public health, safety, convenience and general welfare.

CONDITIONAL USE PERMIT: A written permit issued by the Zoning Administrator upon authorization of a conditional use under the terms of this Resolution by the County Board of Commissioners. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioner.

CONFINED ANIMAL FEEDING USE: The raising, feeding, or management of three hundred (300) or more animal units at any one time in roofed buildings or structures which may be open

sided or totally enclosed. These structures may have hard surfaced, slatted, or other type of surfaced floor. Confinement of an unrestricted number of ruminant animals for birthing, weaning, or backgrounding purposes for less than forty five (45) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a confined animal feeding use. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor. In the event that such a use existed prior to regulation by the Department of Environmental Quality and a permit is not required, then the determination of the number of animal units will be based on a written declaration of the owner to the County based upon the one-time capacity of the use. In the event of a dispute over the number of animal units, a determination will be made by the Zoning Administrator, or other duly appointed official, physically counting the number of animals units. Confined Animal Feeding Uses shall be classified and regulated based on the number of animal units confined and the potential for ground or surface water contamination, odor, environmental degradation, and the production of other negative impacts on abutting and neighboring properties. This use is broken into four (4) different class sizes based on the following:

Small Class	< 300 Animal Units
Medium Class	300-999 Animal Units
Large Class I	1,000-5,000 Animal Units
Large Class II	> 5,000 Animal Units

DEWATERING DAYS: Shall mean the days that have suitable weather and soil conditions for land application of accumulated liquid livestock wastes.

DWELLING: Any building or portion of a hotel, motel, bed and breakfast, group home, or other building used for short term occupancy by human beings which is designed and/or used for living purposes on an on-going basis.

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

DWELLING, TWO-FAMILY (DUPLEX): A dwelling unit having independent accommodations for and occupied by two families.

DWELLING UNIT: One room or combination of rooms which constitute a separate and independent housekeeping establishment containing independent cooking, sleeping, and restroom facilities.

EASEMENT: A right or privilege granted by the owner of a defined parcel of land for the use of such defined parcel of land for a specific purpose or purposes by the public, another person, corporation or other legal entity.

EXTRATERRITORIAL JURISDICTION (ETJ): Based on Neb. Rev. Stat. 13-327; the governing body of any city of the first or second class may, by majority vote of its members, request that the county board formally cede and transfer to the city extraterritorial jurisdiction over land outside the area extending two miles from the corporate boundaries of a city of the first class and one mile from the corporate boundaries of a city of the second class. In making its request, the city shall describe the territory over which jurisdiction is being sought by metes and bounds or by reference to an official map.

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons, excluding servants, who may not be related, living together in a single dwelling unit.

FARM: A crop production, livestock production, or other similar enterprise containing twenty (20) acres or more of land and one thousand dollars (\$1,000) in gross sales in which crop or meat products are produced each year.

FARM BUILDING: Any non-residential building located on a farm which is utilized for agricultural purposes, provided that when the use or consequences of the agricultural use conducted in such building exit from the building onto, across, or under the land, whether underneath the building or adjoining thereto or onto or into some other structure such use, if not an agricultural use, shall not be considered part of such building and shall be subject to the requirements and limitations of this Resolution. Waste handling facilities, which are associated with a use in a farm building shall be considered a non-agricultural use and shall be subject to the requirements and limitations of this Resolution.

FLOOD PLAIN: Flood hazard areas identified on the Flood Insurance Rate Map are identified as a Special Flood Hazard Area (SFHA). SFHA are defined as the area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent-annual-chance flood is also referred to as the base flood or (100-year) flood. Moderate flood hazard areas are the areas between the limits of the base flood and the 0.2-percent-annual-chance (or 500-year) flood.

FLOOR: A level or story in a building.

FLOOR AREA: The sum of the gross horizontal areas of the one or several floors of all buildings or portions thereof, on the lot or tract.

FRONTAGE (LOT): The length of the real property abutting one (1) side of a road right-of-way, measured along the dividing line between said real property and the road right-of-way.

GROUP DAYCARE CENTER/ NURSERY SCHOOL: An establishment other than public, private non-religious or parochial school, which provides day care, play groups, nursery school or education for five (5) or more unrelated children.

GROUP HOME: A facility, licensed or approved by the State of Nebraska or other appropriate agency, in which more than two (2) persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care, for any of the following purposes:

- A. Adaptation to living with, or rehabilitation from, disabilities;
- B. Adaptation to living with, or rehabilitation from, emotional or mental disorders, or mental retardation;
- C. Rehabilitation from the effects of drug or alcohol abuse;
- D. Supervision while under a program of alternatives to imprisonment, including, but not limited to pre-release, work release and probationary programs.

HOLDING POND: Shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

HOME OCCUPATION: An occupation or business enterprise conducted in a dwelling unit or accessory building by members of the family occupying the dwelling unit, established in accordance with standards and restrictions set forth in this Resolution.

HUNTING/FISHING LODGE: A building used for short periods of time solely for recreational purposes. No hunting/fishing lodge shall be considered a dwelling.

IMPACT EASEMENT: An easement which runs with the land, granted to the owner of a confined or intensive animal feeding use, as defined in this Resolution, holding the owner of a confined or intensive animal feeding use harmless from odor or other impacts associated with such use when operated in accordance with the terms of such easement

INCOMPATIBLE USE: A land use of one type that is unsuitable for direct association or location near or abutting a land use of a different type because of its inconsistency with the Intent statement of the zoning district in which such uses are located, because of major differences in building types, building mass, building height and use activities, and because such use would diminish the use, value and enjoyment of the other.

INTENSIVE ANIMAL FEEDING USE: The feeding, raising, or management of three hundred (300) or more animal units at any one time in partial or total earthen pens or lots which are used for the confinement of animals and where manure is or may be in contact with the earth. Confinement of an unrestricted number of ruminant animals for birthing, weaning, or backgrounding purposes for less than forty five (45) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered an intensive animal feeding use. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor. In the event that such a use existed prior to regulation by the Department of Environmental Quality and a permit is not required, then the determination of the number of animal units will be based on a written declaration of the owner to the County based upon the one-time capacity of the use. In the event of a dispute over the number of animal units, a determination will be made by the Zoning Administrator, or other duly appointed official, physically counting the number of animals units. Intensive Animal Feeding Uses shall be classified and regulated based on the number of animals confined. This use is broken into four (4) different class sizes based on the following:

Small Class	< 300 Animal Units
Medium Class	300-999 Animal Units
Large Class I	1,000-5,000 Animal Units
Large Class II	> 5,000 Animal Units

JUNK YARD: See Salvage Yard.

LAGOON: Shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for treatment of liquid livestock waste by anaerobic, aerobic, or facultative digestion. Such impoundment predominantly receives waste from a totally housed animal feeding operation.

LANDFILL: A waste disposal site employing an engineered method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting and applying cover material over all exposed waste designed in accordance with the requirements of the Nebraska Department of Environmental Quality and licensed by said Department.

LIQUID MANURE STORAGE PITS: Shall mean earthen or lined pits located wholly or partially beneath a semi- or totally housed animal feeding operation or at some removed location used to collect waste production.

LOT (ZONING): A piece, parcel or plot of land under single ownership or control, not divided by any public street or road, but having frontage on a public street or road which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot record, a portion of a lot of record, a combination or complete lots or record, a combination of complete lots or record and portions of lots of record, or portions of lots of record.

LOT AREA: The total horizontal area of a lot, excluding all street or alley rights-of-way.

LOT, CORNER: A lot which has frontage on two (2) or more streets or roads at the intersection of said streets or roads.

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

LOT OF RECORD: A lot which is part of a subdivision plat or lot, plot or parcel described by metes and bounds recorded in the office of the Registrar of Deeds of Hayes County, Nebraska at the time of adoption of this Resolution.

LOT WIDTH: The horizontal distance between the side lot lines, measured at a right angle from one side lot line at the minimum front setback distance set forth in the various zoning districts specified in this Resolution.

MANUFACTURED HOME: A factory-built structure which is to be used 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 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, or any successor regulations thereto.

MANUFACTURED HOME LOT: A lot or parcel of land for the placement of one (1) manufactured home.

MANUFACTURED HOME PARK: Any parcel of land area under single ownership and control upon which sites for parking of two (2) or more manufactured homes connected to utilities and used by persons for living or sleeping purposes are provided by lease, rent or free of charge.

MANUFACTURED HOME SUBDIVISION: A parcel of land which has been or is intended to be subdivided into two (2) or more lots for sale to persons to place a manufactured home on said lot.

METEOROLOGICAL TOWER: shall mean a tower which is erected primarily to measure wind speed, direction, and other data relevant to siting a Wind Energy System (WES).

MOBILE HOME: See MANUFACTURED HOME because the term MOBILE HOME, defined by the Department of Housing and Urban Development, is not in existence anymore.

MODULAR HOME: A manufactured housing unit governed by the International Residential Code, as defined in Section 71-1557 of the Nebraska Revised Statutes 1943, which bears the seal of the Nebraska Department of Health or its successor.

NON-COMMERCIAL WIND ENERGY SYSTEMS (SMALL): Shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce onsite consumption of utility power.

NON-CONFORMING LOT OF RECORD: A lawfully existing lot in existence at the date of adoption of this Resolution, which does not comply with the minimum lot area, width and other lot standards established in the various zoning districts created by this Resolution.

NON-CONFORMING STRUCTURE: A lawfully erected structure in existence at the date of adoption of this Resolution which does not comply with the lot coverage, height, setback requirements or other standards applicable to new structures in the zoning district in which said structure is located.

NON-CONFORMING USE: A lawfully established use of land in existence at the date of adoption of this Resolution which does not comply with the regulations of this Resolution.

NON-FARM BUILDING: A building located on a farm which is not utilized for agricultural purposes shall be considered a non-farm building.

ODOR: That characteristic of a substance which makes it offensive to the human sense of smell. This is determined by the majority of any three (3) or more persons where such persons shall include the Zoning Administrator, a representative of the use being investigated for odor, and one or more neutral persons agreed upon by the Zoning Administrator and the representative of the use being investigated for odor.

PERMANENT FOUNDATION: The substructure, to which the structure is permanently attached to, is the permanent foundation. This provides a permanent support for said structure around its entire perimeter and at points within its perimeter, where needed.

PARKING SPACE, OFF-STREET: An area, open or closed, which is sufficient in size to permit the parking of one (1) or more vehicles, together with a driveway connecting said parking area to a street or road to permit ingress and egress by said vehicle.

PREMISES: The land area containing a land use which is contiguous with and under the same ownership as the land use.

PREVAILING WINDS: Prevailing winds in Hayes County are from the north and the northwest in winter months and the south in the summer months. Prevailing wind directions, using magnetic north as determined through use of a common compass are defined as:

North - from forty-five degrees west of north to forty-five degrees east of north
South - from forty-five degrees west of south to forty-five degrees east of south
East - from forty-five degrees west of north to forty-five degrees west of south
West - from forty-five degrees east of north to forty-five degrees east of south

PRINCIPAL BUILDING: The primary building structure located on a lot, tract, or parcel of ground.

PRIVATE ROADWAY: A privately owned, open, unoccupied space other than a public road or privately owned road by use, reserved as the principal means of access, to abutting property.

PUBLIC USE AREA: An area of land or water, whether publicly or privately owned, which is designed for and used by ten (10) or more unrelated persons on at least a quarterly basis for recreation, education, communication, worship, meetings, or other legal purpose. This includes public meeting halls, historic sites, and similar areas, provided that a public use area shall not be construed to include any rights-of-way for streets or roadways or privately owned land use for hunting and/or fishing.

QUARTER SECTION: That portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four (4) sides, has two (2) intersecting sides which coincide with two (2) intersecting section lines and contains approximately one-fourth (1/4) of the land area contained within a square section of land.

RECREATIONAL VEHICLE: A temporary dwelling for travel, recreation, and vacation use including travel trailers, camping trailers, pickup campers, motor coaches, camp cars, tent trailers, boats, or any other vehicular portable structure.

ROAD/ROADWAY: A public right-of-way set aside for public travel which affords the principal means of access to abutting property.

ROAD CENTERLINE: A line extending down the center of a road or street right-of-way, as established by official survey.

ROADSIDE STAND: A structure or portion thereof used for the shelter, display, and sale of craft and similar items, fruit, vegetables, and other agricultural crops produced on the premises.

SALVAGE YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used material are bought, sold, exchanged, stored, baled, or cleaned. This excludes pawn shops, used appliance or furniture sales, or operable used vehicles sales establishments.

SECTION OF LAND: A division or parcel of land, on the government survey, comprising one (1) square mile of land encompassing six hundred forth (640) acres more or less. Each "township" (six square miles) is divided by straight lines into thirty six (36) sections, and these are again divided into half sections and quarter sections.

SETBACK: A Horizontal distance, as prescribed in the various zoning districts, from the centerline of the roadway on which the lot has frontage and the side or rear lot line of any lot in which a building may not be constructed. Setbacks are further defined as follows:

- A. **SETBACK, FRONT:** An open space extending across the entire width of a lot between the centerline of the road on which the lot has frontage and the nearest point of a building. A corner lot has two (2) front setbacks.
- B. **SETBACK, REAR:** An open space extending across the entire width of the lot between the rear lot line and the nearest point of a building.

- C. **SETBACK, SIDE:** An open-space extending along the side lot line from the front setback to the rear setback and lying between the side lot line and nearest point of a building.
- D. **SETBACK, TRANSITIONAL:** An open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.

SHELTERBELT: See WINDBREAK.

SIGN: Any identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or parcel of land which direct attention to an object, product, place, activity, business, person, service, or interest.

SOLID MANURE: Waste produced by living cattle, dairy cattle, sheep, other ruminants, and horses which contains not less than twelve percent (12%) solids by weight and waste produced by living swine, poultry, or other non-ruminant animals which contains not less than twenty five percent (25%) solids by weight.

STORY: That portion of a building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, then the space between the floor and the ceiling next above it. A basement shall be counted as a store if more than four (4) feet of the basement is above the average finished grade of the adjoining ground.

STREET: See ROAD.

STRUCTURE: Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on the ground.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a structure, such as bearing walls, partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls.

USE: The purpose or activity for which land and buildings thereon is design, arranged, intended, or for which it is occupied or maintained.

VARIANCE: A relaxation of the height, lot area, size of structure or building, or size of yards and open space where such variance will not be contrary to the public interest.

WASTE HANDLING FACILITY: Shall mean any structure or combination of structures utilized to control sewage waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, settling basins, liquid manure storage pits, lagoons, and other such devices utilized to control sewage waste. Any facilities, apparatus, or mechanism used to ventilate, exhaust, process, or treat hazardous gases, odor, dust, smoke, or other waste product emanating from any building or structure because of a direct result of the use of that building or structure shall be considered part of a waste handling facility. Waste handling facilities shall be categorized with regard to the types of such facilities and the methods of operation of such facilities as they relate to the potential for odor production, environmental degradation and compatibility with abutting and neighboring land uses as follows:

Category A (aerobic): A waste handling facility use in which all waste is collected and digested utilizing aerobic digestion facilities and processes which includes the constant presence of oxygen.

Category ANC (covered anaerobic): A waste handling facility in which all waste is collected and digested utilizing anaerobic digestion facilities and processes. This includes anaerobic lagoons, holding basins, pits, or above ground tanks, which are covered and the gases generated by the digestion process of the waste are collected and treated. This is done in order to prevent any explosion, fire hazard, or generation of odor.

Category AN (anaerobic): A waste handling facility in which all or part of the waste produced is collected and digested utilizing anaerobic digestion facilities and processes. This includes uncovered anaerobic holding ponds, pits, anaerobic lagoons, sludge basins, anaerobic stockpiling of waste as a solid.

WATERS OF THE STATE: Shall mean all waters within the jurisdiction of this State including all streams, lake, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigations systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State.

WINDBREAK: Shall mean hedge or row(s) of trees designed to lessen the force of the wind; also called a shelterbelt.

WIND ENERGY SYSTEM (WES): Shall mean any electrical generating devise and accessory facilities including but not limited to power lines, transformers, wind turbines, substations, and meteorological towers that operate be converting kinetic energy of wind into electrical power. The energy generated by a WES may be used on site or distributed to the electrical grid.

TOTAL HEIGHT FOR WES: shall mean the highest point, above ground level, reached by a rotor tip or any other part of a WES.

YARD/SETBACK: Open space on a lot unoccupied and unobstructed by any buildings or structure or portion thereof, except for fences, retaining walls, posts and other customary yard accessories.

YARD, FRONT: The space extending the full width of the lot between the front lot line and the nearest point of a building. There shall be a required front yard on each street side of a corner lot.

YARD, REAR: The space extending across the entire width of the lot between the rear lot line and the nearest part of a building or non-minor structure.

YARD, SIDE: The space extending between the front yard line and the rear yard line. It shall be a yard lying between the side lot line and the nearest part of a building or non-minor structure. There shall be only one required side yard on a corner lot.

YARD, SPECIAL: A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but it is adjacent to a lot line in a manner that neither the term "side yard" nor "rear yard" clearly applies. In such cases, the Zoning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district. In order to determine which shall apply, the Zoning Administrator will look at the relationship of the portion of the lot on which the yard is to be located to the

adjoining lot or lots with due regard to the orientation and location of buildings, structures, and buildable areas thereon.

ZONING ADMINISTRATOR: The person duly designated by the Hayes County Board of Commissioners to administer and enforce the regulations established under this Resolution.

ZONING DISTRICT: One of several sets of zoning regulations designed for a particular class of land uses which established uniform regulations governing the use, building and structure height, area, size, intensity of use and other standards of land use within unincorporated area of the County.

ARTICLE 4 - ESTABLISHMENT AND DESIGNATION OF DISTRICTS

SECTION 401 - PLANNING COMMISSION RECOMMENDATIONS

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

SECTION 402 - DISTRICTS CREATED

For the purposes of this Resolution, the following zoning districts for Hayes County, Nebraska, as named and described in Article 5 of this Resolution, are created:

AG - G General Agricultural District
AG - T Transitional Agricultural District

SECTION 403 - OFFICIAL ZONING MAP

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chairperson of the County Board of Commissioners and attested by the County Clerk under the following words: "This is to certify that this is the Official Zoning Map of Hayes County, Nebraska referred to in Section 403 of Resolution No. _____ of the County of Hayes, Nebraska" together with the date of the adoption of this Resolution. The signed copy of the Official Zoning Map shall be maintained in the office of the County Clerk for the use and benefit of the public.

SECTION 404 - OFFICIAL ZONING MAP CHANGES

404.01 CHANGES ON OFFICIAL ZONING MAP: If, in accordance with the provisions of this Resolution, changes are made in the zoning district boundaries or other explanatory matter portrayed on the Official Zoning Map, such changes shall be promptly entered on said Official Zoning Map after amendment of same has been approved by the County Board together with an entry on the Official Zoning Map as follows: "On (date) _____ by official action of the County Board of Commissioners, the following change(s) was/were made in the Official Zoning Map: (brief description of the change) _____", which entry shall be signed by the Chairperson of the County Board of Commissioners and attested by the County Clerk. No

changes to this Resolution which involve matter portrayed on the Official Zoning Map shall become effective until after such change and entry on such Official Zoning Map have been made.

404.02 CHANGES IN CONFORMITY WITH PROCEDURES: No change of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Resolution.

404.03 PENALTIES FOR UNAUTHORIZED CHANGES: Any unauthorized change of any kind by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law.

404.04 FINAL AUTHORITY OF OFFICIAL ZONING MAP: Regardless of the existence of purported copies of the Official Zoning map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the County Clerk, shall be the final authority as to the current zoning status of land within Hayes County, Nebraska.

SECTION 405 - OFFICIAL ZONING MAP REPLACEMENT

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the County Board of Commissioners may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. Each new Official Zoning Map shall be identified by the signature of the chairperson of the County Board of Commissioners and attested by the County Clerk under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on (date of adoption of original map) as part of Resolution No. (number of original adoption resolution) of the Hayes County, Nebraska Board of County Commissioners." Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof shall be preserved together with all available records pertaining to its adoption and amendment.

SECTION 406–RULES FOR INTERPRETATION/ INTERPOLATION OF DISTRICT BOUNDARIES

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

406.01 Boundaries indicated as approximately following the centerlines of roads, streets, or highways shall be construed to follow such centerlines.

406.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines and boundaries indicated as approximately following the corporate limit boundaries of any municipality shall be construed to follow such corporate limit boundaries.

406.03 Boundaries indicated as following railroad lines shall be construed to follow a line midway between the tracks of the main railroad track.

406.04 Boundaries indicated as following shore lines of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such shore line and in the event of change in the shore line shall be construed as moving with the shore line Boundaries indicated as following the centerline of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such centerline.

- 406.05** Boundaries indicated as parallel to or extensions of features indicated in Items 01 through 04 immediately above shall be so construed.
- 406.05** Distances not specified set forth on the Official Zoning Map shall be determined by measurement according to the scale of the map.
- 406.07** Where a district boundary line divides a lot which was under single ownership and control at the date of adoption of this Resolution, the Board of Zoning Adjustment may, upon application, permit the extension of either zoning district for either portion of the lot into the remaining portion of the lot.
- 406.08** In circumstances not covered by Items 01 through 07 immediately above or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries to best accomplish the objectives of the Intent statements of the zoning districts involved.

SECTION 407 - ANNEXATION RULE

Annexation of land to any incorporated municipality shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any municipality shall remove such land from the jurisdiction of this Resolution.

ARTICLE 5 – ZONING DISTRICTS

SECTION 501 AG-G GENERAL AGRICULTURAL DISTRICT

- 501.01 INTENT:** The intent of this district is to promote and facilitate agricultural crop production, livestock production, and other or new forms of agricultural production. The intent is also to encourage soil and water conservation, to prevent contamination of the natural environment within the County. Also to preserve and protect land best suited for agricultural uses by preventing or regulating the introduction, encroachment and location of residential, commercial, and industrial uses which would be incompatible with the agricultural character of the County.
- 501.02 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following uses and structures shall be permitted:
 1. Agricultural uses.
 2. Grain and produce storage, including commercial storage warehouses or elevators, plant seed sales, and storage facilities.
 3. Irrigation facilities, including wells, center pivots, re-use pits, well houses, related structures, and flood/erosion control facilities.
 4. Public, parochial, private non-religious, road maintenance equipment structures, fire stations, public utility substations, and utility distribution systems.
 5. Churches, cemeteries, and related uses.
 6. Fish hatcheries, game farms, and commercial hunting and fishing, including the development of lodges or other buildings solely devoted to the support of hunting and

fishing activities. Temporary housing or shelters for hunters or fishers shall also be permitted.

7. Forestry, tree farms, and plant nurseries.
8. Signs, both on-site and outdoor advertising, provided the number of on-site signs shall not exceed three (3) per premises and that outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. (All signs along Federal and State highways are subject to the permit requirements of the Nebraska Department of Roads.)
9. Radio, Television, microwave, Non-commercial Wind Energy Systems (WES), and other types of erected towers.
10. Child care and day care uses.
11. Single-family dwellings, including manufactured housing and modular homes provided such dwellings comply with all of the following conditions.
 - A. Such dwellings, if not on the same lot and of the same ownership as any existing confined or intensive/stables animal feeding use shall be separated from such use by the distances that are specified in Table 501.04 of this Resolution.
 - B. The minimum lot size for such dwelling is an area not less than two (2) acres. There shall not be more than four (4) total dwellings per quarter section of land unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners.
 - C. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Hayes County Board of Commissioners as a minimum maintenance road or other unimproved roadway. If such dwelling is located on a minimum maintenance road or other unimproved roadway, Hayes County shall not construct or improve such roadways. With the exception of existing minimum maintenance roads, the County shall not be committed to accepting such roadway as a publicly maintained County road even if such roadway is improved to County standards by the owner(s) of such roadway.
 - D. Residential dwelling existing on the same premises and under the same ownership as a confined or intensive/stables animal feeding uses shall remain under the same ownership and on the same premises with such confined or intensive/stables animal feeding use and shall not be subdivided or otherwise sold off as a separate parcel unless the animal feeding use has been abandoned. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing distances required by this Resolution.

501.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses and structures normally and commonly appurtenant to the permitted principal uses and structures.
2. Home occupations and home based businesses.
3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises.

501.04 CONDITIONAL USES: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Article 10, permit the following as conditional uses in the AG-G, Agricultural District.

Exceptions to the minimum separation distance requirements may be required as part of granting a conditional use permit. This will be based on special provisions for odor control, dust control, topography, prevailing winds, and/or other factors that are determined by the County Board of Commissioners. This will ensure and protect neighboring and adjoining properties from unreasonable interference with the value, use, and enjoyment of their properties.

1. Expansion to a larger class size or development of new confined or intensive/stables animal feeding uses and waste handling facilities shall meet or exceed the requirements set forth below and any waste handling facility use shall meet or exceed the separation distances set forth in Table 501.04 of this Resolution.
 - A. Each confined or intensive/stables animal feeding use shall follow the Nebraska Department of Environmental Quality's guidelines or regulations for the disposal of dead animals and carcasses.
 - B. Any confined or intensive/stables animal feeding use shall be located only in areas of the County which are not subject to a one percent (1%) or greater chance of flooding hazard in any given year.
 - C. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive/stables animal feeding use shall remain under the same ownership and on the same premises and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive/stables animal feeding use has been abandoned. Nothing in this subsection shall prohibit the relocation of any such dwelling unit.
2. Waste handling facilities shall meet or exceed all the requirements of this Subsection as follows:
 - A. For all categories of waste handling facility uses, regardless of size or type, all run-off control ponds and basins, methods of waste disposal, and related waste handling facilities and operations shall be engineered, developed, and operated utilizing best management practices. This would include minimizing ground and surface water, air pollutants, odor, dust, flies, vermin, and other environmental hazards. They shall be constructed and operated in accordance with the

requirements established by the County Board of Commissioners who may require review and recommendations by the applicable Natural Resource District, Natural Resources Conservation Service, Nebraska Department of Environmental Quality, their successor agencies, geologists, soil scientist, agronomists, biological engineers, civil engineers, and any other entity with related expertise.

- B.** Any waste handling facility use which proposes to dispose of any waste through application of the waste onto crop or other land shall prove that the owner(s) of the waste handling facility also own or lease an adequate amount of land to spread the waste in an efficient and environmentally safe manner. This shall be based on nutrient needs of the crops, avoiding any build-up of nutrients or chemicals which can damage the production capacity of the land or create run-off into abutting land or drainage way which will in turn contaminate the environment. The County Board of Commissioners may require the owner/operator of the waste handling facility use to conduct, or allow to be conducted by a third party, at the owner/operator's expense, soil sampling and testing. This will help determine the maximum amount of manure to be placed on each acre of land, the timing of such manure placements, and the total amount of land necessary to distribute all manure waste produced.
- C.** All locations which are used by any authorized waste handling facility use for stockpiling or composting of waste shall be subject to authorization by the County Board of Commissioners. This may include the establishment of maximum amounts of waste which may be stockpiled, the methods and operation of any waste composting facility and/or facilities that collect and digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site.
- D.** The owner/operator of any waste handling facility use authorized by the County Board of Commissioners shall agree to permit unannounced access to the waste handling facility to allow inspection of the premises by the Zoning Administrator or other person(s) designated by the County Board of Commissioners to assure compliance with all conditions that were established with the permit.

The Zoning Administrator, or other designated personnel, shall make reasonable effort to notify the owner prior to the inspection. If the owner cannot be reached, after reasonable effort to do so, it will not prohibit the inspection. Such inspections shall be conducted on a complaint basis only and shall first be investigated by the Zoning Administrator who shall document compliance or lack thereof.

Upon a finding by the Zoning Administrator that a waste handling facility use is not in compliance with the approved conditions, the owner/operator and the County Board of Commissioners will be notified, in writing, with the specific violations. The owner will have thirty (30) calendar days to correct any lack of compliance. If the violations are not solved within thirty (30) calendar days, then further actions will be taken, potentially including, reducing the number of animals that contribute to the waste handling facility.

- E.** Any waste handling facility use shall be located only in areas of the County which are not subject to a one percent (1%) or greater chance of flooding hazard in any given year. Locations will also be subject to areas where it is determined by the

County Board of Commissioners that the geology, soil permeability, depth to water table, drainage patterns, and other natural environment characteristics will minimize the potential for surface and ground water contamination. Where it is determined that there is reasonable potential for significant impacts to the environment through leakage from a waste holding pond or a lagoon, the County Board of Commissioners may require the use of above ground waste storage tanks.

- F.** In authorizing any waste handling facility use, the County Board of Commissioners may, after recommendation by the applicable Natural Resources District, require the installation of one or more ground water monitoring wells at recommended locations. They may also require that sampling from these well(s) occur on a particular schedule, that the sampling is conducted by an independent party, that the independent party analyzes the samples, and that the results from the analysis be provided to the County Board of Commissioners in accordance with the sampling schedule. All of this will be at the expense of the owner of the waste handling facility use. In establishing any requirement for monitoring wells, the County Board of Commissioners shall take into account any such wells required by the Nebraska Department of Environmental Quality in its permitting process.
- G.** Waste handling facilities that require permits from any Federal or State agency shall have permits approved and any safeguards required by the County Board of Commissioners shall be in place and operable prior to the generation of waste or prior to the introduction of any animals to the premises of any confined or intensive/stables feeding uses.

Table 501.04

MINIMUM SEPERATION DISTANCES FROM ABUTTING AND NEIGHBORING USES

Class Name	Animal Units	Confined Buffers*			Intensive/Stables Buffers*
		A-Aerobic	ANC-Anaerobic Covered	AN-Anaerobic	
Small Class	< 300	No Regs.	No Regs.	No Regs.	No Regs.
Medium Class	300-999	-	1/4 mile	1/2 mile	1/4 mile
Large Class I	1,000-5,000	1/2 mile	1/2 mile	1 mile	1/2 mile
Large Class II	> 5,000	1/2 mile	1 mile	Not Allowed	3/4 mile

**Minimum distance from waste handling facility use or animal feeding use to any neighboring dwelling unit, church, school, or public use area.*

Measurement of this distance shall be from the point of the waste handling facility or animal feeding use that is nearest to a church, school, public use area or dwelling not on the same premises or of the same ownership.

No Regs. = No regulations for Small Class. It is defined within the existing Zoning Regulations as an Agricultural Use if there are under 300 animal units; therefore requiring no buffer regulations within the AG-G or AG-T zones.

If the confined or intensive/stables animal feeding use or a waste handling facility and a dwelling(s) are of the same ownership, then the minimum separation distances from said confined or intensive/stables animal feeding use or waste handling facility uses and the dwelling(s) shall not apply.

Application of waste to land may be conducted by applying such waste as solid manure, injecting liquid manure into the soil, knifing in, distributed through tethering or honey wagons, or released from below the above ground span pipe of the center pivot irrigation system.

Stockpiling and application of waste shall be in line with the Nebraska Department of Environmental Quality's regulations outlined in Title 130.

Any confined or intensive/stables animal feeding uses or waste handling facility uses shall be greater than or equal to five hundred (500) feet from any cemetery.

4. Animal waste generated outside of Hayes County and applied on land within Hayes County shall be applied in accordance with Hayes County's animal waste application regulations.
5. General welding and agricultural equipment repair businesses, automobile repair and body shop businesses, and other commercial businesses/industrial uses determined by the Board of Commissioners to be reasonably compatible with the surrounding land uses.
6. Livestock auction barns and yards.
7. Crop dusting businesses and related aircraft landing strips and airports.
8. Commercial fuel and fertilizer bulk plants.
9. Solid waste landfills, recycling facilities and transfer stations.
10. Salvage (junk) yards, provided such uses are separated from any existing dwelling unit, church, school, or cemetery by a distance of not less than one-half (1/2) mile.
11. Public and private recreational uses and commercial recreational enterprises. This includes parks, playgrounds, campgrounds, riding stables, canoe outfitters, rental cabins, camp stores, public or commercial river access sites, and other similar uses including bed and breakfast operations and motels.
12. Mineral, sand, and/or gravel extraction operations and facilities.
13. Public service facilities not allowable as permitted principal uses.
14. Wind Energy Systems (WES), meteorological, and communication towers.
15. Residential subdivisions in excess of four (4) lots per quarter section.
16. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent of this zoning district.

501.05 PROHIBITED USES AND STRUCTURES: Other uses and structures which are not allowed in this district as permitted, accessory, or conditional uses shall be prohibited.

501.06 MINIMUM LOT AREA REQUIREMENTS: The following shall be the minimum lot area requirements for uses located within this district:

1. The minimum lot area for a single-family dwelling unit, manufactured home, or modular home shall be two (2) acres.
2. The minimum lot area for uses identified as conditional uses in the district, other than residential dwelling units in residential subdivisions, shall be the

lot area appropriate for such uses, as determined by the Board of Commissioners, provided that no lot shall be less than two (2) acres in area.

501.07 MINIMUM LOT WIDTH AND FRONTAGE: The following shall be the minimum lot width and frontage requirement for uses located within this district:

1. The minimum lot width shall be three hundred (300) feet. The minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Commissioners, provided that no lot shall have a width less than three (300) feet and minimum frontage less than sixty six (66) feet.

501.08 MINIMUM SETBACK REQUIREMENTS: The following shall be the minimum yard requirements for uses located within this district:

Front Setback - Fifty eight (58) feet
Side Setback - Ten (10) feet
Rear Setback - Ten (10) feet

501.09 MAXIMUM HEIGHT: No limitations, except for building design for human habitation which shall have a height limitation of thirty five (35) feet.

SECTION 502 AG-T TRANSITIONAL AGRICULTURAL DISTRICT

502.01 INTENT: The intent of this district is to preserve and encourage land for residential, commercial, and industrial developments with relationship to each other and the agricultural uses around the incorporated municipalities in the County. The intent of this zone is to provide protection of these urban areas from encroachment of incompatible land uses while allowing agricultural uses into the district.

502.02 PERMITTED PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be permitted:

1. Agricultural uses.
2. Grain and produce storage, including commercial storage warehouses or elevators, plant seed sales, and storage facilities.
3. Irrigation facilities, including wells, center pivots, re-use pits, well houses, related structures, and flood/erosion control facilities.
4. Public, parochial, private non-religious, road maintenance equipment structures, fire stations, public utility substations, and utility distribution systems.
5. Churches, cemeteries, and related uses.

6. Fish hatcheries, game farms, and commercial hunting and fishing, including the development of lodges or other buildings solely devoted to the support of hunting and fishing activities. Temporary housing or shelters for hunters or fishers shall also be permitted.
7. Forestry, tree farms, and plant nurseries.
8. Signs, both on-site and outdoor advertising, provided the number of on-site signs shall not exceed three (3) per premises and that outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. (All signs along Federal and State highways are subject to the permit requirements of the Nebraska Department of Roads.)
9. Radio, Television, microwave, and other types of erected towers.
10. Child care and day care uses.
11. Single-family dwellings, including manufactured housing and modular homes provided such dwellings comply with all of the following conditions.
 - A. Such dwellings, if not on the same lot with and of the same ownership as any existing confined or intensive animal feeding use shall be separated from such use by the same distances that are specified in Section 501.04 of this Resolution for the various classes of confined and intensive animal feeding uses.
 - B. The minimum lot size for such dwelling is an area not less than two (2) acres. There shall not be more than four (4) total dwellings per quarter section of land unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners.
 - C. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Hayes County Board of Commissioners as a minimum maintenance road or other unimproved roadway. If such dwelling is located on a minimum maintenance road or other unimproved roadway, Hayes County shall not construct or improve such roadways. With the exception of existing minimum maintenance roads, the County shall not be committed to accepting such roadway as a publicly maintained County road even if such roadway is improved to County standards by the owner(s) of such roadway.

502.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses and structures normally and commonly appurtenant to the permitted principal uses and structures.
2. Home occupations and home based businesses.

3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises.

502.04 CONDITIONAL USES: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG – T Transitional Agricultural District:

1. Two-family and multi-family dwellings provided that these uses are located near existing roadways, water, sewer, law enforcement, fire protection, and other public services, as determined by the Board of Commissioners.
2. Public and private recreational uses and commercial recreational enterprises. This includes parks, playgrounds, campgrounds, riding stables, canoe outfitters, rental cabins, camp stores, public or commercial river access sites, and other similar uses including bed and breakfast operations and motels.
3. Public service facilities not allowable as permitted principal uses.
4. Mineral, sand, and/or gravel extraction operations and facilities.
5. Non-commercial Wind Energy Systems (WES).
6. Nursing home facilities and group homes.
7. Commercial and industrial uses that are compatible with adjoining land uses, determined by the Board of Commissioners.
8. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent of this zoning district.

502.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not allowed in this district as permitted, accessory, or conditional uses shall be prohibited. This prohibition shall specifically include all types of confined or intensive/stables animal feeding uses of three hundred (300) or more.

502.06 MINIMUM LOT AREA REQUIREMENTS: The following shall be the minimum lot area requirements for uses located within this district:

1. The minimum lot area for a single-family dwelling unit, manufactured, home, or modular home shall be two (2) acres if a septic tank and tile field sewage disposal system is used. If a public or semi-public sanitary sewer is to be used than the minimum lot area is not less than ten thousand (10,000) square feet.
2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivision, shall be the lot area appropriate for such uses, as determined by the Board of

Commissioners, provided that no lot shall be less than ten thousand (10,000) square feet in area.

502.07 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width shall be sixty (60) feet. The minimum lot frontage shall be fifty (50) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Commissioners, provided that no lot shall have a width less than sixty (60) feet and minimum frontage less than fifty (50) feet.

502.08 MINIMUM SETBACK REQUIREMENTS: The following shall be the minimum yard requirements for uses located within this district:

- Front Setback - Fifty eight (58) feet
- Side Setback - Five (5) feet
- Rear Setback - Ten (10) feet

501.09 MAXIMUM HEIGHT: No limitations, except for building design for human habitation which shall have a height limitation of thirty five (35) feet.

ARTICLE 6 - SUPPLEMENTAL DISTRICT REGULATIONS

SECTION 601 APPLICATION

The supplemental regulations set forth in this Article qualify and supplement all zoning district regulations. They are declared to be part of this Resolution and applicable to all uses and structures in all zoning districts.

SECTION 602 SETBACK REQUIREMENTS

Minimum building setbacks shall be required along all public roadways as set forth in the district regulations. An open space abutting a roadway shall be deemed a front setback for purposes of determining setback depth requirements. Setbacks equal to or exceeding the minimum setback requirements of each district shall be provided with the following qualifications:

602.01 Any setback so placed or oriented that none of the specific setback definitions contained in this Resolution are applicable shall necessitate a determination by the Zoning Administrator of a suitable setback dimension which will be consistent with the intent of the setback requirements within the applicable zoning district.

602.02 No structure shall project into a required front, side or rear setback. All parts of a structure shall be in compliance with the required setbacks including any eave, cornice, overhang, awning, balcony, or bay window, projection of belt courses, sills, lintels, chimneys and other similar ornamental or architectural features, but excluding unenclosed, uncovered steps, entrance platforms, ramps, terraces or landings which are at or below grade level.

SECTION 603 FENCES AND WALLS

Nothing in this Resolution shall be deemed to prohibit the erection and maintenance of any fence in connection with agricultural uses or any retaining wall in association with any use in any zoning district and any ornamental fence, wall or structural screen fence shall be permitted in any yard. Nothing in this Resolution shall be deemed to prohibit the installation of living screens consisting of trees, shrubs or other plant material.

SECTION 604 SETBACK EXEMPTIONS

Such appurtenant features as sidewalks, walkways, driveways, curbs, drainage and erosion control installations, mail boxes, lamp posts, bird baths, and similar installations are permitted accessory uses on any lot.

SECTION 605 DIVISION OF LOTS

After any portion of a lot has been developed under the provisions of this Resolution, such lot may be divided into smaller lots only if each resulting lot and any buildings thereon comply in all respects to all regulations of the zoning district in which said lot is located.

SECTION 606 CONVERSIONS OF USE

Any use of land which is converted to another use shall comply in all respects with the requirements of this Resolution.

SECTION 607 ACCESSORY USES

Accessory uses shall be permitted as specified in all zoning districts in accordance with the following provisions:

- 607.01** Any accessory use shall be incidental to, subordinate to and commonly associated with the primary use of the lot.
- 607.02** Any accessory use shall be operated and maintained under the same ownership and control and on the same lot as the primary use of the lot.
- 607.03** Any accessory use shall be clearly subordinate to the primary use of the lot in height, area, bulk and extent.
- 607.04** Any accessory use shall be permitted only after the erection and operation of a primary use of the lot.

SECTION 608 HOME OCCUPATIONS AND HOME BASED BUSINESSES

A home occupation, in compliance with the following restrictions, shall be permitted to accompany residential (agricultural or non-agricultural) use by the granting of an occupancy permit:

- 608.01** The home occupation shall be conducted within the dwelling unit or accessory building and only by a member or members of the occupants of the dwelling unit.
- 608.02** The home occupation is clearly subordinate to the residential/agricultural use of the lot and does not change the residential/agricultural character of the lot nor infringe upon the right of neighboring owners to enjoy their property.

SECTION 609 TREE/WINDBREAK SETBACK

No windbreak shall be planted any closer than one and a half (1 ½) times the height of the tallest mature height of any tree found in the first two rows of the road right-of-way. This shall be true on any side of a road or highway, and the distance shall be measured from the nearest side facing the road.

ARTICLE 7 - NON-CONFORMING USES

SECTION 701 INTENT

Within the zoning districts established by this Resolution or future amendments to such districts, there exist 1) lots, 2) buildings or structures, 3) uses of land and buildings or structures, and 4) characteristics of use which were lawful prior to the adoption or future amendment of this Resolution, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Resolution that, with the exception of existing residential structures, non-conformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other buildings, structures, or uses prohibited in the zoning district in which such non-conformities are located, except as specifically authorized in this Resolution.

SECTION 702 LIMITATIONS ON EXPANSION

Non-conforming buildings, structures and uses are declared by this Resolution to be incompatible with the intent of the zoning districts and the permitted uses in the zoning districts. A non-conforming use of a building or structure, a non-conforming use of land, or a non-conforming use of a building or structure and land in combination, except existing residential structures, shall not be extended or enlarged after adoption of this Resolution or amendment thereto, except as specifically authorized in this Resolution.

SECTION 703 HARDSHIP

To avoid any undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction or designated use of any building or structure for which actual construction has been lawfully initiated prior to the effective date of the Resolution or amendment thereto where actual construction activity has been carried on diligently. Actual construction is defined to be the placing of substantial construction materials, other than earth, in a permanent position and fastened in a permanent manner.

SECTION 704 EXCEPTIONS

Notwithstanding other requirements of this Section, a lawfully established residential use rendered non-conforming by adoption of this Resolution or amendment thereto, may be enlarged, altered, or reconstructed, subject to the following restrictions:

704.01 Such residential use shall comply with Section 705 of this Resolution.

704.02 This provision shall not be construed to include more than one use on a lot and shall be applicable so land as such uses remains otherwise lawful.

SECTION 705 NON-CONFORMING LOTS OF RECORD

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

705.01 Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are applicable to the zoning district in which such lot is located, provided that erection of any building or structure shall comply with all setbacks (yard) requirements of the zoning district in which said lot is located. Variance of said minimum setback requirements shall be obtained only through action of the Board of Adjustment.

705.02 If two (2) or more lots or combination of lots and portions of lots with continuous frontage in the same ownership are of record on the effective date of this Resolution or amendment thereto and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Resolution and no portion of said parcel shall be used or sold in any manner which diminishes compliance with the minimum lot width and area requirements of the zoning district in which said parcel is located nor shall any division of any parcel be made which creates a lot with width or area which is less than the requirements set forth in the zoning district in which said parcel is located.

SECTION 706 NON-CONFORMING USES OF LAND

On the effective date of this Resolution or amendment thereto, a lawful use of land exists which would not be permitted under the requirements of this Resolution or amendment thereto may be continued so long as it remains otherwise lawful in accordance with the following conditions.

706.01 If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform with the requirements of this Resolution or amendments thereto.

706.02 No additional building or structure not conforming to the use restrictions and other regulations of the Resolution or amendment thereto shall be erected in connection with such non-conforming use.

706.03 No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel of land on which it is located that has not been used in connection with such non-conforming use.

706.04 No such non-conforming use shall be enlarged or expanded to occupy a greater area of the lot or parcel of land on which it is located than was used in association with such use on the effective date of this Resolution or amendment thereto.

SECTION 707 NON-CONFORMING USES OF BUILDINGS / STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual buildings or structures and land in combinations, exists at the effective date of this Resolution or amendment thereto that would not be permitted in the zoning district in which said non-conforming use of building or structures and land in combination is located, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 707.01** No existing building or structure devoted to a use not permitted in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use permitted in the zoning district as a permitted use, an accessory use or a conditional use.
- 707.02** Any non-conforming use may be extended throughout any parts of a building or structure which were arranged or designed for such use as of the effective date of this Resolution or amendment thereto, but no such use shall be extended to occupy any land outside such building or structure which was not in use as of the effective date of this Resolution or amendment thereto.
- 707.03** If no structural alterations are made, any non-conforming use of a building or structure and land in combination, may through authorization of a conditional use in accordance with the procedures and requirements of this Resolution, be changed to another non-conforming use provided that the County Board of Commissioners, in authorizing said conditional use, shall find that the proposed use is equally appropriate or more appropriate to the intent of the zoning district than is the existing use. In authorizing such conditional use, the Board of Commissioners may set conditions for such proposed use to assure that such use will remain appropriate for location in the zoning district.
- 707.04** Any building or structure or building, structure, and land in combination, in or on which a non-conforming uses is superseded by a permitted use shall thereafter conform to the requirements of this Resolution and the non-conforming use shall not thereafter be resumed.
- 707.05** When a non-conforming use of a building or structure or building or structure and land in combination is discontinued or abandoned for twelve (12) consecutive months, except when governmental action impedes access to the premises, the building(s), structure(s) and land shall not thereafter be used for any use that is not in compliance with this Resolution or amendment thereto. In the event a confined or intensive animal feeding use, as defined in this Resolution, is discontinued or abandoned for a period of twelve (12) consecutive months, such use may be re-established within the confines of the area in which the previous feeding operation was conducted, but such use shall be considered permanently abandoned and shall not be re-established if its use is discontinued for a period of thirty six (36) consecutive months or longer.
- 707.06** Where non-conforming use status applies to a building or structure, a building or structure and land in combination, removal or destruction of the

structure shall eliminate the non-conforming status of the land. Destruction, for the purposes of this Resolution, is defined as damage to an extent of more than seventy-five (75%) percent of the replacement cost at the time of destruction.

SECTION 708 REPAIRS AND MAINTENANCE

Maintenance and ordinary repairs, replacement of walls or members, fixtures, heating and cooling equipment, wiring or plumbing within any non-conforming building or structure may be performed notwithstanding any other requirements of this Resolution or amendment thereto.

SECTION 709 USES UNDER CONDITIONAL USE

A use authorized as a conditional use under the terms of this Resolution shall not be deemed a non-conforming use, except where such use is not in compliance with any conditions of use established in the granting of such conditional use by the Board of Commissioners, provided however, that a change of one non-conforming use to another non-conforming use, authorized by conditional use, shall remain a non-conforming use.

ARTICLE 8 - ADMINISTRATION AND ENFORCEMENT

SECTION 801 ORGANIZATION

The administration and enforcement of this Resolution is hereby vested in the Hayes County Planning Commission, the Hayes County Board of Adjustment, the Hayes County Board of Commissioners, the Zoning Administrator designated by the Board of Commissioners, the Hayes County Attorney and such other persons as may be designated by the Board of Commissioners.

SECTION 802 AUTHORITIES

Planning Commission:

With regard to the proper administration and enforcement of this Resolution, the Hayes County Planning Commission shall have the following authorities:

- 802.01** Hear and recommend action by the Board of Commissioners regarding all applications for amendments to the text of this Resolution and/or changes (rezoning) to the Hayes County Official Zoning Map.
- 802.02** Hear and recommend action by the Board of Commissioners regarding all applications for conditional uses, as set forth in this Resolution.
- 802.03** Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.
- 802.04** Periodically review the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.
- 802.05** Invoke any authorized remedy for the enforcement of this Resolution.

Board of Adjustment:

With regard to proper administration and enforcement of this Resolution, the Hayes County Board of Adjustment shall have the following authorities:

- 802.06** Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator when such order, requirement, decision, or determination is appealed by the person(s) affected by such order, requirement, decision or determination.
- 802.07** Hear and authorize specific appeals at variance with the requirements of this Resolution that would not be contrary to the public interest, where owning to special conditions demonstrated and after written findings of legitimate hardship, a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship and not merely an inconvenience.
- 802.08** Hear and decide appeals regarding interpretation of zoning district boundaries, as indicated on the Official Zoning Map, in accordance with the requirements and limitations of this Resolution.
- 802.09** Prescribe uniform rules of procedure pertaining to investigations, findings of fact, applications, appeals and public hearings.
- 802.10** Invoke any legal remedy for the enforcement of this Resolution including full power to order discontinuance of any use and stays or work (stop work orders) on any premises in violation of the requirements of this Resolution.

Board of Commissioners:

With regard to proper administration and enforcement of this Resolution, the Hayes County Board of Commissioners shall have the following authorities:

- 802.11** Hear and decide conditional use applications upon which it is required to act under the terms of this Resolution, after recommendation from the Planning Commission.
- 802.12** Consider and adopt amendments to the text of this Resolution and/or changes (rezoning) to the Hayes County Official Zoning Map, after review and recommendation by the Planning Commission.
- 802.13** Consider and adopt a schedule of permit and application fees for administration of this Resolution, after review and recommendation by the Planning Commission.
- 802.14** Provide for the proper and constant enforcement of this Resolution through appointment of a Zoning Administrator and sufficient budget to enable the Planning Commission, the Board of Adjustment, the Board of Commissioners, the Zoning Administrator, the County Attorney and any other persons designated by the Board of Commissioners to carry out the responsibilities assigned to them by adoption of this Resolution.

Zoning Administrator:

With regard to proper administration and enforcement of this Resolution, the Hayes County Zoning Administrator shall have the following authorities:

- 802.15** Make available to the public application forms for amendments to this Resolution and/or Official Zoning Map, for appeals to the Board of Adjustment, and conditional use requests to the Board of Commissioners and to issue zoning permits and certificates of zoning compliance (occupancy permits) as required by the Resolution and to maintain records of all such applications and permits issued.
- 802.16** Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution and report said findings and violations to the Planning Commission, Board of Adjustment and/or Board of Commissioners for the purpose of ordering of compliance with the requirements of this Resolution.
- 802.17** Provide interpretation of the text of this Resolution and the Official Zoning Map when necessary and such other technical and clerical assistance as the public, the Planning Commission, Board of Adjustment and Board of Commissioners may require.
- 802.18** Maintain and provide information to the public regarding the requirements of this Resolution and provide for the timely publishing of legal notices and other notifications relative to administration of this Resolution as prescribed by law.
- 802.19** Maintain permanent and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits, certificates of zoning compliance, variances, appeals, conditional uses, and applications thereof together with all records of meetings and public hearings pertaining to this Resolution.

SECTION 803 RESPONSIBILITIES

The following shall be the responsibilities of the various entities involved in the proper administration and enforcement of this Resolution:

- 803.01** It is the intent of this Resolution that all questions of interpretation and enforcement regarding this Resolution shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from a decision of the Zoning Administrator and that recourse from the decisions of the Board of Adjustment shall be to the courts, as prescribed by law.
- 803.02** It is further the intent of this Resolution that the duties of the Board of Commissioners relative to this Resolution shall be limited to those specified, and shall not include the hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this Resolution.
- 803.03** If the Zoning Administrator shall find that any of the provisions of this Resolution are being violated, he/she shall notify the person(s) responsible

for such violation in writing, indicating the nature of the violation and ordering the action or actions necessary to correct and eliminate such violation. The Zoning Administrator shall have the full authority to order discontinuance of prohibited or unauthorized uses of land, buildings or structures, removal of prohibited or unauthorized buildings or structures or prohibited or unauthorized additions thereto, discontinuance of any work being done in violation of the requirements of the Resolution, and the taking of any other legal action necessary to ensure compliance with or prevent violation of the provisions of this Resolution.

803.04 The Zoning Administrator, operating through the County or other designated Attorney, shall have express authority to initiate and carry out any and all legal actions appropriate and necessary to enforce the provisions of this Resolution and any orders of the Board of Adjustment, without further authorization by the Board of Commissioners. Adoption of this provision by the Hayes County Board of Commissioners is expressly intended to authorize the Zoning Administrator and County or other designated Attorney to initiate and carry out all legal actions appropriate and necessary to enforce the provisions of this Resolution that is or may be applicable under the laws of the State of Nebraska.

SECTION 804 ZONING PERMITS REQUIRED

Any building or structure with a permanent foundation shall not be erected, moved, added to, or structurally altered without a zoning permit; therefore, issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Adjustment in the form of an administrative appeal, or receive written authorization from the Board of Adjustment in the form of an approved variance or a written authorization from the Board of Commissioners in the form of an approved conditional, as provided for in this Resolution.

SECTION 805 APPLICATION FOR A ZONING PERMIT

The following requirements shall apply to all requests for a zoning permit:

805.01 All applications for a zoning permit shall be made on forms prescribed for such application by the Board of Commissioners and shall have incorporated into said forms a place for drawing of a plot plan showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of all existing and proposed parking areas, water supply and sewage disposal facility locations, and such other information as may be pertinent to said application.

805.02 The application shall include, the name(s), address(es) and telephone number(s) of the applicant and such other information as may be lawfully required by the Zoning Administrator, including existing and proposed uses of land, buildings and structures, existing or proposed building or structure alterations, the number of families, housekeeping units on the premises, conditions existing on the premises, provisions for water supply, sewage disposal and erosion control, soil conditions and permeability, and such

other information as may be necessary to determine conformance with the requirements of the Resolution and enforcement thereof.

- 805.03** Upon receipt of a complete zoning permit application and receipt of any applicable application fee, the Zoning Administrator shall make two (2) copies of the zoning permit application and return one (1) copy to the applicant after he/she has marked the copy of the permit as approved or disapproved and attested to same by his/her dated signature. If a zoning permit application is denied, the Zoning Administrator shall state the reason(s) for such denial in writing and attach the same to the applicant's copy of the application. The Zoning Administrator shall mark the original of the zoning permit application as approved or disapproved in the same manner as the copy and shall maintain said original together with written reason(s) for denial of said application in the permanent files of the County.
- 805.04** When the Zoning Administrator approves a zoning permit for erection of any building or structure or erection of any addition to or alteration thereof, he/she shall issue one (1) copy of such approved zoning permit to the Hayes County Assessor.
- 805.05** Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such plot plan and permit and no other use, arrangement or construction. If the Zoning Administrator determines that the use, arrangement or construction developed under any approved permit is not proceeding according to the approved permit and applicable regulations or conditions, the Zoning Administrator shall revoke said permit and issue a written stop work order and require that such use, arrangement or construction be brought into conformance with the approved permit.

SECTION 806 LIMITATION OF ISSUANCE OF ZONING PERMIT

Notwithstanding of provisions of this Resolution, in the event a conditional use application has been duly filed with the zoning administrator and the use and/or location of such use proposed in said conditional use application would, due to setback or other requirements of this Resolution, restrict or otherwise prohibit the issuance of a zoning permit for another use on any neighboring property, a zoning permit for any use on neighboring property which would be restricted or prohibited by the authorization of said conditional use shall not be issued by the Zoning Administrator until the application for conditional use has been decided by the County Board of Commissioners in accordance with the requirements of this Resolution. In the event such conditional use is authorized, a zoning permit for a use which would be restricted or prohibited on neighboring property shall be issued only in conformance with the resulting restriction(s) or shall not be issued if the requested use would then be prohibited.

SECTION 807 EXPIRATION OF ZONING PERMIT

If the work described in any approved zoning permit has not been initiated within ninety (90) calendar days of the date of approval of such permit or if work described in any approved permit has not been completed within two (2) years of the date of approval of such permit, the said permit shall expire and be canceled by the Zoning Administrator and written notice

of such cancellation shall be provided to the person(s) affected together with written notice that further work, as described in the canceled permit is prohibited, unless the applicant can qualify for a new zoning permit.

SECTION 808 CERTIFICATES OF ZONING COMPLIANCE FOR NEW USE OR CHANGE OF USE

The following requirements shall apply to the issuance of all certificates of zoning compliance (occupancy permits):

807.01 It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator

807.02 No Certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Commissioners in the form of an approved conditional use, as provided for in this Resolution.

807.03 Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such approved plot plans and permit and no other use, arrangement or construction developed under any approved permit is not according to the approved zoning permit and applicable regulations or conditions, the Zoning Administrator shall not issue a Certificate of Zoning Compliance, but shall instead inform the applicant in writing of the violations and specify the actions necessary to bring such use, arrangement or construction into compliance with the approved zoning permit.

807.04 A Certificate of Zoning Compliance, once issued, shall remain in effect so long as the use of the land, buildings and structures is used in accordance with said Certificate.

SECTION 809 FAILURE TO OBTAIN ZONING PERMIT/CERTIFICATE OF ZONING COMPLIANCE

Failure to obtain required Zoning Permits and Certificates of Zoning Compliance or failure to comply with the plans and application information under which such permits or certificates were issued shall be a violation, and is punishable as provided in this Resolution.

ARTICLE 9 - BOARD OF ADJUSTMENT

SECTION 901 ESTABLISHMENT AND PROCEDURE

A Board of Adjustment is hereby created and shall be known as the Hayes County Board of Adjustment. The Board of Adjustment shall be appointed by the Board of Commissioners and

shall consist of five (5) members, plus one (1) additional member designated as an alternate member who shall attend meetings and serve only when one of the regular members in unable to attend for any reason. One (1) member of the Board of Adjustment shall be appointed from the membership of the Hayes County Planning Commission by the Board of Commissioners and the loss of membership on the Planning Commission shall also result in the immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commission member to the Board of Adjustment by the Board of Commissioners. No member of the Board of Commissioners shall be a member of the Board of Adjustment.

SECTION 902 TERMS OF OFFICE

The members appointed to the Board of Adjustment shall be appointed for a term of three (3) years and be removable for cause by the Board of Commissioners upon written charges and after a public hearing, to consider and decide on such charges. Vacancies shall be filled by appointment for the unexpired terms of member whose term becomes vacant.

SECTION 903 ELECTION OF OFFICERS

The Board of Adjustment shall annually elect one (1) of its members as Chairperson and another as Vice Chairperson, who shall act as Chairperson in the elected Chairperson's absence. Each member shall serve until a successor has been selected.

SECTION 904 SECRETARY OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall annually elect one (1) of its members as Secretary/Treasurer or shall appoint the Zoning Administrator to serve as Secretary/Treasurer to the Board of Adjustment.

SECTION 905 RECORDS OF THE BOARD OF ADJUSTMENT

The Board of Adjustment shall adopt bylaws and rules of procedure in accordance with the provisions of this Resolution necessary to conduct its affairs. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as a majority of the Board shall determine. The Chairperson, or in his/her absence the Vice Chairperson may administer oaths and compel attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep written minutes of its proceedings, indicating evidence presented, findings of fact made by the Board, decisions of the Board, the attendance of members, and the vote of each member upon each question. Records of all actions of the Board shall be kept in the office of the County Clerk and shall be open to public inspection.

SECTION 906 QUORUM AND VOTING

A quorum for the Board of Adjustment shall be three (3) members. Action by the Board on any question other than an appeal from the decision of the Zoning Administrator or a variance application shall require a concurring vote of three (3) members of the Board. Action by the Board on an appeal to overturn a decision of the Zoning Administrator or for approval or denial of a variance application shall require the concurring vote of four (4) members.

SECTION 907 POWERS AND DUTIES

The Board of Adjustment shall have the following powers and ONLY the following powers:

- 907.01** Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is an error in order, requirement, decision or refusal made by the Zoning Administrator or official based on or made in the enforcement of this Resolution or any regulation relating to the location of structures.
- 907.02** Zoning Map Interpretation: To hear and decide, in accordance with the provisions of this Resolution, requests for interpretation of Official Zoning Map of the County.
- 907.03** Variances: To hear applications for and authorize, in specific cases, a variance from the specific terms of this Resolution which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship, and provided that the spirit of this Resolution shall be observed, public safety and welfare secured and substantial justice done. A variance shall not be granted by the Board of Adjustment unless and until the Board shall have made written findings that all of the following conditions exist or have been met:
- 1.** Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of this Resolution, or by reason of exceptional topography conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of particular requirements of this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on the owner of such property, the Board of Adjustment, upon an appeal relating to such property, shall have the power to authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Resolution, but no variance shall be authorized by the Board of Adjustment unless the Board finds that:
 - A.** The strict application of the regulations would produce undue hardship;
 - B.** Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - C.** The authorization of such variance shall not be of substantial detriment to adjacent properties and the character of the district will not be changed by the granting of such variance;
 - D.** The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of the owner's convenience, profit or caprice.
 - 2.** No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practical the

formulation of a general regulation to be adopted as an amendment to this Resolution.

- 907.04 Requirement for Written Application and Conditions:** A variance from the terms of this Resolution shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator on an application form prescribed by the Board of Adjustment and payment of an applicable fee and such application shall demonstrate that special conditions and circumstances exist which are peculiar to the land, building or structure involved and that said special conditions and circumstances are not applicable to other lands, building, or structures in the same zoning district and vicinity, that the literal enforcement of the provisions of this Resolution would deprive the applicant, and that granting of the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, buildings or structures in the same zoning district and vicinity.
- 907.05 Effect of Non-Conformance:** Non-conformance use of lands, buildings or structures in the same zoning district and vicinity and permitted or non-conforming use of lands, buildings or structures in other zoning districts shall not be considered grounds for a determination that the applicant would be deprived of rights enjoyed by other properties and shall not be grounds for granting a variance.
- 907.06 Findings of the Board of Adjustment on Variances:** Prior to taking any action to authorize or deny a variance application, the Board of Adjustment shall:
1. Make a finding that the application for a variance is complete and in compliance with the requirements of this Resolution. Such finding shall be recorded in the minutes of the Board;
 2. Make findings that the particular reasons set forth in the application for a variance justify the granting of the variance in accordance with the limitations for granting such variance. That variance is the minimum variance that will make possible the reasonable use of the land, building or structures involved and such findings shall be recorded in the minutes of the Board;
 3. Make a finding that the granting of the variance will be in harmony with the purpose and intent of the Resolution and will not be injurious to adjacent lands or otherwise detrimental to the public welfare. Such finding shall be recorded in the minutes of the Board.
- 907.08 Conditions of Approval Imposed:** In authorizing any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Resolution to assure continued acceptability of variance. Violations of such conditions, or safeguards when made part of written terms under which the variance is authorized, shall be deemed a violation of this Resolution and punishable as set forth in this Resolution. In addition, the Board of Adjustment shall attach a condition to any variance authorized by the Board that such authorization shall be acted upon by the applicant within

one (1) year from the date of authorization of such variance and that if such authorized variance has not been acted upon by the applicant within this time limitation such authorization shall automatically be revoked.

907.08 Use Variances: Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible in the zoning district involved or grant a variance for any use expressly or by implication prohibited by terms of this Resolution in the zoning district involved.

SECTION 908 PUBLIC HEARINGS

Prior to acting on any powers granted to it under this Resolution, the Board of Adjustment shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property effected by the petition or in the absence of a planning commission, In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 909 BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS

In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partially, or modify the order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variance under this Resolution.

SECTION 910 APPEALS

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board or bureau of the County, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen (15) days after the filing of the decision in the office of the Board of Adjustment. Upon the filing of such a petition a summons shall be issued and be served upon the Board of Adjustment together with a copy of the petition, and return of service shall be made within four (4) days after the issuance of the summons. Within ten (10) days after the return day of the summons, the County Board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgment according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law,

which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the State regulating appeals in actions at law.

ARTICLE 10 - CONDITIONAL USES

SECTION 1001 GENERAL POWERS

The Hayes County Board of Commissioners may grant conditional uses to property owners for the use of their property in conformance and compliance with the limitations and procedures set forth herein. Granting of a conditional use shall only allow property owners to put their property to a conditional use if such use is listed among those uses specifically identified in the zoning district in which the subject property is located as a conditional use. The power to grant conditional uses shall be the exclusive authority of the Board of Commissioners and the Board of Commissioners has formally adopted and shall comply with the following standards and procedures:

SECTION 1002 APPLICATION REQUIREMENTS

A written application and site plan for a conditional use shall be initiated by a property owner or authorized agent of such owner(s) and shall be submitted to the Zoning Administrator on forms prescribed by the Board of Commissioners. Said application shall be signed by the applicant or the applicant's authorized agent and the applicant shall pay any applicable application fee. Such application shall indicate the Section of this Resolution under which the conditional use is being sought and, at a minimum, shall indicate the following:

1002.01 A legal description of the property on which the proposed conditional use is requested, including the specific size and dimension of the area on which the proposed conditional use would be located if less than the total property owned by the applicant;

1002.02 The size and locations of all existing and proposed buildings and structures;

1002.03 A detailed description of the use proposed and the activities involved in such use;

1002.04 The location(s) of access to public roadway(s);

1002.05 The type and locations of easements affecting the property;

1002.06 A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;

1002.07 The extent and location of parking, loading and refuse disposal and collection facilities;

1002.08 The locations of residential dwellings and other non-agricultural land uses within two (2) miles of the property in question;

1002.09 An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;

1002.10 For industrial uses, and confined or intensive animal feeding uses, a description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, radiation or potential air, water or soil pollution or explosion hazards;

1002.11 Any areas on the property subject to flooding or considered to be a wetland.

SECTION 1003 REFERRAL TO PLANNING COMMISSION

Prior to consideration of a conditional use application, the Board of Commissioners shall refer a conditional use application to the Hayes County Planning Commission for review, research and recommendation.

SECTION 1004 PLANNING COMMISSION PUBLIC NOTICE

Prior to consideration of a conditional use application by the Planning Commission, shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 1005 PUBLIC HEARING, CONSIDERATION AND PROCEDURES

At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public in attendance and shall review the conditional use request. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth. If the Commission recommends disapproves an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall immediately be forwarded in writing by the Zoning Administrator to the County Board of Commissioners for it consideration and the Zoning Administrator shall provide the same written statement to the applicant within seven (7) calendar days of the date of action by the Planning Commission.

SECTION 1006 COUNTY BOARD OF COMMISSIONERS PUBLIC NOTICE

Prior to consideration of a conditional use application, the Board of Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal,

county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 1007 PUBLIC HEARING, CONSIDERATION AND PROCEDURES

At public hearing, the Board of Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance, and shall review the conditional request. The Board of Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in this Resolution. Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven (7) calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven (7) calendar days of the date of such disapproval.

SECTION 1008 REQUIREMENTS GOVERNING REVIEW AND APPROVAL OF CONDITIONAL USES

In reviewing any conditional use application, the Planning Commission and Board of Commissioners shall consider all aspects of the proposed use including, at a minimum, those aspects of use listed below to determine the acceptability of the proposed use and its location. At the option of the Planning Commission and/or the Board of Commissioners, the Planning Commission and/or Board of Commissioners may request technical support from any public or private agency or entity in the review of any conditional use application. Such technical support may take any form including, but not limited to technical data and advice, comments or recommendations. In authorizing any conditional use, the Board of Commissioners shall attach specific conditions, requirements or limitations regarding each aspect of use listed below to assure continued acceptability of the conditional use. Such conditions shall be made either by reference to a site plan for the proposed use or by attaching specific written statements. At a minimum, the aspects of acceptability include:

- 1008.01** Both ingress and egress to the property and conditional use thereon and the existing and proposed buildings and structures thereon is appropriate with particular reference to automobile and truck safety, traffic flow, site distance, roadway and bridge capacities, convenience and access in case of fire or catastrophe;
- 1008.02** Off-street parking, including spaces for handicapped persons, is adequate for the use proposed and will not create any safety hazards relative to public roadways;
- 1008.03** Refuse disposal or manure collection and disposal facilities and operations and other service facilities are appropriate relative to location, capacity and safety;

- 1008.04** Water supply, sewage disposal facilities or manure collection, storage, treatment and land application methods are appropriate relative to size, capacity, topography, soil conditions, water table, flood hazard, location, surface water drainage and, where applicable, are located at least an acceptable distance from the ordinary high water mark of any river, stream or water course to avoid any potential surface water contamination;
- 1008.05** The number, location, size and use of buildings and structures proposed are appropriate, relative to the size of the site and protection of adjoining properties and scenic views.
- 1008.06** Front, side and rear setbacks meet or exceed the minimum setback requirements of the zoning district in which the conditional use is located.
- 1008.07** Provisions to avoid development within any area subject to flooding and/or to avoid modification of any wetlands.
- 1008.08** For proposed industrial uses and confined or intensive animal feeding uses, the types of operations to be conducted on the site will not result in inappropriate levels of traffic, noise, dust, odor, or undue potentials for air, water pollution or explosion hazards.

SECTION 1009 CONDITIONS, SAFEGUARDS AND LIMITATIONS OF USE

In consideration of any conditional use application, the Board of Commissioners may prescribe any additional conditions, safeguards or limitations appropriate to assure the compatibility of the conditional use with adjacent lands, with the intent of the zoning district in which such use is to be located, and with the spirit of this Resolution.

SECTION 1010 EXPIRATION OF CONDITIONAL USE AUTHORIZATIONS

Development of any authorized conditional use shall be commenced within one (1) year of the date of approval of such conditional use by the Board of Commissioners and development of said authorized conditional use shall be completed within two (2) years from the date of approval of such conditional use by the Board of Commissioners or such authorization is automatically revoked. Development or completion of any conditional use authorization that has been so revoked shall be permitted only after reapplication and approval of such conditional use application by the Board of Commissioners, in the manner-herein described.

SECTION 1011 INTENT TO CONSTRUCT A LIVESTOCK MANAGEMENT FACILITY OR LIVESTOCK WASTE HANDLING FACILITY

The Intent to Construct a Livestock Management Facility or Livestock Waste Handling Facility will only include the following requirements:

- 1011.01** The Hayes County Board of Commissioners may grant Intent to Construct Livestock Management Facilities or Livestock Waste Handling Facilities to property owners for the use of their property in conformance and compliance with the limitations and procedures set forth herein. Granting Intent to Construct shall only allow property owners to put their property to a conditional use if such use is listed among those uses specifically identified in the zoning district in which the subject property is located as Intent to Construct. The power to grant Intent to Construct shall be the exclusive authority of the Board of Commissioners and the Board of Commissioners

has formally adopted and shall comply with the following standards and procedures.

1011.02 A written application for Intent to Construct shall be initiated by the property owner or authorized agent of such owner(s) and shall be submitted to the Zoning Administrator on forms prescribed by the Board of Commissioners. Said application shall be signed by the applicant or the applicant's authorized agent and the applicant shall pay any applicable application fees.

1011.03 Prior to consideration of an Intent to Construct application, the Board of Commissioners shall refer an Intent to Construct application to the Hayes County Planning Commission for review, research, and recommendation.

1011.04 Prior to consideration of an Intent to Construct application by the Planning Commission, the applicant shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County of one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place, and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the applications. In the absence of a planning commission, such notice shall be given to the clerks of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be presented by an agent or attorney at the public hearing and be heard.

1011.05 At the public hearing, the Board of Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the condition request. The Board of Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in this Resolution. Upon approval of Intent to Construct, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven (7) calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven (7) calendar days of the date of such disapproval.

1011.06 In reviewing any Intent to Construct applications, the Planning Commission and Board of Commissioners shall consider all aspects of the proposed uses. At the option of the Planning Commission and/or the Board of Commissioners, the Planning Commission and/or Board of Commissioners may request technical support from any public or private agency or entity in the review of any Intent to Construct application. Such technical support may take any form including, but not limited to technical data and advice,

comments or recommendations. In authorizing any Intent to Construct, the Board of Commissioners shall attach specific conditions, requirements or limitations to assure continued acceptability of the Intent to Construct. Such conditions shall be made either by reference to a site plan for proposed use or by attaching specific written statements.

1011.07 Following the public hearing and the Intent to Construct application approval by the Board of Commissioners, the applicant is authorized for two (2) years, from the date of the public hearing, to commence physical development. If no physical development has occurred within two (2) years of the authorized Intent to Construct, the application will be revoked. If an authorized application is revoked, there is a one (1) year waiting period before any reapplication process may occur. In the event of a reapplication, the owner or authorized agent must follow the same procedure as listed above, and a new Intent to Construct application and application fee shall be submitted to the Zoning Administrator. During the one (1) year waiting period of a revoked application, the land owner or different land owner than the last applicant may not file an Intent to Construct application until the one (1) year waiting period has expired on any portion of the same property.

1011.08 Approval or denial of the Intent to Construct application, by the Board of Commissioners, shall not preclude the requirements of the Conditional Uses listed in Article 10 of this Resolution to construct or develop in accordance to the Intent to Construct application or the zoning districts conditional use requirements.

ARTICLE 11 - AMENDMENTS

SECTION 1101 AUTHORITY

The County Board of Commissioners may, from time to time amend, supplement, modify the zoning district boundaries or repeal the regulations contained in this Resolution, provided no such amendment, supplement, modification, change of boundaries or repeal shall become effective until such proposed modification shall have been submitted to the Planning Commission for recommendation and report and after public notice has been provided and public hearing have been held by both the Planning Commission and Board of Commissioners. A proposal for modification or repeal may be initiated by the Planning Commission, the Board of Commissioners or upon application of any owner of property under the jurisdiction of this Resolution. A filing fee, as established by the County Board of Commissioners shall be paid for each application to modify this Resolution prior to action on such application by the Planning Commission and Board of Commissioners, provided that such fee shall be waived where the proposed modifications is initiated by the Planning Commission or the Board of Commissioners.

SECTION 1102 PUBLIC NOTICE AND PUBLIC HEARINGS

Prior to consideration of amending, supplementing, changing, modifying or repealing of all or part of this Resolution, notice of public hearings by the Planning Commission and Board of Commissioners shall each be provided as follows:

1102.01 Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

1102.02 If such proposed modification is not a general revision of an existing provision of this Resolution and will affect only a specific property, the public notice shall include the general location and a legal description of such specific property and, in addition, notice of the public hearing(s) shall be mailed by first class mail to the applicant and the owners of record of real estate that is located adjacent to or immediately across a road from the property affected by such modification at least ten (10) calendar days prior to such public hearings.

1102.03 The provisions of this Section regarding notification by first class mail shall not apply to:

- 1.** A proposed modification of this Resolution where such modification will apply throughout the County or throughout an existing zoning district;

2. Additional or different types of zoning districts are proposed, whether or not such additional or different zoning districts are made applicable to areas or parts of areas already within a zoning district of the County;
3. In these instances only the publication of public notice in the newspaper, and notice to other planning commissions having jurisdiction over lands within three (3) miles of lands which will be effected by such modification and notification of local units of government shall be required.

SECTION 1103 AMENDMENT CONSIDERATION AND ADOPTION

1103.01 Planning Commission: The procedure for the consideration and adoption of any proposed amendment to this Resolution shall be in like manner as that required for consideration and adoption of this Resolution. For action on amendments to the text of this Resolution or the zoning district boundaries indicated on the Official Zoning Map, a quorum of the Planning Commission must be present at the required public hearing to approve or disapprove a proposed amendment action on any proposed amendment shall require an affirmative vote of a majority of all members of the Commission. The Commission's action on any proposed amendment shall constitute a recommendation of approval or disapproval to the Board of Commissioners.

1103.02 Board of Commissioners: After public notice and public hearing as described above, may act to agree or disagree with said Planning Commission recommendation and shall act to approve or disapprove said amendment. Passage of a motion to adopt a resolution approving an amendment or passage of motion to disapprove an amendment, regardless of the recommendation of the Planning Commission shall require a simple majority vote of the Board of Commissioners, except for the provisions set forth in Section 1105 of this Resolution.

SECTION 1104 AMENDING OFFICIAL ZONING MAP

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

SECTION 1105 PROTESTS

Regardless of whether or not the Planning Commission approves or disapproves a proposed amendment, if a protest against any amendment, signed by the owners of twenty percent (20%) or more of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, is filed, such amendment shall not become effective except by the favorable vote of two-thirds majority of the County Board of Commissioners.

ARTICLE 12 - COMPLAINTS, VIOLATIONS, REMEDIES AND PENALTIES

SECTION 1201 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint, immediately investigate the complaint and take appropriate action thereon in accordance with the regulations and requirements of this Resolution.

SECTION 1202 PENALTIES FOR VIOLATION

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approval of variance and conditional uses, shall constitute a misdemeanor. Any person, partnership, limited liability company, association, club, or corporation violating this Resolution or fails to comply with any of its requirements or conditions and safeguards established in connection with approvals of variances and conditional uses shall be guilty of Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the County Board or other proper local authority of the County, as well as any owner(s) of property within the district affected by the regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, business or use in or about the premises. Any taxpayer or taxpayers in the County may institute proceedings to compel specific performance by the proper official or officials of any duty imposed by such sections or in resolutions adopted pursuant to such sections of this Resolution. Nothing contained herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation of this Resolution.

SECTION 1203 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, moved, converted or maintained, or any building, structure or land is used in violation of this Resolution or the conditions and safeguards established in connection with approval of any variance or conditional use, the Zoning Administrator, County Attorney or other duly appointed official shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, movement, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

ARTICLE 13 - SCHEDULE OF FEES

SECTION 1301 AUTHORITY

The County Board of Commissioners shall establish a schedule of fees for Zoning Permits, Certificates of Zoning Compliance, Appeals, Rezoning Applications, Conditional Use Applications, Variance Applications, and other matters pertaining to the effective

administration of this Resolution. The schedule of fees shall be posted in the office of the Zoning Administrator and County Clerk at all times. Said schedule of fees may be altered or amended from time to time by action of the Board of Commissioners.

SECTION 1302 NON-PAYMENT OF FEES

Until all applicable fees have been paid in full by the applicant, no action shall be taken on any application or permit.

ARTICLE 14 - LEGAL STATUS PROVISIONS

SECTION 1401 SEPARABILITY

Should any Article, Section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1402 PURPOSE OF CATCH HEADS

The catch head titles appearing in connection with the Articles and Sections contained within this Resolution are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing and interpreting the terms and provisions of this Resolution.

SECTION 1403 REPEAL OF CONFLICTING RESOLUTIONS

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

SECTION 1404 EFFECTIVE DATE

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

ARTICLE 15 - COMMUNICATION TOWER REGULATIONS

SECTION 1501 CONDITIONAL USE PERMIT REQUIREMENT

Notwithstanding anything to the contrary contained herein, in all instances a Conditional Use Permit which fulfill the minimum and special requirements mentioned herein, must be obtained with the affirmative vote of County Board before any radio, television, personal wireless services or facilities may be constructed or operated within the jurisdiction of the County.

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the Federal government with the authority to regulate towers and antennas.

SECTION 1502 MINIMUM REQUIREMENTS

The placement of wireless communication antennas or towers must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the property is intended;
2. The antennas or tower will have no significant adverse impact on surrounding private property.
3. The user must obtain all necessary land use approvals and permits.

SECTION 1503 SPECIAL REQUIREMENTS

1. The placement of wireless telecommunication antennas or towers on water tower sites will be allowed only when the following additional requirements are met:
 - A. The applicant's access to the facility will not increase the risks of contamination to the County or Village's water supply;
 - B. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - C. The presence of the facility will not increase the water tower or reservoir maintenance cost to the County or Village; and
 - D. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
2. In no case shall towers or antennas be allowed in designated prairie or other conservation or wildlife area unless they are to be installed in areas, which currently contain tower facilities or antennas, and in no case shall towers or antennas be allowed in areas without road access to the base of the tower, antenna support structure or facilities.
3. Tower setbacks shall be measured from the property line of the parcel on which it is located to the base of the tower. The setback shall not be less than one hundred ten percent (110%) of the tower height as measured from the ground level.
4. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
5. No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. No banners or similar devices or materials may be attached to the towers, antenna support structure or antennas.

6. Ground level equipment, buildings, and the tower base shall be screened from public streets and residentially zoned properties and shall not encroach in the building setback. Landscaping shall be required to screen as much of the support structure as possible. The County may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.

In the event the use of any tower or antenna has been discontinued for a period of three hundred and sixty-five (365) consecutive days, the tower or antenna shall be deemed to be abandoned. Upon such abandonment, the operator of the tower or antenna shall dismantle and remove the tower or antenna. If such tower or antenna is not removed within said three hundred and sixty-five (365) days from the date of abandonment, the County may remove such tower or antenna, in accordance with applicable law, at the facility owner's expense.

ARTICLE 16 - WIND ENERGY SYSTEMS

SECTION 1601 GENERAL STANDARDS

All Wind Energy Systems (WES) located within the Extra Territorial Jurisdiction of the Villages within Hayes County shall conform to the following general standards:

1. Clearance of rotor blades or airfoils for commercial/utility Wind Energy Systems must maintain a minimum of twenty (20) feet of clearance between their lowest point and the ground. Noncommercial WES shall have a minimum clearance of twelve (12) feet between their lowest point and the ground.
2. On-site signage shall be limited to identification signs not to exceed six (6) feet and high voltage warning signs.
3. All wind turbines part of a commercial/utility WES shall be installed with a monopole tower.
4. All commercial/utility WES shall obtain a FAA permit and comply with all aviation warning requirements established by the FAA regulations and permit.
5. All commercial/utility WES shall be white, grey or other neutral non obtrusive, non-reflective color. Blades may be black in order to facilitate deicing.

6. All on site communication and transmission feeder lines installed as part of the commercial/utility WES shall be underground.
7. Commercial/utility WES shall not exceed fifty (50) db(A) at the nearest occupied dwelling.
8. Commercial/utility WES shall obtain FCC permits where necessary and provide evidence of permit approval.
9. The commercial/utility WES, at the time of application for a conditional use, shall identify all county roads to be used for construction and maintenance of a WES. The conditional use applicant shall conduct a road condition survey and written report prior to construction. The conditional use applicant shall be responsible for restoration of the road(s) and bridges to preconstruction standards as established in the report. The applicant shall be responsible for the cost of retaining outside engineering firm(s) to evaluate road condition and cost for restoration if so determined by the Planning Commission.
10. The commercial/utility WES applicant shall be responsible for immediate repair of damage to drainage or irrigation systems stemming from construction, operation or maintenance of the WES.
11. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as oils, lubricants and solvents shall be removed from the site promptly and disposed of in accordance with all applicable local, State and Federal regulations.
12. A commercial/utility WES shall provide a decommissioning plan to the County Board at the time application is made. The plan shall include the method or means of removing the WES and accessory facilities, parties responsible for removal and site cleanup, evidence of a damage insurance liability policy, schedule for removal not to exceed ninety (90) days from approval of the plan. The applicant shall set aside three-fourths (3/4) of one percent (1%) of each towers' cost for future decommissioning upon approval of the application by the County Board. The funds are to be placed in a cash escrow account with a local bank.
13. A Conditional Use Permit for a commercial/utility WES shall be reviewed each year on the anniversary of issuance. A Conditional Use Permit for a commercial/utility WES shall be considered null and void if the WES has not begun within two (2) years following issuance of the WES Conditional Use Permit or produced energy for one (1) year, unless a plan is submitted to the Planning Commission outlining the steps and schedule for returning the WES to service.
14. A contractual agreement referred to as a Developers Agreement between the County Board and the commercial WES developer shall be created and made part of the Conditional Use Permit. The agreement shall detail road improvements, road reconstruction, additional right-of-way needs, location of transmission lines, easements, bond, and payment requirements.

SECTION 1602 NONCOMMERCIAL WIND ENERGY SYSTEMS (SMALL)

1602.01 DEFINITION: Noncommercial Wind Energy Systems (small) shall mean a wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more the 100 kW and which is intended to primarily reduce on-site consumption of utility power.

1. Total height shall mean the highest point, above ground level, reached by the rotor tip or any other part of a WES.

1602.02 All noncommercial wind energy systems located within the Extra Territorial Jurisdiction of the Villages within Hayes County shall conform to the following standards:

1. Shall be systems installed to provide for full or partial onsite consumption of utility supplied electricity.
2. Setbacks: Noncommercial WES shall be located in the rear yard of all Residential Districts; further, all towers shall adhere to the setbacks found in Table 2 below.
3. Tower Height: In all districts except the Agricultural District tower heights shall not exceed thirty (30) feet. Any tower exceeding thirty (30) feet shall be required to submit an application for conditional use. In the Agricultural District there is no height limitation except that imposed by FAA regulations.
4. Noncommercial WES shall not exceed fifty (50) db(A), as measured at the closest neighboring inhabited dwelling unit. Temporary exceptions may include severe wind storms or power outages requiring higher demand.
5. Compliance with this Ordinance:
 - A. All noncommercial WES will require a permit.
 - B. Permit application will include an engineered drawing showing compliance with nationally recognized building codes. The permit shall include standard drawings of the tower structure, turbine structure, footings, guy wire anchors and a professional engineers stamp.
 - C. Evidence of notification to the servicing utility informing the utility that the noncommercial WES will be connected to the utilities grid.

SECTION 1603 METEOROLOGICAL TOWERS

All meteorological towers located within the Extra Territorial Jurisdiction of the Villages within Hayes County shall conform to the following standards:

1. Shall be towers which are erected primarily to measure wind speed, direction, and record other data relevant to the site of a commercial WES.

2. Meteorological towers shall be sited according to Table 1 below.
3. Meteorological towers shall be a conditional use and follow the same process as outlined in this Resolution.
4. Meteorological towers, permanent or temporary, in excess of two hundred (200) feet in height, shall meet all FAA requirements and shall be required to apply for a permit prior to construction. Meteorological towers less than two hundred (200) feet in height shall have the guy wires clearly marked with devices common to overhead transmission lines and shall be required to apply for a permit prior to construction.
5. Setbacks: All meteorological towers shall adhere to the setbacks established in Table 2 below.

SECTION 1604 COMMERCIAL/UTILITY WIND ENERGY SYSTEMS (LARGE)

1604.01 DEFINITION: Commercial/Utility Wind Energy System (large) shall mean a wind energy system of equal to or greater than 100 kW in total name plate generating capacity.

1. Total height shall mean the highest point, above ground level, reached by the rotor tip or any other part of a WES.

1604.02 All commercial/utility wind energy systems located within the Extra Territorial Jurisdiction of the Villages within Hayes County shall conform to the following standards:

1. Commercial/utility WES shall be permitted as conditional uses within the districts as seen in Table 1 below.
2. The request for a Conditional Use Permit shall include the following:
 - A. Name(s) of project applicant.
 - B. Name(s) of project owner.
 - C. Legal description of the project.
 - D. Documentation of land ownership or lease of the property.
 - E. Site plan showing property lines, setbacks, proposed accessory buildings, wind turbine locations, transmission lines, adjacent subdivisions, homes or other structures, county and service roads, legend and scale, signature of surveyor or engineer.
 - F. Narrative description of the project including number, type, generating capacity, tower height, rotor diameter, total height of all wind turbines including meteorological towers, height of transmission lines and capacity, lastly proposed users of project.

- G.** Overview map of the area showing topography, location of WES owned or not owned by the applicant, public or private airfields within one mile of the proposed WES and other communication towers.
 - H.** An acoustical report that certifies the WES will meet the noise requirements of this ordinance.
 - I.** Evidence that other tower owner(s) or operator(s) have been notified of the proposed WES and there will not be interference in communications.
 - J.** An Environmental Assessment Worksheet shall be prepared by a qualified environmental engineering firm when a commercial WES is located within avian migratory routes. The Environmental Assessment Worksheet shall contain an avian assessment, map of the migratory routes and recommended mitigation practices.
 - K.** A decommissioning plan as required by this Ordinance
 - L.** There shall be a flicker/strobe effect study provided.
- 3.** Aggregated Projects:
- A.** Aggregated projects may be jointly submitted as a single application and reviewed as a single application, including public notices, public hearing and subsequent approvals or denials.
 - B.** Permits may be issued and recorded separately.
 - C.** Aggregated projects proposed shall be considered conditional uses and follow the requirements of this Resolution.
- 4.** Joint projects will be assessed as one project.
- 5.** Setbacks: All commercial/utility towers shall adhere to the setbacks found in Table 2 below.

6. **Table 1**

Zoning District	Meteorological Tower	Non Commercial	Commercial
Agricultural District (AG-G)	Conditional Use	Permitted	Conditional Use
Transitional District (AG-T)	Not Permitted	Conditional Use	Not Permitted

7. **Table 2**

	Wind Turbine, Noncommercial (Small)	Commercial and Utility WES (Large)	Meteorological Towers
Property Lines	1.1 times the total height.***	½ blade diameter or 150', whichever is greater	1.1 times the tower height
All Road Rights-of-Way**	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height
Other Public or Private Utility Easements	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height
Public and Private Airfields	Per FAA regulations	Per FAA regulations	Per FAA regulations
Irrigation Canals	1.1 times the total height.	½ blade diameter or 150', whichever is greater	1.1 times the tower height

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

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

*** Total height shall mean the highest point, above ground level, reached by a rotor tip or any other part of erected tower or WES.