

# **SIOUX COUNTY, NEBRASKA ZONING REGULATIONS**

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**AS AMENDED OCTOBER 1, 2025**

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**RESOLUTION NO. \_\_\_\_**

A RESOLUTION OF SIOUX COUNTY, NEBRASKA, ADOPTING A COMPREHENSIVE ZONING CODE AND SUBDIVISION REGULATIONS TO BE KNOWN AS THE "SIOUX COUNTY ZONING AND SUBDIVISION RESOLUTION" TO PROVIDE FOR ZONING CLASSIFICATIONS, ZONING DISTRICTS, FOR USES AND REGULATIONS OF PROPERTY WITHIN THE VARIOUS ZONING CLASSIFICATIONS; TO PROVIDE FOR AN EFFECTIVE DATE; TO PUBLISH IN PAMPHLET FORM.

BE IT ORDAINED BY THE CHAIRMAN AND THE BOARD OF COUNTY COMMISSIONERS OF SIOUX COUNTY, NEBRASKA:

**SECTION 1. TITLE**

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

**SECTION 2. PURPOSE AND INTENT**

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

1. To promote the health, safety, morals, comfort and general welfare of the present and future residents of Sioux County.
2. To preserve and protect property values throughout Sioux County.
3. To protect the tax base of Sioux County.
4. To regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population.
5. To create zoning districts within the unincorporated areas of Sioux County over which it has zoning jurisdiction.
6. To regulate the location and use of buildings and land within each district or zone.
7. To enforce and maintain the objectives and policies of the Sioux County Comprehensive Plan.
8. To encourage the most appropriate use of land.

### SECTION 3. AUTHORITY AND GENERAL PROVISIONS

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

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

**3.03. Scope:** Except as may hereinafter specified, no land, building structure, or premises, hereafter shall be used or occupied and no structure may be located, constructed, extended, converted, structurally altered or otherwise developed without full compliance with the terms of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 18.

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

- A-1 Agricultural One District
- A-2 Agricultural Two District
- R-1 Residential District
- R-2 Residential Two District
- R-3 Residential Three District
- C Commercial District
- I Industrial District

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

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

**3.07. Disincorporation:** All territory which may hereafter become part of the unincorporated area of Sioux County, Nebraska which is regulated by this Resolution by the disincorporation of any city or village, or any part thereof, shall automatically be classified as lying and being in the R-1 Residential District until such classification shall have been changed by amendment of this Resolution as provided by law.

**3.08. Repeals:**

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

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

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

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

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

**3.11. Interpretation:**

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

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

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

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

#### **SECTION 4. RULES AND DEFINITIONS:**

##### **4.01. Rules:**

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

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

1. **Accessory Building:** A subordinate building which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, barns and storage sheds.
2. **Accessory Use:** A subordinate use which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, and small storage sheds.
3. **Adjacent:** When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line with a lot in question or which would share a boundary line were it not for the separation caused by a street or any other public right of way.
4. **Agriculture:** The act of using the land to raise crops or livestock on a farm along with the necessary accessory uses for packing, treating, or storing of the produce: provided, however, that the operation of such accessory uses be secondary to that of normal agricultural activities. (See farm)
5. **Allowed Use:** Any use, either permitted or conditional, in the designated district.
6. **Alteration:** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.

7. **Animal Unit:** Animal units shall be classified as follows:  
  
1 animal unit = 1 head of livestock for cattle, bison, mules, burros, llamas, ostriches, elk, or horses;  
1 animal unit = 2 head of livestock for swine, sheep, or goats;  
1 animal unit = 20 head of livestock for chickens, turkeys, or rabbits; 1 animal unit = 1 head of livestock for all other livestock.
8. **Basement:** That portion of a building having more than one-half of its height below finished grade. This portion shall not be a completed structure, but shall serve as a substructure of foundation of the remainder of the building.
9. **Bed and Breakfast:** Any place of lodging that provides rented rooms to six (6) or fewer people for a period not to exceed seven (7) days per renter at a time that is the personal residence of the owner that is occupied by the owner at the time of rental.
10. **Billboard:** Any sign advertising a business, industry, or product not sold on the same site as the sign's location. This definition is not intended to include any advertisement or directional signage for agricultural operations or home businesses occurring within Sioux County.
11. **Boarding House:** A building other than a hotel or motel, where, for compensation and by prearrangement for definite periods, meals, or lodging or meals, are provided for three or more persons and individual cooking facilities are not provided.
12. **Building:** Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property, but not a fence or similar enclosure. It is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which conducted the principal use of the lot on which it is situated. In any Residential District, any dwelling shall be deemed to be the principal building on the lot which the same is situated.
13. **Building Area:** The portion of a lot remaining after required yards have been provided.
14. **Building, Height:** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top floor in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gabled, hip or gambrel roof. Chimneys, cooling towers, elevator head-houses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers/spires, church steeples, radio/television towers, antennas or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations.
15. **Comprehensive Plan:** Is the plan or series of plans for the future development of Sioux County recommended by the Planning Commission and adopted by the County Board.
16. **Conditional Use Permit:** A Conditional Use Permit is written permit issued by the County Board. This Conditional Use Permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations.
17. **County Board:** The Board of Commissioners of Sioux County, Nebraska.
18. **Dairy:** An establishment for the primary production and subsequent sale or distribution of mail and/or milk products.
19. **Developer:** The legal or beneficial owner or owners of any of the land proposed to be included in a given development, or the authorized agent therefore, including the holder of the option or contract to purchase, or other individual having an enforceable legal interest in such land.

20. **Development:** Any man-made change to alter the existing land use of a parcel of land including but not limited to: buildings, structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.
21. **District:** A section or sections of the area within the zoning jurisdiction of the County for which uniform regulations governing the use, height, area, size, density, and intensity of the use of buildings, land, and open spaces are established.
22. **Dwelling:** A building or portion thereof, designed and used for residential purposes, but not including recreational travel trailers or motor homes not used as a permanent residence.
23. **Dwelling, Accessory:** A dwelling located on the same lot as the principal or primary dwelling.
24. **Dwelling, Non-Farm:** A dwelling occupied by a person or persons in which either the head of the household or the spouse of the head of the household are not engaged in agriculture.
25. **Dwelling, Single Family:** A dwelling having accommodations for and occupied exclusively by one family.
26. **Dwelling, Single Family Attached or Town House:** A dwelling on a single lot of record having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each dwelling may be sold independently of the other portions.
27. **Dwelling, Two-Family:** A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.
28. **Dwelling, Multiple-Family:** A dwelling having accommodations for and occupied exclusively by more than one family, independently.
29. **Dwelling Unit:** One room or rooms connected together, constituting a separate independent housekeeping establishment for owner occupancy, or rental or lease by the week, month, or longer.
30. **Earth Sheltered Residence:** A residence designed as a complete structure below or partially below ground level, which was not intended to serve as a substructure or foundation for a building.
31. **Easement:** Is a grant by the property owner to the public, a corporation, or persons of the use of a tract of land for a specified purpose or purposes.
32. **Exception:** An exception is a use that would not be appropriate generally without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.
33. **Exotic Animal:** Any vertebrate animal except fishes and amphibians that is not defined herein as livestock or a household pet.
34. **Farm:** An area of land from which \$1,000 or more of agricultural products are produced and sold.
35. **Feedlot/Confinement:** A lot, yard, corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed. All feedlot/confinement facilities located within 1/4 mile of any other feedlot/confinement facilities that are under the ownership or management of the same operation shall be considered a single feedlot/confinement operation. Feedlots shall be divided into two classes:

**Class I:** The confinement or enclosure of less than 1,000 animal units;

**Class II:** The confinement or enclosure of 1,000 or more animal units.

36. **Home Occupation:** A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures. Home office shall not be considered home occupations. (See Section 12.01 for requirements)
37. **Hotel or Motel:** A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether the establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court tourist cabin, tourist court, or other similar designations.
38. **Household Pet:** Any domestic dog, domestic cat, rodent, bird or non-venomous species of reptile. However, crocodiles, alligators, gorillas, baboons, chimpanzees, orangutans, members of the class apes, order falcons (e.g.: hawks, eagles, vultures, etc.) and animals defined as livestock shall not be considered pets.
39. **Inoperable Motor Vehicle:** A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency. This does not include vehicles that are temporarily disabled.
40. **Kennel-Boarding:** Any place, area, building, or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner. For the purposes of this Resolution, no animals within a Boarding Kennel shall be considered pets.
41. **Kennel-Breeding:** Any place, area, building, or structure where more than one dog is kept for the purposes or breeding or raising for a fee. For the purposes of this Resolution, no animals within a Breeding Kennel shall be considered pets.
42. **Livestock:** All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
43. **Livestock Brokerage Holding Facility:** Any place, area, building, or structure which serves the purpose of confining ten or more head of livestock that will be sold by the owner of said livestock within 30 days of having acquired said livestock.
44. **Manufactured Home:** A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with national manufactured home construction and safety standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development.
45. **Mining:** The act of recovering (and removing from the site) minerals, sand, gravel, rock, coal, or other resources from the land in the amount of 1,000 or more cubic yards when not associated with farming or ranching practices, water, or soil conservation, or the construction of buildings or roads.
46. **Mobile Home:** A moveable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed with or without a permanent foundation for use year around living, which may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, which shall include a manufactured home.
47. **Mobile Home Park:** Any area of land upon which one (1) or more mobile homes or manufactured homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home or manufactured home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue for one (1) or more mobile homes or manufactured homes, connected to utilities and used by one (1) or more persons for living or sleeping purposes, and shall include any building, structure, tent, vehicle or enclosure used or

intended for use as a part of the equipment of the mobile home park; and shall include any buildings, structures, tents, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of automobile transients.

48. **Modular Home:** Any prefabricated structure of conventional construction, built to the Uniform Building Code (UBC), used for dwelling purposes moved on to a site in essentially complete constructed condition, in which the metal frame is removed and the weight of the dwelling is distributed to the perimeter onto a permanent foundation with permanent connections, and when completed, is a single-family unit. Modular Homes, shall be considered single-family dwellings for the purposes of this Resolution. This does not include double-wide mobile homes or manufactured homes.
49. **Nonconforming Structure:** A structure which does not comply with the lot size requirement or regulations applicable to new structures in the zoning district in which it is located.
50. **Nonconforming Use:** An existing use of a structure or land which does not conform to the zoning regulations.
51. **Offset:** The horizontal distance between any building and a lot line, other than a street right of way.
52. **Planning Commission:** The Sioux County Planning Commission.
53. **Principal Use or Structure:** The predominate use of land or structures as distinguished from an accessory use.
54. **Public Recreation Area:** For the purposes of this Resolution, public recreation areas shall include Agate Fossil Beds National Monument, Nebraska National Forest, Oglala National Grasslands, Toadstool Park, Fort Robinson State Park, Soldier Creek Management Area, Peterson State Wildlife Management Area, Gilbert-Baker Wildlife Management Area, Coffey Park, and Lake Alice Recreation Area.
55. **Public Utility:** Any business which furnishes to the general public:
  - A. Telephone service.
  - B. Telegraph service.
  - C. Electricity.
  - D. Natural gas.
  - E. Water, sewer and garbage collection.
  - F. Any other business affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
56. **Right-of-way:** An area dedicated to the public use which provides access to adjacent properties.
57. **Salvage or Junk Yard and Scrap Processing Plant:** A building or premise where junk, waste, inoperable motor vehicles or discarded and salvage materials are bought, sold, bartered, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling which shall include auto wrecking yards.
58. **Screened:** Construction and maintenance of fences, earth berms or the use of landscaping materials or other materials used to lessen the noise, light, or visual impacts of a land use on surrounding land uses.
59. **Setback:** The horizontal distance between any building and the established public or private street right-of-way line.

60. **Sign:** Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of governmental notice or official flag.
61. **Sight Triangle:** An area at a street intersection in which no buildings shall be erected or placed and no trees, bushes or shrubs shall be planted in such a manner as to impede vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of inter-section of the centerline of the streets, 50 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 50-foot distance shall be increased to 100 feet for each arterial leg of the intersection.
62. **Sioux County:** Sioux County, Nebraska.
63. **Structure:** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
64. **Structural Alterations:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:
  - A. Attachment of new facade where structural supports are not changed.
  - B. Addition of fire escapes where structural supports are not changed.
  - C. New windows or doors.
  - D. Repair or replacement of non-structural members.
65. **Subdivision:** The dividing of any parcel of land into two (2) or more parcels.
66. **Temporary:** Less than six (6) months
67. **Variance:** A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment under the provisions of Section 20.
68. **Yard:** A space on a lot that is open, unoccupied and unobstructed by buildings or structures from the ground upward.
69. **Yard, Front:** A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way and the front of the primary building.
70. **Yard, Rear:** A yard extending across the full width of the lot, the depth of which is the distance between a rear lot line and the rear of the primary building.
71. **Yard, Side:** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.
72. **Zoning Administrator(s):** The person or persons authorized and empowered by the County Board to administer the requirements of these zoning regulations.
73. **Zoning Regulations:** The term zoning regulations shall mean the requirements stipulated in this Resolution and any amendments to it.

## SECTION 5. "A-1" AGRICULTURAL DISTRICT

**5.01. Intent:** The intent of this district is to serve the agricultural community, protect higher value farm land, protect land values, and serve the needs of the property owners in this district. It is the intention to only restrict in "A-1" that which is necessary to protect the health, safety and general welfare of Sioux County and its residents.

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

1. The operation of a farm or ranch using normal and customary practices.
2. The cultivation, storage, and sale of crops, vegetables, plants, flowers, and nursery stock raised on the premises.
3. The grazing of livestock.
4. Class I Feedlot/Confinements.
5. One (1) single-family dwelling per legal lot.
6. Two (2) accessory single family dwellings for persons customarily employed at or engaged in farming or ranching per legal lot.
7. Accessory uses shall be allowed so long as they are clearly incidental and accessory to the uses allowed by right in the A-1 District.
8. Offices incidental to the operation of uses allowed by right.
9. Utility Service Facilities.
10. Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project.
11. Public Schools.
12. Cemeteries.
13. Public parks and public recreation facilities.

**5.03. Conditional Uses:** The following conditional uses may be permitted in the A-1 District upon approval of a permit in accordance with the requirements and procedures set forth in Section 23.

1. Class II Feedlots/Confinements.
2. Livestock Brokerage Holding Facility.
3. Experimental Farms.
4. Accessory single family dwellings for persons customarily employed at or engaged in farming or ranching if there are already two accessory single family dwellings existing or planned.
5. Cellular, television, or radio towers.
6. Mineral Resource Development Facilities including:
  - A. Oil and gas production facilities.
  - B. Oil and gas storage facilities.
  - C. Oil and gas support and service.

- D. Open pit mining and materials processing.
  - E. Asphalt and concrete batch plants.
  - F. Cola gasification facilities.
  - G. Mining.
7. Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
- A. Grain and/or feed elevators.
  - B. Crop dusting or spraying operation facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation).
  - C. Farm equipment sales, repair, and installation facilities.
  - D. Veterinary clinics and hospitals.
  - E. Grain and Feed Sales.
  - F. Commercial Grain Storage and drying.
  - G. Fertilizer storage, mixing, blending, and sales.
  - H. Seed production, processing, storage, mixing, blending, and sales.
  - I. Sorting, grading and packing fruits and vegetables for the grower.
  - J. Animal training and boarding facilities.
  - K. Animal waste recycling and processing facilities.
  - L. Custom meat processing.
  - M. Livestock sales barns and facilities.
  - N. Forage dehydration facilities.
8. Commercial junkyards and salvage yards.
9. Solid waste disposal sites and facilities.
10. Keeping, raising, or boarding of exotic animals.
11. Home Occupations subject to the requirements in Section 12.01.
11. Bed and Breakfast Facility.
12. All Wind Energy Conversion Systems.
13. All Solar Energy Conversion Systems (Class I, II and III)
14. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-1 District.

**5.04. Height Regulations:**

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

**5.05. Lot Regulations:**

- 1. Minimum lot size: 80 acres. However, the following lots are exempt from the minimum lot size requirement:
  - A. Division of land for agriculture purposes;
  - B. Any legal lot of less than 80 acres that existed prior to the adoption of this Resolution.
  - C. The plat of a single separation of a lot for the purpose of a sale or a gift to a member of the immediate family of the property owner for that immediate family member's personal use. (See Section 17.07)

A recorded exemption would be required to create a lot of less than 80 acres in the agriculture district as outlined in Section 17.08, Subdivision Regulations.)

2. Minimum setback: 100 feet
3. Minimum offset: 5 feet or one foot for each 3 feet of building height, whichever figure is greater.
4. Fences: Fences are not required to comply with either the minimum setback or the minimum offset. Fences may be located on the property line. Fences located on corner lots abutting public right-of-way shall not obstruct the view of vehicle traffic at an intersection.
5. Sight Triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-61.

**5.06. Agricultural Reservations:** Under no circumstances shall any residential, commercial, or industrial development occur within any agricultural reservation zones created in Section 17.08 without a change of zone. This is not intended to exclude the development of any structure on the lot for which the reservation zone was established.

## **SECTION 6. "A-2" AGRICULTURAL DISTRICT**

**6.01. Intent:** The intent of this district is to serve the agricultural community, protect marginal and lower value farm land, protect land values, and serve the needs of the property owners in this district. It is the intention to only restrict in "A-2" that which is necessary to protect the health, safety and general welfare of Sioux County and its residents.

**6.02. Permitted Uses:** In District "A-2" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved or altered as long as they are to be used for a permitted use.

1. Any use allowed in the "A-1" District

**6.03. Conditional Uses:** The following conditional uses may be permitted in the A-2 District upon approval of a permit in accordance with the requirements and procedures set forth in Section 23.

1. Any conditional uses as permitted in an "A-1" District.
2. Any other uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-2 District.

### **6.04. Height Regulations:**

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

### **6.05. Lot Regulations for Housing Developments:**

1. Minimum lot size: 320 acres. However, the following lots are exempt from the minimum lot size requirement:
  - A. Division of land for agriculture purposes;
  - B. Any legal lot of less than 320 acres that existed prior to the adoption of this Resolution.
  - C. The plat of a single separation of a lot for the purpose of a sale or a gift to a member of the immediate family of the property owner for that immediate family member's personal use. (See Section 17)

A recorded exemption would be required to create a lot of less than 320 acres in the agriculture district as outlined in Section 17.08, Subdivision Regulations.)

2. Minimum setback: 100 feet

3. Minimum offset: 5 feet or one foot for each 3 feet of building height, whichever figure is greater.
4. Fences: Fences are not required to comply with either the minimum setback or the minimum offset. Fences may be located on the property line. Fences located on corner lots abutting public right-of-way shall not obstruct the view of vehicle traffic at an intersection.
5. Sight Triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.61.

**6.06. Agricultural Reservations:** Under no circumstances shall any residential, commercial, or industrial development occur within any agricultural reservation zones created in Section 17.08 without a change of zone. This is not intended to exclude the development of any structure on the lot for which the reservation zone was established.

## **SECTION 7. "R-1" RESIDENTIAL DISTRICT**

**7.01. Intent:** The intent of this district is to provide areas for residential development including those uses which reinforce residential neighborhoods.

**7.02. Permitted Uses:** In District "R-1", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. One (1) Single-family dwelling per lot. The single family dwelling shall be connected to and served by a public water and an adequate sewage disposal system. Evidence that public water and an adequate sewage disposal system are available to the legal lot shall be provided prior to the issuance of a building permit.
2. One (1) Multi-family dwelling structure per lot. The multi-family dwelling units shall be connected to and served by a public water and an adequate sewage disposal system. Evidence that public water and an adequate sewage disposal system are available to the legal lot shall be provided prior to the issuance of a building permit
3. Public parks and public recreation areas.
4. Public Schools.
5. Utility service facilities.
6. Any structure or use clearly incidental and accessory to a use allowed by right in the "R-1" District

**7.03. Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Section 23 of this Resolution:

1. Churches.
2. Libraries.
3. Home Occupations as defined in Section 12.01.
4. Garages/shops for repairing, restoring or storing motor vehicles and other equipment primarily owned by the garage/shop owner, provided that all materials shall be stored within such garage/shop; and provided further that no inoperable vehicles shall be stored outside such garage/shop.
5. Non-commercial wind energy conversion systems.
6. Small Solar Conversion Energy Conversion Systems ("SSCES") only (Class I).

7. Uses similar to the uses listed above as conditional uses as long as the use complies with the general intent of the R-1 District.

**7.04. Height Regulations:**

1. Maximum structure height: 40 feet

**7.05. Lot Regulations:**

1. Minimum lot size: 10,000 square feet
2. Minimum lot width: 50 feet
3. Setback: 20 feet
4. Offset: Not less than five (5) feet or one foot for every three feet of building height, whichever is greater.
5. Rear Yard: There shall be a rear yard having a depth of not less than 20% of the depth of the lot, provided however, that the depth of the rear yard shall not be less than fifteen (15) feet.
6. Maximum lot coverage: 50%
7. Sight triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-61.

**SECTION 8. "R-2" (Residential Estate) RESIDENTIAL DISTRICT**

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

**8.02. Permitted Uses:** In District "R-2", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. One (1) Single-family dwelling per lot. The single family dwelling shall be connected to and served by a potable water and an adequate sewage disposal system. Evidence that potable water and an adequate sewage disposal system will be available to the lot shall be provided prior to the issuance of a building permit.
2. Public parks and public recreation areas.
3. Public Schools.
4. Utility service facilities.
5. Any structure or use clearly incidental and accessory to a use allowed by right in the "R-2" District.

**8.03. Conditional Uses:** The following conditional uses may be permitted in the R-2 District subject to approval procedures outlined in Section 23 of this Resolution:

1. Churches
2. Keeping, raising, boarding of livestock.
3. Home Occupations as defined in Section 12.01.
4. Non-commercial wind energy conversion systems.
5. Small Solar Conversion Energy Conversion Systems ("SSCES") only (Class I).

6. Uses similar to the uses listed above as long as the use complies with the general intent of the R-2 District.

**8.04. Height Regulations:**

1. Maximum structure height: 40 feet

**8.05. Lot Regulations:**

1. Minimum Lot Size: 2.5 acre
2. Maximum Lot Size: 20 acres
3. Minimum Setback: 100 feet
4. Minimum Offset: 20 feet
5. Maximum number of livestock: One per acre not to exceed eight
6. Maximum square footage of total accessory buildings per lot: 3,000 square feet.
7. Sight triangle: Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-61.

**SECTION 9. "R-3" (Mobile Home) RESIDENTIAL DISTRICT**

**9.01. Intent:** The intent of this district is to provide areas in Sioux County for mobile home used for single family residential occupancy.

**9.02. Permitted Uses:** In District "R-3", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. One Single-family dwelling. The dwelling shall be connected to and served by a potable water system and an adequate sewer system.
2. Public parks and public recreation areas.
3. Utility Service Facilities
4. Accessory buildings and uses customarily incidental to the listed permitted uses.

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

1. Home Occupations as defined in Section 12.01.
2. Non-commercial wind energy conversion systems.
3. Small Solar Conversion Energy Conversion Systems ("SSCES") only (Class I).

**9.04. Intensity of Use Regulations**

1. Minimum size of mobile home area: 5,000 square feet
2. Minimum width of mobile home area: 50 feet

**9.05. Height Regulations:**

1. Maximum structure height: 35 feet

**9.06. Yard Regulations:**

1. Front yard: 20 feet
2. Side and Rear yards: based on the distance between mobile home units measured from the closest point or edge of the mobile home as follows:
  - A. 10 feet between mobile homes if the units are placed end (width) to end (width).
  - B. 15 feet between mobile homes if the units are placed side (length) to side (length).
  - C. 12 feet between mobile homes if the units are placed side (length) to end (width).
  - D. Ends (width) of mobile homes that are greater than 16 feet in width, shall be considered to be sides of the mobile home in measuring distances between mobile home units.
  - E. A mobile home shall have a minimum offset of 5 feet or 1 foot for every three feet in height, whichever is greater, from the perimeter of the mobile home park or from any adjacent property which is not approved to be utilized for a mobile home.
  - F. Accessory buildings and structures on the same lot or space as a mobile home shall have a minimum clearance of 10 feet from any structure or mobile home on any other lot.
  - G. Commonly owned or utilized building which are accessory to the park shall have a minimum clearance of 10 feet from any other structure or mobile home.

**9.07. Sight Triangle:** Development shall conform to the requirements of the sight triangle as defined in Section 4.02.-61.

**9.08. Livestock:** No livestock shall be kept, housed, penned or otherwise in any of the "R-3" residential district.

**SECTION 10. "C" COMMERCIAL DISTRICT**

**10.01. Intent:** To establish and preserve areas for activities which provide goods or services for the benefit of the general public or which require large amounts of space or high traffic volumes for generating business. The "C" District shall be located, designed and operated in a manner that minimizes the undesirable impacts on the area in which they are located.

**10.02. Permitted Uses:** In District "C", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses which must be conducted in an enclosed building and in compliance with the performance standards contained in this Section:

1. Stores and shops which furnish personal services and merchandise.
2. Restaurants.
3. Public Schools.
4. Churches.
5. Public recreation facilities, public buildings, museums, and libraries.
6. Offices.
7. Utility service facilities.
8. Accessory buildings, structures and uses shall be allowed in the C district so long as they are clearly incidental and accessory to the uses allowed by right.

**10.03. Conditional Uses in “C”:** The following conditional uses may be permitted which must be conducted in an enclosed building and in compliance with the approval procedures outlined in Section 23 of this Resolution

1. Contractor's office and equipment storage yard provided that all materials shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six (6) feet.
2. Grain elevators.
3. Light manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor, or smoke.
4. Manufacturing or storage of bulk oil or gas.
5. Ready-mixed concrete and asphalt batch plants.
6. Sign painting and manufacturing.
7. Truck and rail terminals.
8. Welding and blacksmith shops.
9. Auto wrecking yards, junk yards, salvage yards and scrap processing plants, however, subject to the following:
  - A. Located on a tract of land at least one-quarter mile from any Residential District zone.
  - B. The area shall be screened from public view and access by solid or semi-solid fence having a minimum height of six (6) feet.
  - C. No junk shall be loaded, unloaded or otherwise placed, other temporarily or permanently, outside the screened area or within the public right-of-way.
10. Non-commercial wind energy conversion systems.
11. Small Solar Conversion Energy Conversion Systems (“SSCES”) only (Class I).

**10.04. Intensity of Use Regulations:**

1. Minimum lot area: None
2. Minimum lot width: None
3. No more than eighty-five percent (85%) of the total lot area in a commercial district shall be covered. Land shall not be deemed covered if it is used for growing grass, shrubs, trees, plants, or flowers or if covered by decorative gravel or wood chips, or if it is otherwise suitably landscaped.

**10.05. Height Regulations:**

1. Maximum structure height: 35 feet. Provided the maximum height of a use permitted as a special exception and its accessory structures shall be 75 feet.

**10.06. Lot Regulations:**

1. Setback: No use (with the exception of parking) or accessory use may be located closer than fifty (50) feet to the existing or proposed street or highway right-of-way.
2. Offset: No use (with the exception of parking) may be located closer than ten (10) feet to its lot line.

3. Fences: Fences may be located on the property line. Fences, though, shall not obstruct the view of traffic at an intersection.

**10.07. Performance Standards:**

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

**SECTION 11. "I" INDUSTRIAL DISTRICT**

**11.01. Intent:** The intent of this district is to provide for industrial activities which create minimal negative impacts either visually or environmentally.

**11.02. Permitted Uses:** In District "I", no building, structure, land or premises shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses in compliance with the performance standards contained in this Section:

1. Any use of a research, repairing, manufacturing, fabricating, processing, assembling, or storage nature conducted in an enclosed building.
2. Utility Service Facility.
3. Accessory buildings, structures, and uses that are incidental and accessory to the uses allowed by right.
4. Offices for use by operators of the uses allowed by right.
5. Retail Sales, when accessory uses of manufacturing, fabricating or assembling.

**11.03. Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Section 23 of this Resolution:

1. Oil and gas production facilities.
2. Wind energy conversion systems.
3. All Solar Energy Conversion Systems (Class I, II and III)

**11.04. Height Regulations:**

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

**11.05. Yard Regulations:**

1. Setback: No use or accessory use (with the exception of parking) shall be located closer than one hundred (100) feet to an existing or proposed highway or street right-of-way.

2. Offset: All uses or accessory uses (with the exception of parking) must be offset ten (10) feet or more or one (1) foot for every two (2) feet of building height containing the use, whichever is greater.
3. Fences: Fences may be located on the property line. However, fences may not obstruct the view of traffic at an intersection.

**11.06. Performance Standards:**

1. No more than eighty-five (85%) of the total area of a lot in any industrial district shall be covered. Land shall not be deemed covered if it is used for growing grass, shrubs, trees, plants, or flowers or if covered by decorative gravel or wood chips, or if it is otherwise suitably landscaped.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. Uses located in industrial districts shall have an adequate supply of potable water.
4. Uses located in industrial districts shall have adequate sewage disposal facilities.
5. Uses in the industrial district involving outdoor storage of vehicles, equipment, or materials when permitted shall be screened from public right of way and all adjacent property.

Property located within the commercial district shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than twelve (12) inches. In no event shall the property owners allow the growth of noxious weeds.

**SECTION 12. SUPPLEMENTARY DISTRICT REGULATIONS**

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

1. Restrictions and Limitations:
  - A. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling unit.
  - B. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
  - C. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure or accessory building.
  - D. No sign shall be illuminated or exceed two (2) square feet in area.
  - E. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
  - F. Parking needs generated by the conduct of a home occupation shall be provided off-street.
2. Particular Home Occupations Permitted: Permitted home occupations (not exclusive) which are subject to the above restrictions and limitations include:
  - A. Art, dancing and music schools, provided that instruction is limited to five (5) pupils at one time.
  - B. Artists, sculptors or authors.
  - C. Beauty and barber shops, and other services customarily performed by these shops such as manicures and hair removal salons.
  - D. Bed and breakfast services.
  - E. Day care home.
  - F. Home crafts and hobbies such as model making, rug weaving, knick knacks, cabinet making.
  - G. Home party products.
  - H. Offices for salespersons, sales representatives and manufacturing representatives.
  - I. Radio, television, recording studio.
  - J. Tailoring, alterations, seamstresses, shoemaking and shoe repair.
  - K. Physicians, dentists and chiropractors.

3. Particular Home Occupations Permitted: Permitted home occupations (not exclusive) which are subject to the above restrictions and limitations include:
  - A. Animal hospitals and veterinary clinics.
  - B. Automobile and vehicle repair service.
  - C. Equipment rental.
  - D. Funeral services and mortuaries.
  - E. Machine shops.
  - F. Commercial photo developing.
  - G. Restaurants.
  - H. Second-hand merchandise.

#### **12.02. Temporary Uses Permitted**

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

#### **12.03. Nuisance waivers:**

1. No new residential, commercial, or industrial buildings shall be constructed within three miles of an existing Class II feedlot/confinement operation without first submitting a signed nuisance waiver to the Class II feedlot/confinement operation owners and the County Commissioners. The nuisance waiver shall state that the new residence, business or industry shall not issue a nuisance suit against the feedlot/ confinement operation for operating their facility at its present size. The nuisance waiver shall also allow for reasonable expansion of such facilities.
2. No new Class II feedlot/confinement operation shall be built in areas where the density exceeds the limit allowed for the respective distance from a school, incorporated town, residence, or public recreation area as outlined in Section 13.05 without first receiving signed nuisance waivers from all respective school boards, town boards, or homeowners.
3. No existing Class II feedlot/confinement operations shall be expanded in areas where the density exceeds the limit allowed for the respective distance from a school, incorporated town, residence, or public recreation area as outlined in Section 13.05 without first receiving signed nuisance waivers from all respective school boards, town boards, or homeowners.

## SECTION 13. FEEDLOT/CONFINEMENT REGULATIONS

**13.01. Feedlot/Confinement Permit:** No feedlot or confinement operation (unless excluded by Section 13.02) which meets the definition of a Class II feedlot/confinement operation shall operate or be developed without a valid feedlot/confinement permit from Sioux County. Likewise, any existing feedlot or confinement facility shall not be expanded without first obtaining a feedlot/confinement permit from Sioux County if such expansion will result in the feedlot/confinement operation meeting the definition of a Class II feedlot/confinement operation. All Feedlot/Confinement Permits shall be valid for 10 years.

**13.02. Grandfather Clause:** Feedlot/confinement operations existing prior to the passage of this Resolution do not need a feedlot/confinement permit to operate unless the expansion of such feedlot/confinement operation requires such a permit as outlined in Section 13.01.

**13.03. Permit Validity.** A Feedlot/Confinement Permit will not be considered valid until the Class II feedlot/confinement operation applying for the permit has received a conditional use permit. Additionally, if financial assurance is required, the Feedlot/Confinement Permit will not be considered valid until the feedlot/confinement operation has demonstrated evidence of financial assurance. Also, in the event that a feedlot/confinement operation's financial assurance is terminated, the feedlot/confinement operation's feedlot/confinement permit will be invalid until financial assurance is resecured.

**13.04. Procedure:** Any person, partnership, or corporation seeking a feedlot/confinement permit within Sioux County's zoning jurisdiction shall meet the requirements specified in Section 13. There are three steps in the feedlot/confinement permit process:

### **Step 1: Apply for a feedlot/confinement permit from Sioux County.**

- A. Submit an application for a feedlot/confinement permit to the zoning administrator. The application should provide the following information:
  1. A copy of the feedlot/confinement operation's applicable DEQ permit(s) including a copy of the application for such permits (when issued)
  2. The names and addresses of all surface owners located within the respective setback as established in Section 13.05 of the feedlot/confinement operation.
  3. An estimate of the maximum number of livestock to be confined at any single time.
  4. Narrative taken from the Sioux County Soil Survey explaining the suitability and limitations of soil types located on the feedlot/confinement operation site.
  5. A statement of qualifications for the persons responsible for the management of the feedlot/confinement operation.
  6. Estimated water usage.
  7. Nuisance waivers, if applicable.
  8. The applicants plans for financial assurance requirements, if required.
  9. A vicinity map drawn to scale showing:
    - a. The location of the feedlot/confinement operation.
    - b. The location of all occupied homes within the respective setback (as established in Section 13.05) of the feedlot/ confinement operation.
    - c. The names and location of all property owners within the respective setback (as established in Section 13.05) of the feedlot/confinement operation.
    - d. The names and location of all public roads and right of ways, drainage ditches, and public wells located within 2 miles of the feedlot /confinement operation.
    - e. The location of any private wells located within one-half mile of the feedlot/confinement operation.
    - f. The location of any flood hazard areas located within two miles of the feedlot/confinement operation.
    - g. Any other information determined to be reasonably necessary by the Planning Commission or County Board.
  10. A site map drawn to scale showing:
    - a. The size, location and intended use of all existing and planned structures located on the property.
    - b. The type and location of any existing or planned screening (i.e.: fencing, treelines, etc.)

- c. Existing topographical contours at ten foot intervals drawn from available data, such as US Geological Survey maps.
  - d. Soil type by boundary taken from the Sioux County Soil survey.
  - e. The names and location of all public roads, right of ways, drainage ditches, and wells.
  - f. Any other information determined to be reasonably necessary by the Planning Commission or County Board.
- B. A Waste Management Plan shall be submitted with the application that includes:
    - 1. Description of the manner in which manure will be disposed.
    - 2. The amount of waste that will be land applied.
    - 3. The location and number of acres of land that have been designated to receive land applied waste.
    - 4. A statement explaining how runoff will be managed.
  - C. A sworn statement by the applicant attesting that all information is true and correct to the best of their knowledge.

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

- A. A public hearing on the permit shall be held by the Planning Commission.
  - 1. All surface owners located within the respective setback (as established in Section 13.05) of the feedlot/confinement facility shall be notified of the hearing at least ten days in advance.
  - 2. Public notice of the hearing shall be given at least ten days in advance.
- B. The Planning Commission shall make a recommendation on the Feedlot/ Confinement permit. The secretary of the Planning Commission shall forward the recommendation to the County Board within ten days.
- C. The County Board shall deny, approve or conditionally approve the permit within 45 days of receiving the Planning Commission's recommendation.
- D. The Planning Commission shall then make a recommendation on a conditional use permit as outlined in Section 23. (\*Upon the applicant's request, an application for a Feedlot/Confinement Permit may concur with an application for a conditional use permit.)
- E. The County Board shall deny, approve or conditionally approve the Conditional Use permit as outlined in Section 23. (\*Upon the applicant's request, an application for a Feedlot/Confinement Permit may concur with an application for a conditional use permit.)

**Step 3. Receive applicable state and federal permits.** Feedlot/confinement operations shall receive all applicable state or federal permits.

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

- 1. New feedlots shall not be developed in areas where the density exceeds the limit allowed for the respective distance from a school, incorporated town, residence, or public recreation area without first receiving signed nuisance waivers from all respective school boards, town boards, or homeowners. In all cases, the more restrictive densities shall apply.
- 2. Existing feedlots shall not be expanded in areas where the density exceeds the limit allowed for the respective distance from a school, incorporated town, residence, or public recreation area without first receiving signed nuisance waivers from the respective school boards, town boards, or homeowners. In all cases, the more restrictive densities shall apply.
- 3. No Class I or II feedlot/confinements shall be developed or expanded in a flood prone area.
- 4. Class I and Class II Feedlot/Confinement facilities shall not be located within 500 feet of a public drinking water well.

5. Manure from a Class I or Class II feedlot/confinement operation shall not be stored or spread within 200 feet of any residential or school property line, surface water, or a public drinking water well.
6. Manure from a Class I or Class II feedlot/confinement operation shall not be stored or spread on land where the vertical distance to the water table is less than 18 inches.
7. Manure from a Class I or Class II feedlot/confinement operation shall not be stored or spread on land where the application will likely result in the contamination of ground or surface water.

Distance from:	Maximum Capacity of a Class II Feedlot/Confinement			
	Incorporated town	School	Residence	Public Rec Area
1/4 mile	na	Na	1,000	Na
1/2 mile	na	Na	2,000	Na
3/4 mile	na	Na	3,000	Na
1 mile	na	2,500	5,000	Na
1 1/2 miles	na	5,000	7,500	Na
2 miles	na	10,000	10,000	10,000
2 1/2 miles	na	12,500	12,500	12,500
3 miles	7,500	no limit	no limit	no limit
3 1/2 miles	10,000	no limit	no limit	no limit
4 miles	15,000	no limit	no limit	no limit
5 miles	no limit	no limit	no limit	no limit

Note: na = Class II feedlot/confinements not allowed without appropriate nuisance waivers

**13.06. Financial Assurance.** No Class II feedlot/confinement permits shall be issued for feedlots which exceed 5,000 animal units until financial assurance is provided to the County Board to enable Sioux County to correct any environmental damage caused by leaks, spills, runoff, or abandonment. Thus, all Class II feedlot/confinement operations in excess of 5,000 animal units seeking a Class II feedlot/confinement permit must submit to the County Board a written estimate in current dollars of the cost to clean up environmental damage or abandoned feedlots. The owner or operator must annually adjust the cost estimate for inflation using the U.S. consumer price index for rural areas. The cost estimate shall be calculated as follows:

1. Amount of financial assurance required. The sum of the costs determined under Section 13.06 subparagraphs 2 and 3 minus any credit given in 13.06 subparagraph 4 shall be the financial assurance amount required under the provisions of this Section.
2. The cost of cleaning above ground facilities by a third party. The cost shall be determined by:
  - A. Disposing of all manure stored on site.
  - B. Cleaning or removing all above ground structures. For the purpose of this calculation, it shall be assumed that the manure storage container is 100% full. The estimate submitted shall explain how the cost was determined.
3. The cost of remediation of off-site contamination. The cost of remediation of off-site contamination shall be calculated by multiplying the animal weight capacity (the product of multiplying the maximum number of animals which are confined at any one time by the average weight during a production cycle) of the operation by one dollar (\$1.00) for those facilities which store manure in earthen manure storage basins; by fifty cents (\$0.50) for those facilities which store manure in anaerobic lagoons; and by twenty five cents (\$0.25) for those facilities which store manure in formed manure storage structures.
4. Credit shall be given for maintaining wells. The financial assurance amount shall be reduced by fifty percent (50%) for a facility that has installed groundwater monitoring wells with at least one well located upgradient and two wells located downgradient from the manure lagoon, basin, or structure provided the test results are submitted to the County Board annually and reveal no groundwater contamination. Using EPA approved methods and procedures for chemical analysis, each water sample drawn shall be tested for the following chemical constituents: pH, temperature,

ammonia-nitrogen, sulfate, total dissolved solids, total organic carbon, nitrate-nitrogen, conductivity, total alkalinity, total kjeldahl nitrogen, chloride, chemical oxygen demand and sodium. If appropriate, the facility may substitute vadose zone monitoring devices for groundwater monitoring wells with the approval of the County Board.

**13.07. Allowable Financial Assurance Mechanisms.** The mechanisms used to demonstrate financial assurance must insure that the funds necessary to meet the costs of clean-up and remediation (as established in Section 13.06) will be available when they are needed. In establishing financial assurance, feedlot/confinement operations must choose from the following options:

1. Surety Bond. A facility may demonstrate financial assurance by obtaining a payment or performance surety bond which conforms to the requirements of this Section. The bond must be effective and a copy of the bond must be filed with the County Board before a feedlot/confinement permit is issued. At a minimum, the surety company issuing the bond must be among those listed as acceptable sureties on federal bonds and Circular 570 of the US Department of the Treasury. In addition, the bond shall:
  - A. Be in an amount at least equal to the cost estimates established in Section 13.06.
  - B. Provide that the surety will become liable under the bond obligations when the facility fails to perform as guaranteed by the bond.
  - C. Provide that surety may cancel the bond by sending notice of certified mail to the facility and to the County Board one hundred twenty (120) days in advance of the cancellation. If the surety cancels the bond, the facility must obtain alternate financial assurance or cease operations.
  
2. Insurance. A facility may demonstrate financial assurance by obtaining insurance which conforms to the requirements of this Section. The Insurance policy must be effective and a copy of the policy must be filed with the County Board before a feedlot/confinement permit is issued. At a minimum, the insured must be authorized to transact the business of insurance in Nebraska. The policy shall provide:
  - A. All funds will be available for any on-site or off-site cleanup resulting from the operation. The policy must also guarantee that once environmental cleanup has begun, the insurer will be responsible for the paying out of funds to the facility or persons authorized to conduct the cleanup in an amount equal to the face amount of the policy.
  - B. The policy must be issued for an amount at least equal to the cost estimate for financial assurance established pursuant to Section 13.06.
  - C. The policy must contain a provision allowing assignment of the policy to a successor facility. Said assignment may be conditional upon consent of the insurer, provided that such consignment is not unreasonably refused.
  - D. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insurer with the option of renewal at the amount of the expiring policy. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the feedlot/confinement operation and to the County Board one hundred twenty (120) days in advance of the cancellation. If the insurer cancels the policy, the facility must obtain alternate financial assurance or cease operation. If the feedlot/confinement can obtain equivalent insurance coverage at a lower premium rate through a different insurer, the feedlot/confinement may change insurers provided that the new insurance policy becomes effective on or before the date of expiration of their previous insurance coverage.

## SECTION 14. WIND ENERGY INSTALLATION REGULATIONS

### 14.01. Wind Energy Installation

1. Meteorological Towers and Small Wind Energy Systems: In any zoning district, a Conditional Use Permit may be granted to allow a meteorological tower or small wind energy system.
2. Commercial/Utility Grade Wind Energy System: In zoning districts A-1 and A-2, a Conditional Use Permit may be granted to allow a commercial/utility grade wind energy system, including such devices as a wind charger, windmill, or wind turbine and associated facilities and equipment.
3. Construction: The regulations established in this Section shall, whenever possible, be interpreted as consistent with the remaining provisions of this Zoning Resolution (“Resolution”) which shall also continue to apply to this Section. In the event there is any conflict between these regulations and provisions elsewhere within this Resolution, the regulations established in this Section shall prevail with regard to wind energy installation.

### 14.02. Definitions

1. *Aggregate Project* shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual Commercial WECS systems within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. *Applicant* shall mean the individual or entity that applies for a Conditional Use Permit for any structure regulated by this Section, the owner and/or operator of any structure regulated by this Section, and all successors, heirs, and assigns of such persons or entities.
3. *Commercial WECS* shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
4. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, and in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
5. *Meteorological Tower* shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
6. *Non-Participating Parcel* shall mean a parcel of real property which is not a Participating Parcel; provided, that the owner of a Non-Participating Parcel may waive the protection of Sections 14.05(5)(K) and 14.07, so long as such waiver is in writing in a form reasonably acceptable to the Board and filed with the Sioux County, NE Office of the Register of Deeds.
7. *Participating Parcel* shall mean a parcel of real property which is subject to a lease, easement, license, right-of-way, or other written agreement between Applicant and the owner of such parcel, whether or not such agreement is recorded; provided, that the owner of a Participating Parcel may waive the protection of Sections 14.05(5)(K) and 14.07, so long as such waiver is in writing in a form reasonably acceptable to the Board and filed with the Sioux County, NE Office of the Register of Deeds.
8. *Public Conservation Lands* shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands

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

9. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades.
10. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
11. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines to a voltage for interconnection with high voltage transmission lines.
12. *Total Height* shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
13. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
14. *Tower Height* shall mean the total height of the Wind Energy Conversion System from grade to the hub.
15. *Transmission Line* shall mean the electrical power lines that carry voltages and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
16. *Wind Energy Conversion System (WECS)* shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
17. *Wind Turbines* shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

#### **14.03. Meteorological Towers**

1. Purpose: The purpose of this regulation is to ensure the safe and time limited use of meteorological test equipment for wind energy data collection.
2. Requirements: Temporary meteorological towers require a Conditional Use Permit within any zoning district where the use is allowed. Specific and general requirements, as set forth below, shall be met:
  - A. All applicable general requirements as outlined in Section 14.05, 14.06 and 14.07 below.
  - B. Meteorological towers shall be decommissioned within two years of installation unless such period is extended by the Sioux County Board of Commissioners (the "Board"). A decommissioning plan and bond shall be established pursuant to Section 14.06 below if found reasonably necessary in the sole discretion of the Board prior to the issuance of a Conditional Use Permit.
  - C. At the time of decommissioning, all base and anchorage systems shall be removed to a minimum of six feet below grade and the grade shall be restored to reasonable preconstruction condition.

#### **14.04. Small Wind Energy Systems**

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#### 14.05. Commercial/Utility Grade Wind Energy Systems

1. Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems.
2. Conditional Use Permit Requirements: Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be included in the application for a Conditional Use Permit or submitted to the County prior to commencement of construction at the Board's discretion:
  - A. The name(s) of Applicant including the owner and/or operator of the Commercial WECS.
  - B. The legal description and address of the project.
  - C. A description of the project including: The anticipated number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines and electrical power grid.
  - D. A general site layout, including the location of property lines, anticipated wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale. This site layout will also comply with the setback requirements contained in this Section.
  - E. Documentation of land ownership or legal control of the property.
  - F. The approximate latitude and longitude of individual wind turbines.
  - G. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion Systems not owned by the applicant within 10 rotor distances of the proposed Wind Energy Conversion System.
  - H. Location of wetlands, scenic, and natural areas (including bluffs) within .25 miles of the proposed Wind Energy Conversion System.
  - I. An Acoustical Analysis.
  - J. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System.
  - K. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.
  - L. Evidence of publication of notice of the proposed WECS project to be published in the official paper of Sioux County, NE for two consecutive weeks, at least twenty (20) days prior to the Planning Commission's public hearing on the application. The notice shall include a brief summary of the wind energy facility, invite the public to submit comments and identify the time and date of said hearing.
  - M. Certification that reasonable efforts have been undertaken to provide notice in writing, to all owners of land within one (1) mile of the proposed WECS project and to all cities and towns located within twenty (20) miles of the WECS project. Notice shall include a general description of the project, including its location, projected number of turbines and the likely routes of ingress and egress.
  - N. Applicant shall remit an application fee of \$50.00 for every megawatt of nameplate capacity in the proposed WECS.
3. Aggregated Projects:
  - A. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
  - B. Permits may be issued and recorded separately.
  - C. Joint projects will be assessed fees as one project.
  - D. Setbacks to property lines, not road rights-of-way, may be less when adjoining property owners are within the same aggregate project.
4. Items Required to Accompany Application(s) for Building Permit(s):
  - A. Licensed engineer's certification.
  - B. FAA permit(s).

- C. A decommissioning plan outlining the anticipated means and cost of removing Wind Energy Conversions Systems at the end of their serviceable life or upon being discontinued. The cost estimates shall be made by an independent certified professional engineer mutually agreed upon. A copy of the decommissioning plan shall be provided, together with all other documentation and information required under Sections 14.05(7)(A) of this Regulation.
  - D. A certificate of proof of surety bond or other acceptable guarantee naming the County as the obligee or beneficiary and securing the Applicant's obligation to decommission the Commercial WECS project and all other documentation and information required under Section 14.05(7) of this regulation.
  - E. A certificate of proof of liability insurance policy required under this Regulation.
5. Design and Safety Standards: Any permitted structure shall conform to the following design and safety standards during the operational period of the project:
- A. Clearance: Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
  - B. Warnings: AH Commercial WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
  - C. Tower Type: All wind turbines, which are a part of a Commercial WECS, shall be installed with a tubular, monopole type tower.
  - D. Color and Finish: Consideration shall be given to painted aviation warnings on all towers less than 200 feet. All wind turbines and towers that are part of a Commercial WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective.
  - E. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
  - F. Other signage: All other signage shall comply with the sign regulations found in this Resolution.
  - G. Feeder Lines: All communications and feeder lines installed as part of a Commercial WECS shall be buried, where feasible. Feeder lines installed as part of a Commercial WECS shall not be considered an essential service.
  - H. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal rules and regulations.
  - I. Exterior Climb Prevention: All WECS Towers must be unclimbable by design or protected by anti-climbing devices.
  - J. Noise: No Commercial WECS, exclusive of unrelated background noise, shall generate a sound pressure level (10-minute equivalent continuous sound level, Leq) which exceeds 35 dBA at the nearest structure occupied by humans on a Non-Participating Parcel, or which exceeds 50 dBA at the nearest structure occupied by humans on a Participating Parcel. Exception: a Commercial WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service.
  - K. Interference: Applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any Commercial WECS. The applicant shall notify all communication tower operators within five miles of the proposed Commercial WECS location upon application to the County for a Conditional Use Permit.
  - L. Drainage System: Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the Commercial WECS.
  - M. Coordination with Local Fire Department: The Applicant shall submit to the local fire department a copy of the site plan. Upon request by the local fire department, the Applicant shall cooperate with the relevant agency to develop any emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

- N. Applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.
6. Impacts to Public Roads: The use of dedicated public roads shall be in accordance with and in compliance with federal, state, county and local regulations governing such activities. The Applicant shall be responsible for any degradation to or damage of dedicated public roads by any and all parties affiliated with the installation and maintenance of the Commercial WECS and associated facilities and will bear all costs required to return the public roads to their original or better condition prior to their use of same. The issuance and retention of a Conditional Use Permit shall be contingent upon compliance with the following requirements and provision of the following documentation prior to commencing project construction at the expense of Applicant:
- A. A detailed mapping of all state, county, municipal or township roads to be used for the purpose of transporting the Commercial WECS and all associated facilities including but not limited to substation parts, cement, equipment for construction, operation or maintenance of the Commercial WECS and all other associated facilities.
  - B. Copies of the applicable weight and size permits from the impacted jurisdictions along the haul route.
  - C. Completion of a pre-construction baseline survey prepared by a mutually agreed upon certified professional engineer to determine existing road conditions along the haul route and including photographs of the same.
  - D. An assessment prepared by a mutually agreed upon independent and certified professional engineer for the potential for damage or impact to the roads detailed in the haul route. Such assessment shall be updated every five (5) years to account for any expanded haul routes.
  - E. A mitigation plan and/or long-term road maintenance plan to address the impacts to the roads as determined in the assessment. Such mitigation plan and/or long-term road maintenance plan shall be updated every five (5) years.
  - F. Preparation of an estimate for the total estimated cost to improve, maintain or repair the existing roads as detailed in the mitigation/maintenance plan and assessment prepared by a mutually agreed upon independent and certified professional engineer. Such engineer's estimate shall be updated every five (5) years.
  - G. Security for Road Repair.
    - (a) *Construction and Decommissioning.* Certificate of bond or proof of other suitable guarantee naming the County as the obligee or beneficiary for the repair and improvement of roads along the haul route for a Commercial WECS and associated facilities in an amount of not less than 115 percent of the cost for infrastructure improvement or repair as determined in the engineer's estimate of cost, but in no case less than \$25,000 for the purpose of repairing any damage to public roads caused by constructing the system. Any bond or other guarantee shall be in a form and under terms acceptable by the Board prior to the commencement of construction of the project. Not less than 60 days prior to commencing decommissioning, Applicant shall notify County and provide the required bond or guarantee for road repair and improvement.
    - (b) *Operations and Maintenance.* Certificate of bond or proof of other suitable guarantee naming the County as the obligee or beneficiary for the purpose of repairing any damage to public roads caused by operating or maintaining the system, in an amount of not less than 115 percent of the cost for infrastructure improvement or repair as determined in the engineer's estimate of cost. The amount of such bond or other guarantee shall be adjusted every five (5) years based upon the findings of the engineer's updated assessment and estimate of costs to improve, maintain and repair existing roads as provided above. Such bond or other suitable guarantee shall be in a form and under terms acceptable by the Board prior to the completion of construction of the project.
  - H. Any additional information, studies, or reports as reasonably determined by the Board as necessary.

Prior to commencement of any construction, the Applicant shall enter into with the Board or its designee, an agreement that documents the Applicant's obligations regarding improvement, repair and maintenance of the County roads.

7. Discontinuation and Decommissioning: The Applicant shall remain liable for all costs and expenses involved in decommissioning the Commercial WECS and all accessory facilities upon abandonment or discontinuation of the Commercial WECS, or revocation of a Conditional Use Permit as provided herein.
- A. Decommissioning Plan: Applicant shall provide a Decommissioning Plan outlining the anticipated means and cost of removing each Commercial WECS at the end of its serviceable life or upon becoming discontinued. The Decommissioning Plan shall be subject to the approval of the Board and shall be submitted prior to the issuance of a Conditional Use Permit. The Decommissioning Plan shall provide the following:
1. All Commercial WECS and accessory facilities shall be removed to 72 inches below ground level for concrete turbine foundations and forty-eight inches below ground level for all other infrastructure within 180 days of the discontinuation of use;
  2. That roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored;
  3. An estimate of the total cost of decommissioning, with and without regard to salvage value of the equipment, prepared by a mutually agreed upon independent and certified Professional Engineer at the expense of Applicant, shall be provided before the issuance of any building permits; the Board shall have the right in its sole discretion to audit such estimate using an independent certified Professional Engineer chosen solely by the County and at the County's sole expense, and in the event the County's engineer returns with a higher estimate, such higher estimate shall be utilized in setting the bond required under this section; the Applicant shall fully cooperate with the County by disclosing all information reasonably necessary for the above audit.
- B. Bond or other Guarantee: Prior to commencing construction, Applicant shall post a bond guaranteeing 115 percent of the total estimated cost of decommissioning net of salvage value as determined by subparagraph A above. For purposes of this Section, "salvage value" shall be determined net of all reasonable costs associated with any salvage of the Commercial WECS and accessory facilities including but not limited to transporting the salvaged materials to market and brokerage fees or costs of sale of the salvaged materials. The bond may be in the form of a performance bond or surety bond or other acceptable form of financial assurance and shall name the County as the obligee or beneficiary. Such bond or other suitable financial assurance shall be in a form and under terms acceptable by the Board prior to the issuance of a Building Permit for the project. Such bond shall be in a form and under such terms as to allow the County to utilize the amount of any difference between the actual cost of decommissioning under this Section and the total amount of the bond or other suitable financial assurance and apply such amount for county road repair and improvement associated with the decommissioning process in the event that the bond required for such purpose under Section 6(G)(A) *Construction and Decommissioning* is insufficient or the Applicant fails to secure such a bond.
- C. Abandonment: A Commercial WECS shall be considered abandoned and discontinued after one year without energy production. At this time, the Board may issue a Notice of Abandonment to the Applicant. If the Applicant, within thirty (30) days of the issuance of a Notice of Abandonment, provides the Board a plan outlining the steps and schedule for returning the Commercial WECS to service that shows the system has not been abandoned, the Board may withdraw the notice.
- D. Removal: Prior to commencing project construction and as a condition of approval of a conditional use permit, the Applicant and the owner of the real estate upon which the Commercial WECS is located shall sign a "Consent to Removal" or similar documentation of consent stating that in the event that either shall fail to remove the Commercial WECS as required under this Section, then any bond or other guarantee securing the decommissioning of the Commercial WECS shall be paid over to the County and the County shall be allowed to remove the same and assess the real estate for any remaining cost to remove the Commercial WECS.
- E. Update of Plan and Bond: Applicant shall provide an updated decommissioning plan every five (5) years including an updated total cost estimate for decommissioning the Commercial WECS prepared in the same manner and form as provided above. Any bond or other guarantee in place securing the total cost of decommissioning shall be adjusted accordingly.

8. **Liability Insurance:** The Applicant shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$5 million per occurrence and \$10 million in the aggregate and naming the County as an additional insured. The Applicant shall provide proof of insurance to the Board prior to the Board’s approval of the submitted application.
9. **Proof of Renewal of Bonds, Guarantees and Liability Insurance:** Applicant shall be under a continuing obligation to provide proof of renewal of all bonds, guarantees, and liability insurance required under this Section. Failure to provide such proof at least ninety (90) days prior to the date such instruments and policies lapse shall be regarded as a violation of this Section and grounds for revocation of a Conditional Use Permit as provided herein. Applicant shall authorize the County to receive any notice of payment due or payment default upon any bond, guarantee or liability insurance policy required under this Section. Applicant shall also notify the County if Applicant changes surety, bond or insurance companies providing any of the bonds, guarantees or liability insurance policies required under this Section and provide contact information for the same.

**14.06. Revocation of Conditional Use Permit**

The Zoning Administrator shall notify Applicant and the real estate owner upon which the Commercial WECS is located of any violation under this Section via certified mail. Such Notice shall identify the violation(s) and options to correct them. If Applicant and/or said real estate owner shall fail to correct the violation(s) within thirty (30) days of the mailing date of said Notice, then a Final Notice shall be sent to the Applicant and said real estate owner in the form set forth above allowing fifteen (15) additional days to correct the violation(s). If the violations are not corrected and Applicant is not using reasonably diligent efforts to correct the violations, then the Conditional Use Permit issued under this Section may be revoked. The revocation of the Conditional Use Permit requires that the wind energy conversion system be physically removed in the same manner as provided by the Decommissioning Plan and other applicable provisions under this Section. In no event shall total decommissioning be completed more than 180 days after the date of the Final Notice herein.

**14.07. Setbacks**

The Conditional Use Permit shall be contingent upon compliance with the following setbacks as measured from the hub of the tower established in the following table:

	Wind Turbine- Non-Commercial	WECS Wind Turbine- Commercial/Utility WECS	Meteorological Towers
Property Lines (other than right angle corners) of Non- Participating Parcels	1.1 times the total height	1.1 times the total height	1.1 times the total height
Right angle corner property lines of Non-Participating Parcels	1.1 times the total height from both property lines	1.1 times the total height from both property lines	1.1 times the total height from both property lines
Neighboring Dwelling Units on Non-Participating Parcels*	1.1 times the total height plus applicable building setback	1 mile	1.1 times the total height plus applicable building setback
Public Road Rights-of-Way**	1.1 times the total height plus applicable building setback	1.2 times the total height	1.1 times the total height plus applicable building setback

	Wind Turbine- Non-Commercial	WECS Wind Turbine-Commercial/Utility WECS	Meteorological Towers
Other Utility Rights-of-Way	1.1 times the total height plus applicable building setback	1.1 times the total height	1.1 times the total height plus applicable building setback
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	1.1 times the total height plus applicable building setback	1.1 times the total height	1.1 times the total height plus applicable building setback
Wetlands, USFW Types III, IV, and V***	1.1 times the total height	1.1 times the total height	1.1 times the total height
Other structures not on the applicant's site	NA	1.1 times the total height	1.1 times the total height
River Bluffs of over 15 feet	1.1 times the total height	1.1 times the total height	1.1 times the total height

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System. Notwithstanding the foregoing, the Non-Participating Property owner may waive this requirement if done in a writing reasonably acceptable to the Board and filed with the Sioux County, NE Office of the Register of Deeds.

\*\* The setback shall be measured from any future Rights-of-Way if construction plans for a planned change or expanded right-of-way have been approved prior to submission of an application for a Conditional Use Permit.

\*\*\* The setback for wetlands shall apply only to wetlands which are (a) jurisdictional "Waters of the U.S." and therefore subject to regulation under Section 404 of the Clean Water Act, and (b) classified as perennial streams.

## **SECTION 15. SOLAR ENERGY REGULATIONS**

### **15.01. Solar Energy Conversion Systems**

Intent: In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Sioux County, Nebraska, the County finds these regulations are necessary in order to ensure that all solar energy conversion systems (SECS) are appropriately designed, sited and installed. These regulations pertaining to all solar energy conversion systems are intended to respond to equipment available at the time of adoption. Sioux County recognizes that this is an emerging technology and that new means of collecting energy are under development. Accordingly, these standards will be reviewed and may be amended as technology advances. Concentrated solar energy conversion systems are prohibited in Sioux County.

### **15.02. Types of Solar Conversion Systems:**

- A. Class 1 - Small Solar Energy Conversion System (SSECS) - A SSECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small solar energy system only if it supplies energy for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be sold back to the utility company.
- B. Class 2 - Commercial Solar Energy Conversion System (CSECS) - A CSECS which has a rated capacity greater than one hundred (100) kilowatts to one (1) megawatt, under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to on and off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as battery energy storage systems, collection lines, generation-tie lines, switchyards and transformers that service the facility may be owned by the same or a separate entity but are also part of the aggregated project.
- C. Class 3 – Commercial Solar Energy Conversion System (CSECS) - A CSECS which has a rated capacity greater than one (1) megawatt, under a common or aggregated ownership that includes substations, cables/wire, battery energy storage systems, collection lines, generation tie lines, switchyards, transformers, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as battery energy storage systems, collection lines, generation-tie lines, switchyards and transformers that service the facility may be owned by the same or a separate entity but are also part of the aggregated project.

### **15.03. Definitions**

- A. Aggregated Project: Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CSECS within a larger project or are on leased land belonging to several owners. Associated infrastructure such as battery energy storage systems, collection lines, generation-tie lines, switchyards and transformers that service the facility may be owned by the same or a separate entity but are also part of the aggregated project.
- B. Accessory Solar Energy System: Systems which are accessory to the principal use on a property and designed to supply energy solely for the principal use.
- C. Church: A building that houses a religious organization or congregation that meets in a specific location with constitutions and by-laws and is a qualified 501(c)(3) organization.

- D. Commercial Solar Energy Conversion Systems (CSEC): A system designed to supply energy for off-site users on the distribution grid, or to export to a wholesale market via connection to the electric transmission grid.
- E. Feeder Line: Any power line that carries electrical power from one or more solar collectors or individual transformers associated with individual solar energy collection to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems serving the CSECS.
- F. Ground Mounted Panels: Freestanding solar panels mounted to the ground by use of racking, piling, piers, stabilizers, or similar apparatus.
- G. Grid-Tied Solar System: A photovoltaic solar system that is connected to an electric circuit served by an electrical company.
- H. Off-Grid Solar System: A photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits served by an electric utility company.
- I. Height, Total System: The height above the grade of the system including the unit and the measured highest vertical extension of any portion of the SECS.
- J. Meteorological Tower/Measuring Devices: For the purpose of collecting data used to monitor solar energy or other data relevant to locating a SECS.
- K. Non-participating Property: Any property that is not the subject of an agreement with the Solar Energy Conversion System Owner or Operator.
- L. Participating Property: Any property that is under lease or other agreement with the Solar Energy Conversion System Owner or Operator.
- M. Photovoltaic System: An active solar energy stem that converts solar energy directly into electricity.
- N. Rooftop or Building Mounted Solar Energy System: A solar energy system that is mounted to the roof or building using brackets, stands, or other apparatus.
- O. Solar Collector (Accessory): A device, structure or a part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- P. Solar Glare: The glare effect that occurs when the sun reflects on the conversion system and that can affect people or near-by properties.
- Q. Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- R. Solar Energy System (SES): An aggregation of parts including bases, structures, panels, convertors, generators and configuration necessary to convert the power of solar into mechanical or electrical energy; e.g. photovoltaic, heat, etc.
- S. Substation: Any electrical facility utilized to convert electricity produced by a SES for inter-connection with high voltage transmission lines.
- T. Transmission Line: The electrical power lines that are high voltage transmission lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- U. Yard, Front: A yard extending from the front lot line of the SECS and adjoining a public street or road to the front of the SECS between side lot lines.

- V. Yard, Rear: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the SECS.
- W. Yard, Side: A yard between the SECS and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point required minimum open space between the property line and the SECS.

**15.04. Class 1 - Small Solar Energy Conversion System:** A SSECS which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use of the same parcel. A system is considered a small solar energy system only if it supplies energy for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company and excess electrical power generated which is not presently needed for onsite use may be sold back to the utility company.

A. General Site and Design Standards

1. Shall be permitted as an accessory use within a district and approved by the Zoning Administrator, in A-1 and A-2 Zoning Districts, provided that all requirements set forth in the application process have been met.
2. Minimum Yard Requirements measured between the defined measuring point and the nearest solar panel within the SSECS:
  - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) as Special Flood Hazard Areas, unless the base or footings to such structure are a least one (1) foot above such high water mark.
  - b. Yard requirements are as follows:
    - i. Front Yard: There shall be a minimum front yard of not less than a distance of twenty-five (25) feet measured from the property line.
    - ii. Rear Yard: No limitations; unless abutting a R Residential District, then the minimum yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet from the property line.
    - iii. Side Yard: No limitations; unless abutting a "R" Residential District then the minimum yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet from the property line.
  - c. Waiver of Requirements: Minimum rear, front and side yard setback requirements may be waived by agreement between adjoining landowners provided that:
    - i. Said agreement for waiver is made in writing;
    - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
    - iii. Said agreement shall be recorded in the Sioux County Register of Deeds Office, indexed to the affected properties.
3. The SSECS measured from the nearest solar panel shall maintain a minimum setback distance from any public road consistent with that for setbacks of structures, generally, within these zoning ordinances.
4. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display advertising.
5. SSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
6. All electrical wires associated with a SSECS other than the wires necessary to connect the junction box and the grounding wires shall be located underground.

7. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access.
8. The owner of a SSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility.
9. Construction sites must be re-graded and re-vegetated to minimize environmental impacts.
10. SSECS application must include a plan during the application process that states all equipment, support structures, electrical equipment and fences will be removed upon the discontinuance of the system's operation.
11. Solar panels shall conform to the required front, side, and rear lot setback requirements, except as provided herein:
  - a. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
  - b. A solar panel which is freestanding shall be located only in the required rear or side yard provided it does not exceed 12 feet in height and not closer than five feet to any existing easement as measured from the closest point of structure including the foundation and anchorages nor shall the solar panel be located in the required front yard.
  - c. The physical structure and connections to existing structures shall conform to the applicable state building and electrical codes.
  - d. Comply with any and /or all State and Federal regulations, if applicable.
12. Pre-Existing Solar Panels, as of January 1, 2025 may continue to be utilized so long as continuously maintained in operational condition.
13. The Sioux County Zoning Administrator may require other testing and safeguards, prior to approval, as deemed necessary.

B. Application Requirements for Class 1 – Small Solar Energy Conversion Systems:

1. Application Requirements must include:
  - a. The name (s) of project applicant.
  - b. Name of the project owner (s).
  - c. The legal description and address of the project.
  - d. A description of the project including: number, type, nameplate generating capacity, agreement and means of interconnecting with the electrical grid.
  - e. Site layout, including the location of property lines, easements, wetlands, protected area, solar panels, electrical grid and all related accessory structures. This site layout shall include distances and be drawn to scale and in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  - f. Certification by an Engineer competent in disciplines of solar energy.
  - g. Documentation of land ownership or legal control of the property.
  - h. Set-back waivers, if applicable.
  - i. Location of wetlands, designated scenic area and natural areas within 1,320 feet of the proposed solar panels.
  - j. Vegetation management plan dealing with overgrowth and soil stabilization and sterilization.
  - k. The applicant shall supply the Sioux County Emergency Management Agency and local fire departments, with a basic emergency response plan and a map showing all shut offs, disconnects, valves, etc.
  - l. Evidence provided by Engineer/Architect, or equivalent that there will be no interference with any commercial and or public safety communication towers.
  - m. Proof of Liability Insurance
  - n. Discontinuation and Decommissioning Plan that states all equipment, support structures, electrical equipment and fences will be removed upon the discontinuance of the systems operation.

**15.05. Class 2 – Commercial Solar Energy Conversion System (CSECS):** A CSECS which has a rate capacity greater than hundred (100) kilowatts to one (1) megawatt under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to on and off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project.

A. General Site and Design Standards:

1. Located on a lot or parcel of at least three (3) acres.
2. Permitted by a Conditional Use Permit to be issued in the A-1 and A-2 Zoning Districts.
3. Minimum Yard Requirements measured between the defined measuring point and the nearest solar panel within the CSECS:
  - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) as Special Flood Hazard Areas, unless the base or footings to such structure are a least one (1) foot above such high water mark.
  - b. Setbacks (all setbacks are measured to the nearest solar panel):
    - i. From Public Road: CSECS shall maintain a minimum setback distance from any public road of at least one hundred (100) feet measured from the adjacent edge of the public road or highway right of way to the nearest solar panel.
    - ii. From Participating Property: No setback is required between an adjacent residence of a property participating, in the same aggregated project.
    - iii. From Non-Participating Property: CSECS shall maintain a minimum of one hundred (100) feet between any solar panel and the property line of a non-participating property.
    - iv. From Non-Participating Existing Occupied Dwelling: CSECS shall maintain a minimum setback of 330 feet (1/16 mile) between any solar panel and an occupied dwelling on a non-participating parcel. If this setback is greater than the setback in Section 3.b.iii, this setback shall control.
    - v. From Property Line of a Property with a Church, Public Park or Public School: CSECS shall maintain a minimum setback of 660 feet (1/8 mile) between the nearest solar panel and the property line.
    - vi. Agate National Fossil Beds: CSECS shall maintain a minimum setback of 1,320 ft (1/4 mile) between the nearest solar panel and the property line.
    - vii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of 1,320 ft (1/4 mile) from property line.
    - viii. From Towns and Villages that do not have applicable zoning regulations: CSECS shall maintain a minimum setback of 1,320 ft (1/4 mile) between the nearest solar panel and the corporate limits of a town or village that does not have applicable zoning regulations.
    - ix. Any battery energy storage facility components shall meet the applicable building setback.
  - c. Waiver of Set-back Requirements: Set-back requirements may be waived by agreement between adjoining landowners provided that:
    - i. Said agreement for waiver is made in writing;
    - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
    - iii. Said agreement shall be recorded in the Sioux County Register of Deeds Office, indexed to the affected properties.
4. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display advertising (prohibition does not include owner or manufacturer logos or informational signage).

5. All CSECS shall use either anti-glare or anti-reflective panels.
6. CSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
7. CSECS shall provide visual screening for adjacent non-participating, residences, public parks, churches and schools within 1,320 feet (1/4 mile) measured from the nearest solar panel to the adjoining non-participating structure or from the property line of any public park. Fences, walls, berming, vegetation or some combination thereof to provide visual screening shall be used. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.
  - a. If the visual screening is for adjacent non-participating occupied residential, public park, church or school uses, it shall be provided as follows:
    - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
  - b. If the visual screening is achieved through a fence or wall, it shall be provided along the property line and the front road as follows:
    - i. Acceptable fence and wall materials for visual screening include masonry, stone and wood and chain link fences with maintained slats of a material designed to reasonably withstand inclement weather. Alternative fence and materials being used for screening must be approved by the Zoning Administrator.
  - c. If the visual screening is achieved through berming it shall be provided along the property line as follows:
    - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
    - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
  - d. If the visual screening is achieved through vegetation, it shall be provided in a row along the CSECS property line as follows: At a rate of at least four (4) trees or large shrubs every one hundred (100) linear feet. Of the four (4), at least one (1) shall be a deciduous shade tree or shrub and three (3) shall be evergreen or ornamental trees or shrubs. The trees or shrubs shall be evenly distributed within each one hundred (100) linear feet section. The Zoning Administrator may modify or waive these requirements as necessary to reflect difficult soil, water or growing conditions.
    - i. At least two-thirds (2/3), but no more than three quarters (3/4) of the total ornamental/evergreen plantings along the property line shall be made up of evergreen plantings.
    - ii. Each planting shall have a minimum mature height of fifteen (15 feet).
    - iii. Facility Owner must maintain the original standard of planting.
  - e. Visual screening is not required along the property line adjacent to a Participating property.
8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. All electrical wires associated with a CSECS other than the wires necessary to connect the disconnect junction box and the grounding wires shall be located underground or enclosed within the solar panels and racking systems.

The owner of a CSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility.

9. Construction sites must be re-graded (if previously graded) and re-vegetated with a native or appropriate seed mix to minimize environmental impacts and the grading and vegetation management plan must be approved by the Zoning Administrator and Weed Superintendent prior to commencement of construction.
10. Each CSECS system application shall have a decommissioning plan outlining the means, procedure and costs of removing all facility components, including, but not limited to: project (non-utility) substations, cables/wires above four feet below grade, convertors and other

building accessories, battery energy storage systems, generation-tie lines, switchyards and transformers. This plan must be submitted and approved with the application, and state all equipment, support structures, electrical equipment and fences will be removed upon discontinuance of the system's operation within one (1) year. The decommissioning plan submitted and approved with the application need not include the decommissioning security or decommissioning agreement, which shall not be due until commencement of construction.

11. The CSECS shall comply with any and/or all applicable State and Federal regulations.
12. The Sioux County Planning Commission and Sioux County Board of Commissioners may require other testing and safeguards, prior to approval, as deemed necessary.
13. A Solar Resource Measurement Device used for the purpose of a solar energy conversion system is permitted by a Conditional Use Permit, approved by the Sioux County Zoning Administrator for the Aggregated Project and must meet setback requirements of those established for a CSECS. If the Solar Resource Measurement Device is non-functional, it shall be removed after a period of two (2) years from discontinuance.
14. Each CSECS must have a 911 address at each facility access point from a public road.
15. The CSECS shall be designed and placed in such a manner to minimize adverse visual and noise impacts on adjacent areas. Such things as screenings, fencing, vegetation, trees, shrubs and pollinator plantings can be used, however such design should be included in the application documents.
16. In no case shall a CSECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by a written agreement submitted at the time of the application. Such agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Sioux County Planning & Zoning Administrator prior to approval of the permit.
17. Structures for the CSECS project must provide a structural analysis, stamped by a licensed engineer registered in the State of Nebraska.
18. Colors and surface treatment of the CSECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site. No logos or advertisements are allowed on these structures. The project shall be marked with a visible identification number applicable to the project with current contact numbers.
19. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as potential glint or reflections which affect residences within or immediately adjacent to the project area.
20. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any solar energy facility.

**15.06. Class 3 - Commercial Solar Energy Conversion System (CSECS) -** A CSECS which has a rated capacity greater than one (1) megawatt under a common or aggregated ownership that includes substations, cables/wire, convertors and other building accessories, whose main purpose is to supply electricity to off-site customers. CSECS may be included as an aggregated project, such as those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the CSECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregated project.

A. General Site and Design Standards:

1. Located on a lot or parcel or lots or parcels collectively of at least twenty (20) acres.

2. Permitted by a Conditional Use Permit to be issued in the A-1 and A-2 Zoning Districts.
3. Minimum Yard Requirements measured between the defined measuring point and the nearest solar panel within the CSECS:
  - a. No structure shall be placed within the high-water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) as Special Flood Hazard Areas, unless the base or footings to such structure are a least one (1) foot above such high-water mark.
  - b. Setbacks (all setbacks are measured to the nearest solar panel):
    - i. From Public Road: CSECS shall maintain a minimum setback distance between any solar panel and any public road of at least one-hundred (100) feet measured from the adjacent edge of the public road or highway right of way to the nearest solar panel.
    - ii. From Participating Property Line: No setback is required between an adjacent residence or property line of a property participating, in the same aggregated project.
    - iii. From Non-Participating Property Line: CSECS shall maintain a one-hundred (100) feet setback between any solar panel and the property line of a non-participating property.
    - iv. From Non-Participating Existing Occupied Dwelling: CSECS shall maintain a minimum setback of 660 feet between any solar panel and an occupied dwelling on a non-participating parcel. If this setback is greater than the setback in Section 3.b.iii, this setback shall control.
    - v. From Property Line of a Property with a Church, Public Park or Public School: CSECS shall maintain a minimum setback of 1,320 feet (1/4 mile) between the nearest solar panel and the property line.
    - vi. Agate National Fossil Beds: CSECS shall maintain a minimum setback of 2,640 ft (1/2 mile) between the nearest solar panel and the property line.
    - vii. From Approved Platted Subdivisions: CSECS shall maintain a minimum setback of 2,640 ft (1/2 mile) from property line.
    - viii. From Towns and Villages that do not have applicable zoning regulations: CSECS shall maintain a minimum setback of 2,640 ft (1/2 mile) between the nearest solar panel and the corporate limits of a town or village that does not have applicable zoning regulations.
    - ix. Any battery energy storage facility components shall meet the applicable building setback.
  - c. Waiver of Set-back Requirements: Set-back requirements may be waived by agreement between adjoining landowners providing that:
    - i. Said agreement for waiver is made in writing;
    - ii. Said agreement is presented to the Zoning Administrator upon application for zoning permit; and
    - iii. Said agreement shall be recorded in the Sioux County Register of Deeds Office, indexed to the affected properties.
4. Structures shall meet applicable industry structural codes, shall be neutral in color and shall not be used to display third-party advertising (prohibition does not include owner or manufacturer logos or informational signage).
5. All CSECS shall use either anti-glare or anti-reflective panels.
6. CSECS shall meet all requirements for placement with the Federal Aviation Administration (FAA).
7. CSECS shall provide visual screening for adjacent non-participating, residences, public parks, churches and schools within 1,320 feet (1/4 mile) measured from the nearest solar panel to the adjoining non-participating structure or from the property line of any public park. Fences, walls, berming, vegetation or some combination thereof to provide visual screening shall be used. Fencing, walls or berming may be used to supplement other screening methods, but shall not account for over fifty percent (50%) of the screening. Existing natural features, topography and vegetation may be used to achieve visual screening if provided in accordance to the visual screening requirements provided herein.

- a. If the visual screening is for adjacent non-participating occupied residential, public park, church or school uses, it shall be provided as follows:
    - i. The screen shall cover at least seventy percent (70%) of a vertical plane extending along the entire property line adjacent to the CSECS from the ground to a height of at least eight (8) feet above the adjacent ground.
  - b. If the visual screening is achieved through a fence or wall, it shall be provided along the property line and the front road as follows:
    - i. Acceptable fence and wall materials for visual screening include masonry, stone and wood and chain link fences with maintained slats of a material designed to reasonably withstand inclement weather. Alternative fence and materials being used for screening must be approved the Zoning Administrator
  - c. If the visual screening is achieved through berming it shall be provided along the property line as follows:
    - i. The side slopes shall not exceed three to one (3 to 1), horizontal to vertical.
    - ii. The mounded ground surface shall be protected to prevent erosion through the use of turf lawn or other alternative groundcovers.
  - d. If the visual screening is achieved through vegetation, it shall be provided in a row along the CSECS property line as follows:
 

At a rate of at least four (4) trees or large shrubs every one hundred (100) linear feet. Of the four (4), at least one (1) shall be a deciduous shade tree or shrub and three (3) shall be evergreen or ornamental trees or shrubs. The trees or shrubs shall be evenly distributed within each one hundred (100) linear feet section. The Zoning Administrator may modify or waive these requirements as necessary to reflect difficult soil, water or growing conditions.

    - i. At least two-thirds (2/3), but no more than three quarters (3/4) of the total ornamental/evergreen plantings along the property line shall be made up of evergreen plantings.
    - ii. Each planting shall have a minimum mature height of fifteen (15 feet).
    - iii. Facility owner must maintain the original standard of planting.
  - e. Visual screening is not required along the property line adjacent to a Participating property.
8. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. All electrical wires of 34,500 volts or less associated with a CSECS other than the wires necessary to connect the disconnect junction box and the grounding wires shall be located underground or enclosed within the solar panels and racking systems.
  9. The owner of a CSECS shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone, internet or television signals caused by the facility.
  10. Construction sites must be re-graded (if previously graded) and re-vegetated with a native or appropriate seed mix to minimize environmental impacts and the grading and vegetation management plan must be approved by the Zoning Administrator and Weed Superintendent prior to commencement of construction.
  11. Each CSECS system application shall have a decommissioning plan outlining the means, procedure and costs of removing all facility components, including, but not limited to: project (non-utility) substations, cables/wires above four feet below grade, convertors and other building accessories, battery energy storage systems, generation-tie lines, switchyards and transformers. This plan must be submitted and approved with the application, and state all equipment, support structures, electrical equipment and fences will be removed upon discontinuance of the system's operation within one (1) year. The decommissioning plan submitted and approved with the application need not include the decommissioning security or decommissioning agreement, which shall not be due until commencement of construction.
  12. The CSECS shall comply with any and/or all applicable State and Federal regulations.
  13. The Sioux County Planning Commission and Sioux County Board of Commissioners may require other testing and safeguards, prior to approval, as deemed necessary.

14. A Solar Resource Measurement Device used for the purpose of a solar energy conversion system is permitted by a Conditional Use Permit, approved by the Sioux County Zoning Administrator for the Aggregated Project and must meet setback requirements of those established for a CSECS. If the Solar Resource Measurement Device is non-functional, it shall be removed after a period of two (2) years from discontinuance.
15. Each CSECS must have a single 911 address for any facility access point from a public road.
16. The CSECS shall be designed and placed in such a manner to minimize to the extent practicable adverse visual and noise impacts on adjacent areas. Such things as screenings, fencing, vegetation, trees, shrubs and pollinator plantings can be used, however such design should be included in the application documents.
17. In no case shall a CSECS be located within any required setback or in any front yard area; except that a non-participating landowner can waive a setback requirement by a written agreement submitted at the time of the application. Such agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Sioux County Planning & Zoning Administrator prior to approval of the permit.
18. Structures for the CSECS project must provide a structural analysis, stamped by a licensed engineer registered in the State of Nebraska.
19. Colors and surface treatment of the CSECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site. No logos or advertisements are allowed on these structures. The project shall be marked with a visible identification number applicable to the project with current contact numbers.
20. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as potential glint or reflections which affect residences within or immediately adjacent to the project area.
21. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any solar energy facility.

**15.07. Application Requirements for Class 2 and Class 3:**

Commercial solar energy conversion systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be included in the application for a Conditional Use Permit. The application shall include the name(s) of the project applicant(s); the name of the project owner(s); the legal description and address for the project. The application shall also include the following documents:

- A. A survey map illustrating the following:
  1. Property lines, dimensions, acreage encompassed and contours with appropriate intervals for site evaluation;
  2. Location and elevation of all components of the proposed CSECS;
  3. Location and dimensions of all existing structures and uses on property within one (1) mile of the CSECS;
  4. Location of any overhead utility lines on the property;
  5. Location of all known communications towers within two (2) miles of the proposed CSECS;
  6. Access roads;
  7. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves or habitat areas to a distance of 5,280 ft (one-mile);
- B. Provide a copy of the Easement Deed, memorandum or abstract, or similar recorded documents from the Sioux County Register of Deeds Office, for each Participating Property.
- C. Provide a map illustrating all Transmission Lines connecting to the Substation.

- D. Results of Consultation with the National Oceanic and Atmospheric Administration (NOAA), National Weather Service, or any other relevant weather monitoring in the CSECS project areas, when applicable.
- E. Applicant shall identify potential effects in terms of constraints or benefits the solar energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed and the effects on the following activities shall also be addressed:
1. Existing or proposed tourist or recreation activities;
  2. Residential activities;
  3. Industrial activities;
  4. Agricultural activities;
  5. Commercial activities.
- F. Application shall meet applicable requirements of NDEE, NRCS and NRD Districts in the project area. Soil erosion, sediment control and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
1. Grading;
  2. Construction and drainage of access roads;
  3. Design features to control dust;
  4. Design features to maintain downstream water quality;
  5. Re-vegetation to ensure slope stability;
  6. Restoring the site after temporary project activities;
  7. Disposal or storage of excavated materials;
  8. Protecting exposed soil;
  9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
  10. Maintenance of erosion controls throughout the life of the project;
  11. Must present an acceptable weed or vegetation plan at the time of permit.
- G. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
  2. Critical habitat and habitat conditions;
  3. An avian study based on the U.S. Fish and Wildlife Service.
- H. A pre-construction noise and glare study shall be conducted; and shall include all property within one (1) mile (5,280 ft) of the CSECS. Projections of any glare on a structure shall include the extent and duration of the glare on the existing structure. The protocol, methodology and modeling shall be included in the study. Studies shall include typical and worst-case scenarios. The complete results and full study report shall be submitted to the Sioux County Planning Commission for review at the time of the application.
- I. Standard drawings of the structural components of the CSECS.
- J. Certification by a registered licensed Engineer in the State of Nebraska that shows:
1. Anticipated use of the output of a CSECS, greater than one hundred (100) KW;
  2. All applicable local, state and federal building, structural and electrical codes have been followed;
  3. The site is feasible for a CSECS; and can be successfully operated in the climate conditions found in Sioux County;
  4. The design and safety of the proposed CSECS can reasonably withstand weather related events.
- K. For any CSECS proposed to include solar panels within two (2) miles of the Agate National Fossil Beds, Applicant shall submit a viewshed study from the Agate National Fossil Beds property to the CSECS. Study shall show that from any viewpoint of five feet five inches (5'5") above natural ground level anywhere on the Agate National Fossil Beds, that it cannot be seen.

- L. An escrow account shall be set up when the Applicant applies for a Conditional Use Permit for a CSECS. The monetary amount filed by the Applicant with Sioux County shall be in an amount estimated by the Sioux County Board of Supervisors to cover all reasonable costs and expenses associated with the special zoning review and approval process, which can include but are not limited to any reports or studies which the Sioux County Zoning Commission and/or Sioux Board of Commissioners anticipates it may have done related to the zoning review process for this application. Such escrow amount shall include established fees. At any point during the zoning review process the Sioux County Zoning Commission and/or Sioux County Board of Commissioners shall require that the Applicant place additional monies into the Sioux County escrow in the event funds prove insufficient. If the escrow amount needs replenished and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until Applicant makes the required escrow deposit. Any escrow amounts which are more than actual costs shall be returned to the Applicant within ninety (90) days of permitting process completion. An itemized billing of all expenses shall be provided to the Applicant. The Sioux County Planning and Zoning Commission and/or Sioux County Board of Commissioners may hire qualified professionals for each and any of the technical fields associated with the Conditional Use Permit, such as, but not limited to, electrical, acoustics, environmental, economics, wildlife, health and land use.
- M. Prior to the issuance of a building permit for the facility, Applicant shall fund an escrow account for investigation of complaints for but not limited to glare, stray voltage, noise and signal interference, with the amounts of funds to be set at the discretion of the Sioux County Board of Commissioners. When the escrow account balance is below \$5,000, Sioux County shall notify the Applicant. The Applicant shall replenish within 45 days of notification.

**15.08. Construction and Operations**

- A. All public roads to be used for transporting CSECS substation materials, cement or equipment for construction, operation or maintenance of the CSECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction. A pre-construction survey must be conducted with the appropriate jurisdictions to determine existing road conditions. Those included are Applicant(s); Land Owner(s); Township Representative(s); Highway Superintendent(s) and/or Zoning Administrator(s). The survey shall include photographs and a written agreement to document the conditions of the public roads and facilities. All expenses of the survey shall be the Applicant's responsibility.
- B. Prior to the commencement of construction, the Applicant shall enter into an agreement with the Sioux County Board of Commissioners regarding use of county roads during construction. The agreement shall include traffic routes, time of year use, staging areas and any other physical sites related to the CSECS. All roads shall be constructed and maintained to allow access, at all times, by any emergency service vehicles. The CSECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation or maintenance of the CSECS. Any violation of the agreement will incur an assessment against the Applicant for damages as determined by the Applicant and the Board of Commissioners.
- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

**15.09. Safety Measures**

- A. Each CSECS shall be equipped with both manual and automatic controls to limit the power so it does not exceed the design limits.
- B. CSECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted near the entrance to the facility, electrical equipment, and entrances. The sign shall contain the following information:
  1. Warning – high voltage;
  2. Manufacturer's name;
  3. Operator's name;

4. Emergency phone number;
  5. Emergency shutdown procedures;
- C. Each CSECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
  - D. Any CSECS facility shall be equipped with anti-climbing devices if applicable.
  - E. The CSECS operator shall maintain a current insurance policy which will cover liability, installation, operation and any possible damage or injury that might result from the failure of any part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CSECS shall be warranted against any system failures reasonably expected in severe weather operation.
  - F. An Emergency Operations Plan (EOP) must be placed on file and kept current with Sioux County Zoning Administrator Sioux County Emergency Management and Fire and Rescue Department (s) within the project jurisdiction. The plan shall include an all-hazards planning approach, based on an emergency incident or disaster of any magnitude or geographic size that may cause disruption to the function of CSECS and include contacts for notification.
  - G. Upon completion of the CSECS project the Applicant shall meet with local Fire and Rescue jurisdiction to review the Emergency Operations Plan.
  - H. A Conditional Use Permit for a CSECS shall extend for the operational life of the project and shall run with the land. Maintenance, including complete repowering, shall not require a new or amended Conditional Use Permit provided the facility's footprint does not materially deviate from the original and it continues to meet the zoning regulations in effect at the time of initial approval of the original Conditional Use Permit and the conditions of approval of the Conditional Use Permit.

#### **15.10. Discontinuation and Decommissioning**

- A. The Applicant shall remain liable for all costs and expenses involved in decommissioning a CSECS and all accessory facilities upon abandonment or discontinuation of the CSECS, or revocation of a Conditional Use Permit as provided herein.
- B. Decommissioning Plan: Applicant shall provide a Decommissioning Plan outlining the anticipated means and cost of removing each CSECS at the end of its serviceable life or upon becoming abandoned. The Decommissioning Plan shall be subject to the approval of the Board and shall be submitted prior to the issuance of a Conditional Use Permit. The Decommissioning Plan shall provide the following:
  1. All CSECS and accessory facilities shall be removed to forty-eight (48) inches below ground level for all infrastructure within 180 days of the discontinuation of use;
  2. That roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored; and
  3. Any other information found reasonably necessary by the Board.
- C. An estimate of the total cost of decommissioning, with and without regard to salvage value of the equipment, prepared by a mutually agreed upon independent and certified Professional Engineer at the expense of Applicant, shall be provided before the issuance of any building permits; the Board shall have the right in its sole discretion to audit such estimate using an independent certified Professional Engineer chosen solely by the County and at the County's sole expense, and in the event the County's engineer returns with a higher estimate, such higher estimate shall be utilized in setting the bond required under this section; the Applicant shall fully cooperate with the County by disclosing all information reasonably necessary for the above audit

- D. Bond or other Guarantee: Prior to commencing construction, Applicant shall post a bond guaranteeing 115 percent of the total cost of decommissioning net of salvage value. For purposes of this Section, "salvage value" shall be determined net of all reasonable costs associated with any salvage of the CSECS and accessory facilities including but not limited to transporting the salvaged materials to market and brokerage fees or costs of sale of the salvaged materials. The bond may be in the form of a performance bond or surety bond or other acceptable form of financial assurance and shall name the County as the obligee or beneficiary. Such bond or other suitable financial assurance shall be in a form and under terms acceptable by the Board prior to the issuance of a building permit for the project.
- E. Abandonment: A CSECS shall be considered abandoned and discontinued after one year without energy production. At this time, the Board may issue a Notice of Abandonment to the Applicant. If the Applicant, within thirty (30) days of the issuance of a Notice of Abandonment, provides the Board a plan outlining the steps and schedule for returning the CSECS to service that shows the system has not been abandoned, the Board may withdraw the notice.
- F. Removal: Prior to commencing project construction and as a condition of approval of a Conditional Use Permit, the Applicant and the owner of the real estate upon which the CSECS is located shall sign a "Consent to Removal" or similar documentation of consent stating that in the event that either shall fail to remove the CSECS as required under this Section, then any bond or other guarantee securing the decommissioning of the CSECS shall be paid over to the County and the County shall be allowed to remove the same and assess the real estate for any remaining cost to remove the CSECS.
- G. Update of Plan and Bond: Applicant shall provide an updated decommissioning plan every five (5) years including an updated total cost estimate for decommissioning the CSECS prepared in the same manner and form as provided above. Any bond or other guarantee in place securing the total cost of decommissioning shall be adjusted accordingly.
- H. Proof of Renewal of Bonds, Guarantees and Liability Insurance: Applicant shall be under a continuing obligation to provide proof of renewal of all bonds, guarantees, and liability insurance required under this Section. Failure to provide such proof at least ninety (90) days prior to the date such instruments and policies lapse shall be regarded as a violation of this Section and grounds for revocation of a Conditional Use Permit as provided herein. Applicant shall authorize the County to receive any notice of payment due or payment default upon any bond, guarantee or liability insurance policy required under this Section. Applicant shall also notify the County if Applicant changes surety, bond or insurance companies providing any of the bonds, guarantees or liability insurance policies required under this Section and provide contact information for the same.

#### **15.11. Noise**

- A. No CSECS shall exceed 55 dBA 10-minute leq at the nearest structure occupied by a Non-Participant. In the event of periods of severe weather, as defined by the United States Weather Service, a CSECS may exceed 55 dBA. A Participating landowner may waive a noise limitation by written agreement, which shall be submitted at the time of the application for a conditional use permit.

A non-participating landowner can waive a noise requirement by written agreement. A written waiver shall be submitted at the time of the application for a conditional use permit. Such an agreement must be filed with the Register of Deeds and proof of that filing shall be provided to the Sioux County Planning & Zoning Administrator prior to approval of the permit.

- B. The Sioux County Planning and Zoning Administrator and the Sioux County Board of Commissioners shall require post-construction noise level measurements at the expense of the holder of the Special Permit within one (1) year of completion. The testing shall be completed by a licensed, independent acoustical engineer, and the results shall be forwarded to the Sioux County Board of Commissioners. The results will be a public document subject to Nebraska's public records laws.

- C. All noise complaints regarding the operation of any CSECS shall be referred, in writing, to the Sioux County Planning and Zoning Administrator and the Sioux County Board of Commissioners.
- D. The Sioux County Board of Commissioners shall determine whether a violation has occurred.

**15.12. Revocation of Conditional Use Permit**

The Zoning Administrator shall notify Applicant and the real estate owner upon which the CSCES is located of any violation under this Section via certified mail. Such Notice shall identify the violation(s) and options to correct them. If Applicant and/or said real estate owner shall fail to correct the violation(s) within thirty (30) days of the mailing date of said Notice, then a Final Notice shall be sent to the Applicant and said real estate owner in the form set forth above allowing fifteen (15) additional days to correct the violation(s). If the violations are not corrected and Applicant is not using reasonably diligent efforts to correct the violations, then the Conditional Use Permit issued under this Section may be revoked. The revocation of the Conditional Use Permit requires that the CSCES be physically removed in the same manner as provided by the Decommissioning Plan and other applicable provisions under this Section. In no event shall total decommissioning be completed more than 360 days after the date of the Final Notice herein.

**15.13. Setbacks**

The Conditional Use Permit shall be contingent upon compliance with the following setbacks as measured from the nearest solar panel established in the following table:

	<b>Class 1 Small (Up to 100 KW)</b>	<b>Class 2 Commercial (100 KW to 1 MW)</b>	<b>Class 3 Commercial (&gt; 1 MW)</b>
<b>Permit Process</b>	Admin Approval	Conditional Use Permit	Conditional Use Permit
<b>Minimum Lot</b>		3 Acres	20 Acres
<b>Front Yard Setback</b>	25 feet from PL	100 feet from PL	100 feet from PL
<b>Non-Participating Property</b>	N/A	75 feet from PL	100 feet from PL
<b>Participating Dwelling</b>	N/A	No Setback	No Setback
<b>Non-Participating Dwelling</b>	N/A	330 feet (1/16 mile) from PL	660 feet (1/8 mile) from PL
<b>Churches/Schools</b>	N/A	660 feet (1/8 mile) from PL	1,320 feet (1/4 mile) from PL
<b>Agate Fossil Beds National Monument</b>	N/A	1,320 feet (1/4 mile) from PL	2,640 feet (1/2 mile) from PL
<b>Platted Subdivision</b>	N/A	1,320 feet (1/4 mile) from PL	2,640 feet (1/2 mile) from PL
<b>Platted Village (not zoned)</b>	N/A	1,320 feet (1/4 mile) from PL	2,640 feet (1/2 mile) from PL
<b>Screenings</b>	No	Yes	Yes

\* Solar structures/facilities that will be part of an industrial Conditional Use permit will be governed by the setback limits of that permit if they will be producing electricity for self-consumption and not selling onto the grid. All other regulations will still apply.

## SECTION 16. SIGN REGULATIONS

**16.01. Billboards:** All billboards erected after the adoption of this Resolution shall comply with the following regulations:

1. No Billboard shall be erected without a permit from the County Board. The County Commissioners shall consult the recommendation of the Planning Commission when issuing a billboard permit.
2. Billboard permits shall be valid for five years.
3. Billboards shall only be allowed in the A-1 and A-2 Districts.
4. Billboards shall not be located within 25 feet from any lot line fronting on or adjoining a street right-of-way and shall not be within ten feet from any side lot or property line.
5. Billboards shall not be located closer than 500 feet from another billboard.
6. Billboards shall not exceed twenty feet in height.
7. Billboards shall not exceed two hundred fifty (250) square feet in area.
8. Any billboard that is not kept in good condition may have its permit terminated by the County Board.
9. Billboards having expired or terminated permits shall be disassembled within 30 days of the date of expiration or termination. Failure to do so will result in a violation of this Resolution.

## SECTION 17. SUBDIVISION REGULATIONS

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

**17.02. Definitions and Exceptions.** For the purposes of Section 17, a subdivision (or subdivide) shall be defined as: The separation in any manner of a parcel or tract of land into two or more lots for the purpose of either immediate or future transfer of ownership or of building or commercial land development. The definition includes resubdivision and shall relate to the process of subdividing or to the land subdivided. For the purpose of recording any separation of land, a plat of such division shall be submitted for approval in accordance with Section 17.03.

The following shall be exempt from the subdivision regulations:

- A. Division of land for agriculture purposes in the A District;
- B. The plat of a single separation of a lot for the purpose of a sale or a gift to a member of the immediate family of the property owner for that immediate family member's personal use in the Agriculture Zoning District. (The plat shall be recorded.) Only one such subdivision may be allowed per family member, and shall not be for the purpose of circumventing this subsection. A member of the family shall be defined as any person who is a natural or legally defined offspring, spouse, or parent of the owner.
- C. Division of a lot to sell an existing home in the Agriculture Districts. (The Plat shall be recorded.) However, the lot must be at least one acre and shall not be for the purpose of circumventing the subdivision regulations. (Developing spec homes on land that is not subdivided prior to construction shall constitute circumventing the subdivision regulations)

All plats must show the signature of the County Board Chairman before it can be recorded.

For the purposes of Section 17, a subdivider or developer shall be defined as: Any person, firm, partnership, joint venture, association or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sales or lease of a subdivision.

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

Step 1. Sketch Plan:

- A. A prospective developer shall present a sketch plan to the Planning Commission and County Board. The concept plan serves as a preliminary step to inform the County on the proposed subdivision and to present the developer with guidelines and recommendations in developing a subdivision.
- B. The following information shall be presented in the sketch plan.
  1. A copy of a deed or legal instrument identifying the applicant's interest in the property under consideration.
  2. A description of the type of uses proposed for the subdivision.
  3. A description of the type of water system proposed for the subdivision.
  4. A description of the type of sewer system proposed for the subdivision.
  5. A sketch plan drainage report shall be prepared.
  6. A description of the width and type of surface of all streets and sidewalks proposed within the subdivision.
  7. Any floodplain, soil or geologic hazard.
  8. A sketch plan vicinity map shall be drawn to scale showing the following:
    - a. The location of the proposed subdivision and its property boundaries.
    - b. The existing street and highway systems within five hundred feet (500') of the boundaries of the proposed subdivision.
    - c. All unimproved or proposed public right of ways within five hundred feet (500') of the boundaries of the proposed subdivision.
    - d. All public sewer, water, and storm drainage systems within five hundred feet (500') of the proposed subdivision.
    - e. Title, scale, date, and north arrow.
  9. A sketch plan subdivision map that is drawn to scale and clearly legible shall be developed which includes the following:
    - a. Title, scale, north arrow, name of the subdivision, township, range, section, quarter section, block and lot numbers.
    - b. The layout of blocks, lots, outlets, roads, accesses, utility easements, and open space scaled to the nearest foot.
    - c. Existing topographical contours at ten (10) foot intervals drawn from available data, such as the US Geological Survey maps.
    - d. Soil types by boundary, accompanied by a description of the soil type from the Sioux County Soil Survey.
    - e. Flood and geologic hazard areas, existing structures, utility lines, ditches, streams, lakes, drainage ways, vegetative cover, oil and gas production facilities, and any other structure or feature located within the proposed subdivision.
    - f. Any other information determined to be reasonably necessary by the Planning Commission or the County Board.

Step 2. An applicant shall submit an application for a change of zone as outlined in Section 21.

Step 3. Preliminary Plan. A preliminary plan shall be submitted with the following information:

- A. A copy of a title commitment issued by a title insurance company
- B. A certificate from the County Treasurer showing no delinquent taxes for the preliminary plan area.
- C. A description of the types of uses proposed for the subdivision.
- D. A summary explaining how the developer will address any problems or concerns that were identified in the sketch plan.

- E. The total number of lots proposed.
- F. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bike paths, or trails.
- G. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.
- H. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.
- I. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
- J. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
- K. The proposed method of financing with an estimate of the infrastructure construction costs related to the proposed subdivision. Cost estimates shall include, but not limited to the following:
  - 1. Streets and related facilities.
  - 2. Water distribution systems.
  - 3. Storm drainage facilities.
  - 4. Sewage collection systems.
  - 5. Other utilities and infrastructure as may be required.
- L. A list of all public utilities and water service providers located within five hundred feet (500') of the proposed subdivision.
- M. A list of any covenants, grants of easements, and restrictions imposed upon any land, buildings, and structures within the proposed subdivision.
- N. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Sioux County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.
- O. A preliminary plan vicinity map shall be submitted showing the following:
  - 1. The perimeter outline of the proposed subdivision. The location of all existing and proposed accesses to the proposed subdivision.
  - 2. The location and name of all roads and highways within five hundred feet (500') of the perimeter of the proposed subdivision.
  - 3. The perimeter outline and identification of subdivisions, zone districts, and any special districts within five hundred feet (500') of the perimeter of the proposed subdivision.
- P. A preliminary plan plat shall be submitted showing the following:
  - 1. North arrow, subdivision name, total acreage, and legal description of the proposed subdivision.
  - 2. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
  - 3. The street layout for the subdivision. All streets shall be named.
  - 4. The layout of future streets adjacent to the subdivision shall be shown as a dashed line.
  - 5. Topographical contour lines showing elevations.
  - 6. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
  - 7. A utility service statement block shall appear on the preliminary plan plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
    - a. The name of the utility company.
    - b. A dated signature and statement from the representative of the utility company indicating one of the following:
      - 1. Service is available.
      - 2. Service is available subject to the following specific conditions.
      - 3. Service is not available for the subdivision.
  - 8. A drainage report.

Step 4. Final Plat: The preliminary plan must be approved by the County Board before a final plat can be submitted. A final plat shall be submitted for approval within one year of the date the preliminary plan has been approved by the County Board unless an extension of time is granted by the County Board within the one year's time.

The final plat shall conform to the approved preliminary plan. The Board may approve a modified final plat if changes reflect improvements in design. The following information shall be submitted as part of a final plat application:

- A. A copy of a title commitment issued by a title insurance company.
- B. A description of the type of uses proposed for the subdivision.
- C. A summary explaining how the developer will address any problems or concerns that were identified in the preliminary plan.
- D. The total number of lots proposed.
- E. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bike paths, or trails.
- F. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.
- G. A statement indicating if on-street parking will be permitted within the proposed subdivision.
- H. If the applicant is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent from the appropriate public agency stating it will accept the lands to be dedicated.
- I. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.
- J. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
- K. A copy of a contract or some tangible guarantee providing for a common water supply if water is required to be supplied by a water district, municipality, or other.
- L. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
- M. A list of any covenants, grants of easement, and restrictions imposed upon any land, buildings and structures within the proposed subdivision.
- N. A copy of a Nebraska Department of Roads access permit if a new street intersects with a state highway.
- O. Proof of an existing easement or dedicated right of way when it is contiguous to an easement or right of way of the proposed subdivision.
- P. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Sioux County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.
- Q. A final plat map shall be submitted following the listed requirements:
  1. The plat shall be delineated in non-fading permanent black ink.
  2. The final plat shall contain the original signatures and seals of all parties required.
  3. North arrow, subdivision name, total acreage, date, total acreage, total number of lots, name and address of the owner(s) of record, legal description of the proposed subdivision, and scale.
  4. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
  5. All streets, walkways, and alleys shall be designated and identified by bearings and dimensions. All streets shall be named.
  6. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
  7. A utility service statement block shall appear on the preliminary plan plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
    - a. The name of the utility company.



**17.04. General Guidelines:** General considerations to be used by the Planning Commission and the County Board in evaluating and allowing a proposed subdivision.

1. Demand for the type of uses at the site in question.
2. Probable impact upon municipal service, utilities and facilities
3. Effect upon adjacent land uses
4. Potential for traffic congestion or traffic hazards.
5. General suitability of the site in question for the development proposed.
6. The development proposed shall conform to the zoning regulations for the zoning district in which it lies.
7. The development proposed shall be in harmony with the County's Comprehensive Development Plan.
8. The development shall meet the general intent of Section 17 of this Resolution.

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

1. Adequate water and sewer is available.
2. Storm water drainage is adequately controlled.
3. Street names shall have the names of existing streets when they are aligned.
4. No more than two streets shall intersect at one point.
5. Sidewalks shall be constructed within a subdivision where required by the County Board. Sidewalks will be a minimum of four feet in width.
6. Curbs and gutters shall be constructed in accordance with existing regulations.
7. All electric and communication utility lines and services and all street lighting circuits shall be installed underground, except for the following:
  - A. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, and other facilities necessarily appurtenant to such underground and street lighting facilities.
  - B. All facilities reasonably necessary to connect underground facilities to existing or permitted overhead or aboveground facilities.
  - C. Existing and new overhead electric transmission and distribution feeder lines and overhead communication long distance, trunk and feeder lines.
  - D. It shall not be necessary to remove or replace existing utility facilities used or useful in serving the subdivision.
  - E. Deviations from requirements, other than those listed above, shall be permitted only with the approval of the County Board who shall make such approval only in cases of extreme difficulty.

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

**17.07. Subdivision for a Family Member:** The plat of a single separation of a lot for the purpose of a sale or a gift to a member of the immediate family of the property owner for that member's personal use shall be exempt from the subdivision regulations in the A-1 and A-2 agriculture zones, but shall be recorded. Only one such subdivision may be allowed per family member, and shall not be for the purpose of circumventing this subsection. A member of the family shall be defined as any person who is a natural or

legally defined offspring, spouse, or parent of the owner. Such subdivisions are to be approved by the County Board. Approval of such subdivisions shall be conditional upon submittal of recording the plat with the County Clerk. The County Board shall consider the Planning Commission's recommendation on the subdivision. The County Planning Commission and the County Board shall consider the following guidelines when approving the subdivision of a property owner's land to a member of the immediate family:

1. The applicant has provided evidence that the owner of the subdivided land is a member of the landowner's immediate family.
2. The proposed land use is in compliance with the zoning district.
3. The applicant has provided evidence that the proposed subdivision is not being used as a mechanism to circumvent the subdivision regulations.

**17.08. Recorded Exemption:** A recorded exemption shall be required to divide any lot into two or more lots where: 1) the lots are not located in an approved subdivision and 2) any of the lots created by the subdivision do not meet the minimum lot size requirements for its respective zoning district. All recorded exemptions approved by the County Board shall be exempt from the subdivision regulations.

All recorded exemptions shall be approved by the County Board who shall consider the recommendation of the Planning Commission when making their decision. Approval of all recorded exemptions shall be conditional upon submittal of recording the plat with the County Clerk. Additionally, to mitigate potential impacts, the County Board may apply conditions to the recorded exemption. The County Planning Commission and the County Board shall consider the following guidelines when approving a recorded exemption:

1. The proposed land use is compatible with the other land uses permitted in its respective zoning district.
2. The proposed land use is otherwise in compliance with its respective zoning district.
3. The applicant has provided evidence that the proposed subdivision is not being used as a mechanism to circumvent the subdivision regulations.
4. The proposed recorded exemption is not part of an approved subdivision or recorded subdivision plat.
5. An adequate legal access to a public road exists for all proposed lots.
6. No lots of less than one acre are created by the recorded exemption.
7. The subdivider has designated an agricultural reservation area of at least 80 acres in the A-1 zoning district and at least 320 acres in the A-2 zoning district. \*However, in a situation where a recorded exemption is being obtained to sell an existing dwelling which exists on a lot of less than 80 acres in the A-1 District or less than 320 acres in the A-2 District, the agriculture reservation zone shall only require an agriculture reservation area equal to the size of the lot on which the dwelling existed before the recorded exemption.

## **SECTION 18. NON-CONFORMING USES**

**18.01. General:** Nonconforming uses are of three types:

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

3. Nonconforming Uses: A use of a structure or of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

**18.02. Nonconforming Lots of Record:** The Board of Adjustment may issue a building permit for a nonconforming lot of record provided that:

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

**18.03 Nonconforming Structures:**

1. Authority to Continue: Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
2. Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired or remodeled, provided, however, that no enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof.
3. Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of sixty (60) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six (6) months and restoration is actually begun one year after the date of the partial destruction and is diligently pursued to completion.
4. Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**18.04. Nonconforming Uses:**

1. Authority to Continue: Any lawfully existing use of part or all of a structure or any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with these requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
2. Ordinary Repair and Maintenance:
  - A. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
  - B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.

3. Extension: A nonconforming use shall not be extended, expanded, enlarged or increased either in land area or floor area without first having received a Conditional Use Permit pursuant to the procedure established in Section 23.
4. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless the use shall then conform to the regulations of district in which it is located unless first having received a Conditional Use Permit pursuant to the procedure established in Section 23.
5. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than sixty (60) percent of its replacement value, the structure shall not be restored unless the structure and its use shall then conform to all regulations of the zoning district in which it is located. When the damage or destruction is sixty (60) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six (6) months and restoration is actually begun within one year after the date of the partial destruction and is diligently pursued to completion.
6. Moving: No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever to any location on the same or any other lot, unless the entire structure and its use and the use of the land shall then conform to all regulations of the zoning district in which it is located after being so moved. Manufactured homes and mobile homes may be replaced on an existing utility hookup outside a manufactured home park.
7. Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure or premises may be changed to another nonconforming use, provided that the County Board, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting a change, the County Board, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.
8. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed, and any later use or occupancy of the land or buildings shall comply with the regulations of the zoning district in which the land or buildings are located.
9. Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.
10. Nonconforming Residential Uses: Notwithstanding the provisions of Section 10, any structure which is devoted to a residential use and which is located in a "C" District may be remodeled, expanded or enlarged. The structure shall not be used to accommodate a greater number of dwelling or lodging units than the structure accommodated prior to the work.
11. Change of Ownership: A nonconforming use may be continued, but not increased, by a new owner of such property.

## **SECTION 19. ADMINISTRATION**

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

1. To enter upon any premises at reasonable times and make all inspections necessary to the performance of the Administrator's duties.

2. To order work or activities stopped by written notice served on the proper person, firm or corporation when the work is being done contrary to the provisions of this Resolution or any other Resolution dealing with building construction or codes.
3. To issue building permits, according to applicable County Resolutions and building codes.
4. Any other duties and responsibilities outlined in this Resolution.
5. Any other duties and responsibilities as may be deemed necessary by the Planning Commission or County Board of Commissioners.

**19.02. Standard Building Permits:** Notwithstanding anything to the contrary in this Resolution, the Zoning Administrator shall have the authority to issue standard building permits that meet all applicable requirements of this Resolution without prior approval of the Planning Commission and upon the County Board's approval.

**19.03 Permits Required:** No building or other structure shall be erected, constructed, reconstructed, moved or structurally altered without first obtaining a building permit as required by the County Resolution(s) governing building permits and codes.

**19.04. Permit Fees:**

1. Building Permits shall be accompanied by the following fees:
  - A. Accessory Structure Building Permits: \$0 plus any direct costs incurred to the county, if applicable (publication costs, mailings, copies, etc.
  - B. Primary Structure Building Permits: 0.75% of the estimated cost of construction. \*(To promote development on lower valued agricultural lands, the permit fee will be reduced to 0.5% of the estimated cost of construction for developments on lands assessed as 3a, 3d, or 3g. The permit fee will be reduced to 0.25% of the estimated cost of construction for developments on land assessed as 4a, 4d, or 4g.)
2. Other fees
  - A. Application for a variance: \$25 plus any direct costs incurred to the county.
  - B. Application for a zoning change: \$100 plus any direct costs incurred to the county.
  - C. Application for a conditional use permit: \$25 plus any direct costs incurred to the county.
  - D. Application for a subdivision: \$250 plus \$25 per lot plus any direct costs incurred to the county.
  - E. Feedlot permit: \$0.10 per head of maximum capacity of feedlot \*(Permit is valid for 10 years from the date that it is issued)
  - F. Billboard permit: \$500 \*(Permit is valid for 5 years from the date that it is issued)

**SECTION 20. BOARD OF ADJUSTMENT**

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

**20.02. Board of Adjustment Meetings:** The Board of Adjustment shall consult the recommendation of the Planning Commission on all planning and zoning matters. Meetings of the Board of Adjustment shall be held at such times as the Board of Adjustment may designate, or at such other times as the Chairperson, in his or her discretion, calls a meeting. Special meetings may also be held upon the call of any three (3) members of the Board of Adjustment. The Chairperson or, in the Chairperson's absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. Any resident or property owner in the County or within the area over which it exercises zoning jurisdiction shall have the right to appear before the Board of Adjustment

regarding any matter in which they have a reasonable interest. The Board of Adjustment shall keep minutes of its proceedings showing the vote. Records of its examinations and other official actions shall be immediately filed in the office of the County Clerk and shall be public record. A majority of the Board of Adjustment shall constitute a quorum for the purpose of doing business.

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

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

**20.04. Applications:**

1. Procedure: The procedure for requesting a hearing before the Board of Adjustment shall be as follows:
  - A. All applications for a variance to the Board of Adjustment shall be in writing and filed with the Planning Commission. If the Planning Commission provides for an application form, then that form shall be used. The application shall include the following:
    1. The description of the lot, tract of land, building or structure for which the variance is requested.
    2. The name or names of the owner or owners.
    3. The nature of the relief requested.

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

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

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

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

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

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

## **SECTION 21. AMENDMENTS TO ZONING RESOLUTION MAP**

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

1. In addition to the Board of County Commissioners, only the Sioux County Planning Commission or the fee owner of a property, or a person with legal interest in a property in the unincorporated area of Sioux County may request amendment of the Official Zoning Map of Sioux County for said property.
2. Any person filing an application for a change of zone is required to comply with the appropriate procedures and regulations as stated in Section 21. Provided, however, that when the Sioux County Planning Commission or Board of County Commissioners desires to undertake a rezoning, to create and apply new zoning districts, the only public notice requirement shall be publication in the newspaper designated by the Board of County Commissioners for publication of legal notices.
3. Applications for a change of zone shall be completed as set forth in Section 21.05. The completed application and application fees shall be submitted to the Zoning Administrator.

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

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

1. Rezoning request number.
  2. Date and place of public hearing.
  3. Location and phone number of the public office where additional information may be obtained.
  4. Applicant's name.
  5. Size of the parcel of land
  6. Type of rezoning request.
- F. Refer the application to the following agencies, when applicable, for their review and comment. The agencies named shall respond within fourteen (14) days after the application by the County. The failure of any agency to respond within fourteen (14) days may be deemed to be a favorable response to the Planning Commission. The reviews and comments solicited by Sioux County are intended to provide the County with information about proposed change of zone. The Planning Commission and County Board may consider all such reviews and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by a referral agency are recommendations to the County. The authority and responsibility for making the decision to approve or deny the request for change of zone rests with the Officials of Sioux County, Nebraska.
1. The Planning Commission or Governing Body of any town or county whose boundaries are within a three (3) mile radius of the parcel under consideration for such a change.
  2. Any irrigation ditch company with facilities on or adjacent to the parcel under consideration.
  3. The White River Natural Resource District or North Platte Natural Resource District (if applicable).
  4. Nebraska Department of Health.
  5. Nebraska Department of Environment Quality.
  6. Nebraska Department of Game and Parks.
  7. Nebraska Historical Society.
  8. Nebraska Department of Roads.
  9. U.S. Soil Conservation Service.
  10. U.S. Forest Service.
  11. U.S. Bureau of Land Management.
  12. Any other agencies or individuals whose review the Zoning Administrator(s), the Planning Commission, or the County Board deems necessary.

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

1. The Planning Commission shall hold a public hearing to consider the application for the change of zone. The Planning Commission shall provide recommendations to the County Board concerning the disposition of the requested change. The Planning Commission shall recommend approval of the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 21.03 and Section 21.05. The applicant has the burden of proof to show that the standards and conditions of Section 21.03 and Section 21.05 are met. The applicant shall demonstrate:
  - A. The proposal is consistent with the Sioux County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone;
  - B. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
  - C. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
  - D. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
    1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.

2. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks if applicable.
  3. A service district or other means are established to maintain and operate any public facilities created in the area.
  4. Environmental constraints are applied to control erosion and sewage affluent.
  5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
  6. The development is not disruptive to existing agricultural activities.
  7. It is demonstrated that there is a recognized need for such development.
  8. The development is secure from fire, floods and other dangers.
- E. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.
  2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.
2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record and case file to the Board of County Commissioners within ten (10) days after said recommendation has been made.
  3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for hearing by the County Board, then the ten (10) day period shall commence upon submission of the items by the applicant to the Planning Commission.

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

1. Set a Board of Commissioners' public hearing to take place not less than fifteen (15) days and not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed change of zone. Notification of the public hearing shall be undertaken using the following procedures:
  - A. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices. At the discretion of the Board of Commissioners, a second notice may be published in a newspaper which is published in the area in which the rezoning is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least fourteen (14) days prior to the hearing.
  - B. Arrange for the Zoning Administrator(s) to post a sign on the property under consideration for rezoning according to the requirements of Section 21.02.-01-E.
  - C. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
  - D. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners and lessees of the mineral estate on or under the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the

Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of an owners or lessee of the mineral estate to receive such notification.

2. The Board of County Commissioners shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed change of zone, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing and the information contained in the official record which includes the case file. The Board of County Commissioners shall approve the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 21.04 and Section 21.05. The applicant has the burden of proof to show that the standards and conditions of Section 21.04 and Section 21.05 are met. The applicant shall demonstrate:
  - A. The proposal is consistent with the Sioux County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone;
  - B. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
  - C. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
  - D. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
    1. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks if applicable.
    2. A service district or other means are established to maintain and operate any public facilities created in the area.
    3. Environmental constraints are applied to control erosion and sewage affluent.
    4. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
    5. The development is not disruptive to existing agricultural activities.
    6. It is demonstrated that there is a recognized need for such development.
    7. The development is secure from fire, floods and other dangers.
  - E. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
    1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.
    2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.
3. Upon the Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the County Clerk.
4. The Board will arrange for the Sioux County Clerk to record the resolution, and if the proposed change of zone is approved, the rezoning plat.

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

1. An application form for a request for a zoning change can be obtained from the Zoning Administrator(s). The following information shall be submitted on the application:
  - A. Name, address, and telephone number of applicant.
  - B. Name and address of the fee owners of the property proposed for the change of zone if different from Section 21.05.-01.-A.
  - C. Legal description of the property under consideration as determined from a certified boundary survey (at the option of the applicant, the certified boundary survey may be submitted subsequent to the Planning Commission hearing but prior to final approval of the County Board if the Zoning Administrator(s) approves a general legal description describing the site)
  - D. Total acreage of the parcel under consideration.
  - E. Address of the parcel, if available.
  - F. Present Zoning Classification.
  - G. Proposed zoning classification.
  - H. Signatures of the applicant and fee owners or their authorized legal agent.
  - I. A certified list of the names, addresses, and the corresponding Parcel Identification Number assigned by the Sioux County Assessor of the owners of property within five hundred (500) feet of the property subject to the application. The source of such list shall be the records of the Sioux County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from records of the Sioux County Clerk. If the list was assembled from the records of the Sioux County Assessor, the applicant shall certify that such list was compiled within thirty (30) days of the application submission date.
  - J. If deemed necessary by the Planning Commission or County Board, a certified list of the names and addresses of mineral owners and lessees of mineral owners on or under the parcel of land being considered. The source of such list shall be assembled from the records of the Sioux County Clerk or from an ownership update from a title and abstract company or attorney, derived from such records.
  - K. Such additional information as may be required by the Planning Commission or the Sioux County Board of Commissioners in order to determine that the application meets the standards and policies set forth in this Resolution and the Sioux County Comprehensive Plan.
  
2. A vicinity and land use map of the area shall be submitted as part of the General Application. These maps shall be drawn to the following specifications:
  - A. The maps shall be delineated on reproducible material approved by the Zoning Administrator(s).
  - B. The dimensions of the land use map shall be at a suitable scale approved by the Zoning Administrator(s).
  - C. The following information, when applicable, shall be shown:
    1. Outline of the perimeter of the parcel proposed for the change of zone.
    2. Title, scale, and north arrow.
    3. Ditches on or within two hundred (200) feet of the property.
    4. Location of rivers and other drainage systems on or within two hundred (200) feet of the property.
    5. Location of easements, right-of-ways, and other similar interests of record on the parcel and within 50 feet of the parcel.
    6. Location of all existing utilities (electricity, gas, water, and sewer) on the parcel as well as within 50 feet of the parcel.
    7. Flood hazard areas on the property.
    8. Areas of geological hazards on the property.
    9. Mineral resource areas on the property.
    10. Areas of moderate or severe soil limitations as defined by the Soil Conservation Service or by the Sioux County Soil Survey.
    11. Other information as may be reasonably required by the Zoning Administrator(s).
  
3. A rezoning plat shall be submitted as part of the General Application. If the applicant elects the option provided in Section 21.05.-01-C, the rezoning plat will not be required until the certified boundary survey has been made. The rezoning plat shall be made to the following specification:

- A. The map shall be delineated in drawing ink on acceptable material.
  - B. The dimensions of the map shall be eight and a half inches wide by fourteen inches high.
  - C. The following information shall be shown:
    - 1. Certified boundary survey of the parcel under consideration, showing all bearings and distances outside the perimeter boundary lines.
    - 2. Legal description, including total area involved, as certified by the surveyor.
    - 3. Title, scale and north arrow.
    - 4. Date of drawing.
  - D. The following certificates shall appear on the map:
    - 1. Surveyor's certificate.
    - 2. Planning Commission certificate.
    - 3. Board of County Commissioners certificate.
  - E. Space shall be provided on the rezoning plat for the addition of the following information:
    - 1. Zoning case number.
    - 2. Current zone classification.
    - 3. Requested zone classification.
4. An applicant may submit as part of the general application any pertinent documents that support their case for a zoning change.

**21.06. Effective Date of Approved Amendments:** Any approved amendments to the Official Zoning Map of the Sioux County Zoning Resolution shall be effective immediately upon approval by the Board of County Commissioners unless otherwise specified by the approving resolution of the Board of County Commissioners.

**21.07. Zoning Map Update:** In the year 2000 and every five (5) years thereafter, the Board of County Commissioners shall adopt by resolution an updated copy of the Official Sioux County Zoning Map which includes rezoning approvals made since the last adoption of the Map. A reproducible copy of the official Sioux County Zoning Map shall be maintained which includes all the rezoning approvals made since the last adoption of the map by the County Board. The map shall be available for public inspection in the County Courthouse.

## SECTION 22. AMENDMENTS TO THE TEXT OF ZONING RESOLUTION

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

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

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

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

- A. The Planning Commission shall hold a hearing to consider the proposed amendment to the text of the Zoning Resolution. The Planning Commission shall recommend to the County Board approval or denial of the proposed amendment.

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

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

- A. Set a Board of County Commissioners public hearing date.
- B. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of Commissioners for publication of notices. The date of public hearing shall be at least ten (10) days prior to hearing.
- C. The Board of County Commissioners shall hold a public hearing to consider the proposed text amendment and take final action.
- D. In making its final determination, the County Board shall:
  1. Take into consideration the recommendation of the Planning Commission.
  2. Find that the existing Resolution is in need of revision as proposed.
  3. Find that the proposed amendment will be consistent with the future goals of Sioux County as set out in the Sioux County Comprehensive Plan.
  4. Find that the proposed amendment is consistent with the overall intent of the Sioux County Zoning Resolution.
  5. At the close of the public hearing the County Board may amend the Resolution.
  6. The Board shall arrange for the recording of the Resolution.

**SECTION 23. CONDITIONAL USES:**

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

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

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

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

- C. The White River Natural Resource District or North Platte Natural Resource District (if applicable).
- D. Nebraska Department of Health.
- E. Nebraska Department of Environment Quality.
- F. Nebraska Department of Game and Parks.
- G. Nebraska Historical Society.
- H. Nebraska Department of Roads.
- I. U.S. Soil Conservation Service.
- J. U.S. Forest Service.
- K. U.S. Bureau of Land Management.
- L. Any other agencies or individuals whose review the Zoning Administrator(s), the Planning Commission, or the County Board deems necessary.

**23.03. Duties of the Planning Commission:** The Planning Commission shall hold a hearing to consider the application for the Conditional Use Permit. The Planning Commission shall provide recommendations to the County Board of Commissioners concerning the disposition of the requested Conditional Use Permit. The Planning Commission shall approve the request for the Conditional Use Permit only if it finds that the applicant has met the standards or conditions of Section 23.03, Section 23.05 and Section 23.06. The applicant has the burden of proof that the standards and conditions of Section 23.03, Section 23.05 and Section 23.06 are met.

1. The applicant shall demonstrate the following:
  - A. That the proposal is consistent with the Sioux County Comprehensive Plan.
  - B. That the proposal is consistent with the intent of the district in which the use is located.
  - C. That the use which would be permitted will be compatible with the existing surrounding uses.
  - D. That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
  - E. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district, if applicable.
  - F. That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
    1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
    2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
    3. A service district or other means are established to maintain and operate any public facilities created in the area.
    4. Environmental constraints are applied to control erosion and sewage affluent.
    5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
    6. The development is not disruptive to existing agricultural activities.
    7. It is demonstrated that there is a recognized need for such development.
    8. The development is secure from fire, floods and other dangers.
2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record, which includes the case file, to the Clerk of the Board of County Commissioners within ten (10) days after said recommendation has been made.
3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for the hearing by the County Board of Commissioners, then the ten (10) day period shall commence upon submission of the items by the applicant to the Zoning Administrator.

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

1. The County Board shall set a Board of County Commissioners public hearing to take place not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed Conditional Use Permit.
2. Arrange for a legal notice of said hearing to be published in the newspaper designated by the County Board for publication notices. At the discretion of the Board of County Commissioners, a second notice may be published in a newspaper which is published in the area in which the Conditional use is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
3. Give notice of the application for a Conditional Use Permit and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of surrounding property owner to receive such information.
4. Give notice of the application of a Conditional Use Permit and the public hearing date to those persons listed in the application as owners and lessees of the mineral estate on or under the parcel under consideration. Such notification shall be mailed first class not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such a list or the County Board in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of an owner or lessee of the mineral estate to receive such notification.
5. Arrange for the Zoning Administrator to post a sign on the property under consideration for a Conditional Use permit according to the requirements of Section 23.02.-4.
6. The County Board shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed Conditional Use, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing, and the information contained in the official record which includes the case file. The County Board shall approve the request for a Conditional Use only if it finds that the applicant has met the standards or conditions of Sections 23.04, 23.05, and 23.06. The applicant has the burden of proof to show that the standards of Sections 23.04, 23.05, and 23.06 are met. The applicant shall demonstrate:
  - A. That the proposal is consistent with the Sioux County Comprehensive Plan.
  - B. That the proposal is consistent with the intent of the district in which the use is located.
  - C. That the use which would be permitted will be compatible with the existing surrounding uses
  - D. That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
  - E. That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
    1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
    2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
    3. A service district or other means are established to maintain and operate any public facilities created in the area.
    4. Environmental constraints are applied to control erosion and sewage affluent.
    5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.

6. The development is not disruptive to existing agricultural activities.
  7. It is demonstrated that there is a recognized need for such development.
  8. The development is secure from fire, floods and other dangers.
7. Where reasonable methods or techniques are available to mitigate any negative impacts which would be generated by the proposed use upon the surrounding area, the County Board may condition the decision to approve the Conditional Use upon implementation of such methods or techniques and may require sufficient performance guarantees to be posted with the County to guarantee such implementation.
  8. Upon the County Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the Clerk to the Board.
  9. If the Conditional Use Permit is approved, the County Board shall arrange for the Zoning Administrator to record the Conditional Use Permit Map in the office of the Sioux County Clerk.

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

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

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

1. Neither direct nor reflected light from any light source may create a traffic hazards on public or private streets, no colored lights may be used which may be confused with traffic lights.
2. Property shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than twelve (12) inches. In no event shall the owner allow the growth of noxious weeds.

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

1. The following general information shall be submitted:
  - A. Name, address, and telephone number of the applicants.
  - B. Name and address of the fee owners of the property proposed for the conditional use if different from above.
  - C. Legal description of the property under consideration.
  - D. Total acreage of the parcel under consideration.
  - E. Existing land use of the parcel under consideration.
  - F. Existing land uses of all the properties adjacent to said property.
  - G. Signatures of the applicant and fee owners or their authorized legal agent.

- H. A certified list of the names, addresses and the corresponding Parcel Identification Number assigned by the Sioux County Assessor of the owners of the property within five hundred (500) feet of the property subject to the applicant. The source of such records shall be the records the Sioux County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Sioux County Clerk. If the list was assembled from the records of the County Assessor, the applicant shall certify that such list was assembled thirty (30) days of the application submission date.
  - I. If deemed necessary by the Planning Commission or the County Board, a certified list of the names and addresses of mineral owners and lessees of mineral owners on or under the parcel of land being considered. The source of such list shall be assembled from the records of the Sioux County Clerk or from an ownership update from a title or abstract company or attorney, or derived from such records.
2. A detailed description of the proposed operation and use shall be supplied. Details for the following items, when applicable, are required:
- A. Type of use for which the application is being made.
  - B. Proximity of the proposed use to residential structures.
  - C. The number of shifts to be worked and the maximum number of employees, if applicable.
  - D. The maximum number of users, patrons, members, buyers, or other visitors that the Conditional Use facility is designed to accommodate at any one time.
  - E. Types and numbers of animals to concentrate on the site at any one time, if applicable.
  - F. Types and numbers of operating and processing equipment to be utilized, if applicable.
  - G. Type, number, and uses of the proposed structures to be erected.
  - H. Type, size, weight, and frequency of vehicular traffic and access routes that will be utilized.
  - I. Domestic sewage facilities.
  - J. Size of stockpile, storage, or waste areas to be utilized.
  - K. Method and time schedule of removal or disposal of debris, junk, and other wastes associated with the proposed use.
  - L. A time table showing the periods of time required for the construction of the operation.
  - M. Proposed landscaping plans.
  - N. A statement delineating the need for the proposed use.
  - O. A description of the proposed fire protection measures.
  - P. Such additional information as may be required by the Planning Commission or County Commissioners in order to determine that the application meets the requirements of this Resolution and the policies of the Sioux County Comprehensive Development Plan.
3. The applicant shall submit the following statements:
- A. A statement explaining that the proposal is consistent with the Sioux County Comprehensive Plan.
  - B. A statement which explains that the proposal is consistent with the intent of the district in which the use is located.
  - C. A statement which explains that the uses which would be permitted will be compatible with the existing surrounding land uses.
  - D. A statement which explains that the uses which would be permitted will be compatible with the future development of the surrounding area as permitted by the existing zone and with future development as projected by the comprehensive plan.
  - E. A statement which explains that if the use is proposed to be located in an agricultural district, that the applicant has demonstrated a diligent effort has been made to conserve productive agricultural land in the locational decision for the proposed use.
  - F. A statement which explains that there is adequate provision for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and the county.
4. A vicinity map must be submitted containing the following specifications:
- A. Have a suitable scale approved by the zoning administrator.
  - B. The vicinity map shall delineate all of the required information within a one-half mile radius of the property proposed or a conditional use.

- C. The following information shall be shown on the vicinity map:
  - 1. Section, township, and range.
  - 2. Scale and north arrow.
  - 3. Outline of the perimeter of the parcel proposed for the conditional use.
  - 4. The general classifications and distribution of soils over the parcel under consideration. Soil classification names and agricultural capability classifications must be noted in the legend.
  - 5. Location and names of all roads, irrigation ditches, and water features.
  - 6. Location of all residences within a 1/2 mile radius, existing and proposed accesses to the property proposed for the conditional use, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.
  
- 5. A plot plan of the conditional use area shall be drawn to the following specifications:
  - A. The scale of the plot plan at a suitable scale approved by the Zoning Administrator.
  - B. The plot plan should outline the boundaries of the parcel of land.
  - C. The plot plan shall identify and locate all of the following items within the boundaries of the parcel and those items within 200' of the parcel:
    - 1. All public right-of-ways.
    - 2. All existing and proposed structures.
    - 3. All utility easements or right-of-ways for telephone, gas, electric, water, and sewer lines.
    - 4. Irrigation ditches.
    - 5. Adjacent property lines and respective owners' names if not shown on vicinity map.
    - 6. All hydrographic features including streams, rivers, ponds, and reservoirs (including names).
    - 7. Location of all moderate or severe soil limitations as defined by the Soil Conservation Service.
    - 8. Location and design of storm water management devices or structures.
    - 9. Location, amount, size and type of any proposed landscaping, fencing, walls, berms, or other screening.
    - 10. Such additional information as may be reasonably required by the Planning Commission or County Board.
  
- 6. The following supporting documents shall be submitted as part of the application:
  - A. Where an authorized legal agent signs the application for the fee owners, a letter granting power of attorney to the agent from the owners must be provided.
  - B. Proof that a water supply will be available which is adequate in terms of quality, quantity, and dependability.
  - C. Proof that an adequate sewer system will be available.

## **SECTION 24. NOTICES**

**24.01. References to Notice Requirements:** Where reference is made in this Resolution to notice being given as required by this Resolution, then the notice shall be given as provided for in section 24.02 below.

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

- 1. **Publication:** Notice of the time and place of the hearing shall be published once in a newspaper of general circulation in the County at least ten (10) days prior to the hearing.
- 2. **Posting:** A notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. The posted notice shall be placed upon the premises so that it is easily visible from the street nearest to the premises and shall be posted at least ten (10) days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change the posted notice prior to the hearing. Any person doing so shall be guilty of a misdemeanor.

3. Mailing: If the record title owners of any lots included in the proposed change be nonresidents of the County, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last-known address at least ten (10) days prior to the hearing.

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

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

## **SECTION 25. ENFORCEMENT**

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

**25.02. Violations and Penalties:** It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of any provision of the Sioux County Zoning Resolution. Any person, firm, or corporation violating any provision of this Resolution is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100), or by imprisonment in the county jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense. Whenever a violation exists in these regulations, the County may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine and penalty imposed, enter an order of abatement as a part of the judgment in the case.

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

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

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

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

**SECTION 26. MISCELLANEOUS**

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

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

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

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

The foregoing Resolution No. \_\_\_\_ and the accompanying official Sioux County Zoning Map were, on motion duly made and seconded, adopted on the 1<sup>st</sup> day of October, 2025.

Attest:

\_\_\_\_\_  
Joshua T. Skavdahl, Chairman

\_\_\_\_\_  
Michelle Zimmerman, County Clerk

Effective date of this Resolution: October 1, 2025