

Kimball County

Zoning and Subdivision Regulations

*Adopted
October 5, 2010*

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RESOLUTION NO. __

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

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

SECTION 1. TITLE

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

SECTION 2. PURPOSE AND INTENT

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

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

SECTION 3. AUTHORITY AND GENERAL PROVISIONS

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

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

3.03. Scope: Except as may hereinafter specified, no building, structure or land shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with all the terms of this Resolution for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 17.

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

- A-1 Agriculture One District;
- A-2 Agriculture Two District;
- RE Residential Estate District;
- C Commercial District;
- IC Interstate Highway Commercial; and,
- I Industrial District.

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

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

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

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

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

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

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

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

1. **Minimum Requirements:** In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare;
2. **Overlapping or Contradicting Regulations:** Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted;

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

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

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

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

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

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

3.13. Repeals:

1. All Resolutions of the County inconsistent herewith to the extent of such inconsistency, and no further, are hereby repealed;

2. The repeal of any of the above mentioned does not revive any other Resolutions or portions thereof repealed by said Resolutions; and,

3. Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to repeal.

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

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

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

SECTION 4. RULES AND DEFINITIONS:

4.01 Rules:

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

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

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

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

1. Accessory Structure: A structure detached from a principal building located on the same lot and customarily incidental to that of the main building.
2. Accessory Use: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of land or buildings and located on the same lot as the principal use. A use incidental, related, appropriate and clearly subordinate to the main use of the land or building which accessory use does not alter the principal use of the subject land or affect other properties in the district.
3. Adjacent: When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line were it not for the separation caused by a street/road or any other public right-of-way.
4. Adult entertainment center: An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the areola of the female breast, or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.
5. Adults-only bookstore: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
6. Adults-only motion picture theater: An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse for observation by patrons therein.
7. Agriculture: The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, pasturing of buffalo, elk and other animals, dairying, raising and management of poultry, fish, bees and other animals, truck farming, forestry or orchards, the non-commercial storage and processing of agricultural products produced on the premises and use of the land for fee hunting, including accessory uses customarily associated with these activities in Kimball County. Agriculture includes farming.
8. Alleys: Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting a street/road.
9. 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.
10. Bed and Breakfast: A dwelling unit that is the personal residence of the owner which provides overnight accommodations and meals for compensation.

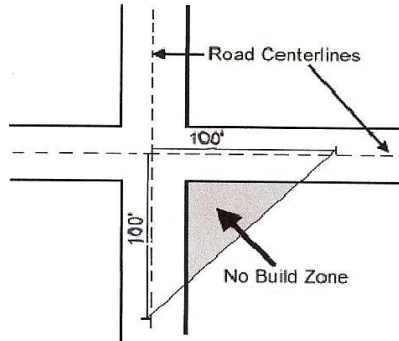
11. Billboard: A sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered at a location other than on the premises on which the sign is located.
12. Building: Any structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.
13. Building Area: The area of a lot remaining after the minimum yard open space requirements of the zoning resolution has been met.
14. Building Height: The vertical dimension from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between eaves and the ridge level for gable, hip and gambrel roofs. Mechanical equipment, chimneys, spires and similar appurtenances not intended for human habitation are not subject to the height limitations contained in the District Regulations.
15. Commercial Use: A use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold or provided for profit, including concentrated animal feeding operations as defined in this resolution.
16. Communication Tower: Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
17. Comprehensive Plan: The officially adopted document intended to guide the long range development of the county.
18. Concentrated Animal Feeding Operation: An operation that stables or confines animals specified in any of the categories defined in the Livestock Waste Control Regulations and is required to obtain an Operating Permit by the Nebraska Department of Environmental Quality. The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.
19. Conditional Use: A use permitted in a particular zoning district upon showing that such use in a specified location will comply with all conditions and standards for the location specified in the zoning ordinance and required by the approving agency to mitigate potential adverse impacts upon neighboring property.
20. Conditional Use Permit: A permit issued by the approving agency stating that the conditional use meets all conditions set forth in local resolutions. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioners.
21. 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.
22. Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and a use or extension of use of land.
23. District: A part, zone, or geographic area within the county within which certain uniform zoning or development regulations apply.

24. 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.
25. Dwelling, Accessory: A dwelling located on the same lot as the principal or primary dwelling.
26. Dwelling, Agriculture: A dwelling occupied by a person or persons which is directly associated with an agricultural operation.
27. Dwelling, Non-farm: A dwelling occupied by a person or persons in which either the head of the household or the spouse of the head of household are not engaged in agriculture.
28. Dwelling, Single Family: A dwelling having accommodations for and occupied exclusively by one family, including code compliant mobile homes, and intended to be occupied by not more than one family. A single family dwelling includes a townhouse or condominium.
29. Dwelling, Two-Family: A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.
30. Dwelling, Multiple-Family: A dwelling having accommodations for and occupied exclusively by more than two families.
31. Dwelling Unit: One room or rooms including at least one single kitchen; designed for or occupied as a unit by one family, for living and cooking purposes, located in a one family or multiple-family dwelling.
32. Easement: A grant by the property owner to the public, a corporation, or persons of the use of tract of land for a specified purpose or purposes.
33. Farm: An area of agricultural and horticultural land which is primarily used for agricultural or horticultural purposes. Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes includes the following uses of land: 1) land retained or protected for future agricultural or horticultural purposes under a conservation easement as provided in the Conservation and Preservation Easements Act except when the land or a portion thereof is being used for purposes other than agricultural or horticultural purposes; and 2) land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production.
34. Guest House: An accessory use designed for the temporary lodging of guests in a unit not having a kitchen or kitchen appliances.
35. Home Occupation: A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures.
36. 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.

37. Junk: Old scrap; copper; brass; iron; steel; rope; rags; batteries; paper; trash; rubber debris; waste; dismantled or wrecked automobiles, or parts thereof; and other old scrap or ferrous or nonferrous materials.
38. kennel.: A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.
39. 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.
40. Lot: A parcel of land occupied or designed to be occupied by one or more buildings, structures, or uses, together with such open areas as are required by this Resolution.
41. Lot, Area: The total horizontal area within the lot lines of a lot. See diagram on page 15.
42. Lot Line, Front: The property line dividing a lot from a street/road. On a corner lot only one street/road line shall be considered as a front lot line. See diagram on page 15.
43. Lot line, Rear: The line opposite the front lot line. See diagram on page 15.
44. Lot Line, Side: Any lot lines other than front lines or rear lines. See diagram on page 15.
45. Manufactured Housing: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec.5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code.
46. Mining: The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gas. The term also includes quarrying, crushing, screening and other preparation customarily done at the mine site or as part of a mining activity.
47. Mobile Home: A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. (Neb Rev Stat §76-1463)
48. Mobile Home Park: A parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. (Neb Rev Stat §71-4621)
49. Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air condition, and electrical systems contained in the structure, except that manufactured home includes an structure that meets all of the requirements other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as such as existed on September 1, 2001, 42, U.S. C. 5401 et seq. (Neb Rev Stat §71-4603).

50. Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.
51. Nonconforming Structure: A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.
52. Nonconforming Use: A use or activity that was lawful prior to the adoption, revision, or amendment of the zoning resolution but fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.
53. Parcel: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
54. Principal Use or Structure: The predominate use of land or structures as distinguished from an accessory use.
55. Recycling: The process by which recovered waste materials are transformed into new products in such a manner that the original products may lose their identity.
56. Relative, direct: A person's mother, father, son, or daughter.
57. Right-of-way: An area dedicated to the public use which provides access to adjacent properties.
58. Salvage or wrecker dealer: Any person who acquires one or more motor vehicles or trailers for the purpose of dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap.
59. Salvage Yard: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales.
60. Scrap Metal Processor: Any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license.
61. 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.
62. Setback: The horizontal distance between any building and the lot line.
63. Sexually oriented business: An adult entertainment center, adults-only bookstore, adult novelty store, adult video store, nudist camp, or adults-only motion picture theater whose inventory, merchandise, or performances are characterized by a preponderance of nudity, sexual conduct, sadomasochistic abuse, and/or sexual excitement.

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



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

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

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

68. Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or in the dimension or configurations of the roof or exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration: A) Attachment of new facade where structural supports are not changed; B) Addition of fire escapes where structural supports are not changed; C) New windows or doors; and, D) Repair or replacement of non-structural members.

69. Subdivider: The owners, developers, or agents of persons or corporations affecting subdivision.

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

71. Variance: A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment in accordance with Nebraska State Statutes.

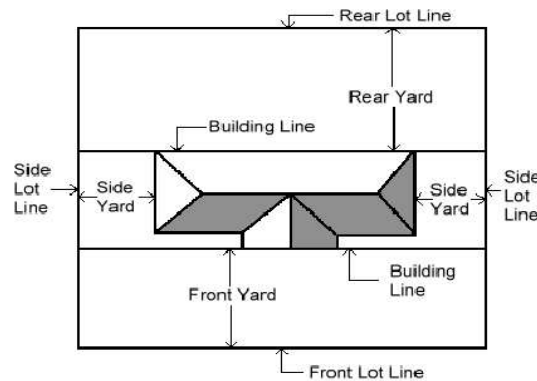
72. Wind Energy Conversion System: A Wind Energy Conversion System is an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

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

74. Yard, Front: A yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the closest point of the primary building.

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

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



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

78. 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 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 Kimball County and its residents.

5.02. Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution
2. One or more single-family dwellings per lot/parcel that is directly associated with the agricultural operation;
3. One non-farm single-family dwelling per lot/parcel;
4. Home Occupations in accordance with Section 11.01;
5. Bed and Breakfasts;
6. Apiaries;
7. Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project;
8. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted.
9. Extraction of minerals using non-excavation (drilling) techniques;
10. Public parks and public recreation facilities;
11. Public utility transmission pipes, lines and substations;
12. Recreational tourist services;
13. Tourist information area;
14. Offices incidental to the operation of the listed permitted uses; and,
15. Accessory buildings and uses customarily incidental to a permitted use.

5.03. Conditional Uses: The following conditional uses may be permitted in the "A-1" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 18:

1. Concentrated Animal Feeding Operations (in accordance with Section 13);
2. Churches;
3. Schools;
4. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;
 - I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;

- K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities;
5. Airports and landing strips;
 6. Billboards (in accordance with Section 12);
 7. Communication towers (in accordance with Section 14);
 8. Commercial trailer washout;
 9. Fairgrounds;
 10. Wind Energy Conversion Systems (in accordance with Section 16);
 11. Kennels;
 12. Race Tracks;
 13. Salvage Yard or scrap metal processor;
 14. Sewage and wastewater treatment operations;
 15. Solid waste disposal sites and facilities;
 16. Indoor or outdoor sporting and recreation facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc;
 17. Extraction of minerals using excavation techniques;
 18. Asphalt or concrete batch plant and borrow pits; and,
 19. 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. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 80 acres
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.
6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 6. "A-2" AGRICULTURAL DISTRICT

6.01. Intent: The intent of this district is to serve the agricultural community, protect land values, serve the needs of the property owners in this district, and provide rural non-farm housing opportunities along paved roadways and areas that are densely populated. It is the intention to only restrict in "A-2" that which is necessary to protect the health, safety and general welfare of Kimball County and its residents.

6.02. Permitted Uses:

1. Agricultural uses, as defined in Section 4.02 of this Resolution
2. One (1) primary single-family dwelling per lot/parcel;
3. Home Occupations in accordance with Section 11.01;
4. Bed and Breakfasts;
5. Apiaries;
6. Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project;
7. Hunting and fishing for a fee where such activity does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fisherman in farm or ranch dwellings, bunkhouses or other farm or ranch related housing shall be permitted.
8. Extraction of minerals using non-excavation (drilling) techniques;
9. Public parks and public recreation facilities;
10. Public utility transmission pipes, lines and substations;
11. Recreational tourist services;
12. Tourist information area;
13. Offices incidental to the operation of the listed permitted uses; and,
14. Accessory buildings and uses customarily incidental to a permitted use.

6.03. Conditional Uses: The following conditional uses may be permitted in the "A-2" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 18.

1. Churches;
2. Schools;
3. Commercial Agricultural Service establishments primarily engaged in performing agricultural husbandry or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators;
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation);
 - C. Farm equipment sales, repair, and installation facilities;
 - D. Veterinary clinics and hospitals and related facilities;
 - E. Grain and Feed Sales;
 - F. Grain Storage and drying;
 - G. Fertilizer storage, mixing, blending, and sales;
 - H. Seed processing, storage, mixing, blending, and sales;
 - I. Sorting, grading and packing fruits and vegetables for the grower;
 - J. Animal rendering, animal waste recycling and processing facilities;
 - K. Custom meat processing;
 - L. Livestock sales barns and facilities; and,
 - M. Forage dehydration facilities.
4. Billboards (in accordance with Section 12);

5. Communication towers. (in accordance with Section 14);
6. Commercial trailer washout;
7. Fairgrounds;
8. Wind Energy Conversion Systems (in accordance with Section 16);
9. Kennels;
10. Race Tracks;
11. Sewage and wastewater treatment operations;
12. Indoor or outdoor sporting and recreation facilities, public or private, that due to the nature of the facility generally requires a location separated from urban areas. Examples include rifle ranges, sport clay facilities, riding arenas, speedways, motor cross tracks, etc;
13. Extraction of minerals using excavation techniques;
14. Asphalt or concrete batch plant and borrow pits; and,
15. 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. Performance Standards:

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size for non farm housing development:** 10 acres
3. **Minimum Setback:**
 - A. Along Highway 71 south of Kimball: 150 feet
 - B. Everywhere else: 50 feet
4. **Minimum Yard Requirements:**
 - A. Side yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
 - B. Rear yard: No limitation unless abutting a Residential Estate District then fifteen feet (15') or abutting an improved county road, state or federal highway then twenty-five feet (25').
5. **Fences:** Fences are not required to comply with the minimum setback and may be located on the property line.
6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 7. "RE" RESIDENTIAL ESTATE DISTRICT

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

7.02. Permitted Uses:

1. One (1) single family dwelling unit per lot;
2. Public parks and recreation areas;
3. Home Occupations in accordance with Section 11.01;
4. Bed and Breakfasts;
5. Utility service facilities; and,
6. Accessory buildings and uses customarily incidental to a permitted use.

7.03. Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in Section 18 of this Resolution:

1. Keeping, raising, boarding of livestock;
2. Churches;
3. Communication towers (in accordance with Section 14); and,
4. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the "RE" District.

7.04. Performance Standards

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

2. **Minimum lot size for non farm housing development:** 5 acres

3. **Minimum Setback:** 50 feet

4. Minimum Yard Requirements:

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

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

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

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 8. "C" COMMERCIAL DISTRICT

8.01. Intent: The intent of this district is to provide a zone which will accommodate commercial activity serving the residents of unincorporated communities and rural residential subdivisions.

8.02. Permitted Uses:

1. Convenience Stores;
2. Gas Stations;
3. Offices;
4. Restaurants;
5. Stores and shops which provide personal services;
6. Stores and shops which sell retail or wholesale merchandise;
7. Motels, hotels and other places which provide temporary lodging;
8. Commercial and Public recreation and entertainment;
9. Public, Semi-Public, or Governmental buildings, office, and facilities;
10. Public Parks; and,
11. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

8.03. Conditional Uses: The following conditional uses may be permitted in the "C" District subject to approval procedures outlined in Section 18 of this Resolution:

1. Warehousing and storage of items not displayed for purchase;
2. Communication towers (in accordance with Section 14);
3. Contractor office and equipment storage;
4. Grain Elevators;
5. Light manufacturing or fabrication establishments;
6. Ready-mix concrete and asphalt batch plants;
7. Sign painting and manufacturing;
8. Truck and rail terminals;
9. Welding and blacksmith shops;
10. Automobile repair facilities; and,
11. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the "C" District.

8.04. Performance Standards

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

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. Minimum Yard Requirements:

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

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

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

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

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

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

6. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 9: "IC" INTERSTATE HIGHWAY COMMERCIAL DISTRICT

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

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

1. Restaurants, cafes, drive-in restaurants and other dining establishments;
2. Motels, hotels and other places which provide temporary lodging;
3. Gas stations, truck stops and other vehicle service stations;
4. Public or private tourist, recreation, and entertainment;
5. Retail shops that cater primarily to travelers or tourists;
6. Parks, Playgrounds and rest areas; and,
7. Accessory uses and buildings that are clearly incidental to the permitted use and that will not create a nuisance or hazard.

9.03. Conditional Uses. The following conditional uses may be permitted subject to approved procedures outlined in Section 18 of this Resolution:

1. Retail Uses not listed as permitted uses;
2. Services not listed as permitted uses;
3. Offices not listed as a permitted use; and,
4. Structures used for wholesale distribution.

9.04. Performance Standards

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

2. **Minimum lot size:** none

3. **Minimum Setback:** 50 feet

4. **Minimum Yard Requirements:**

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

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

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

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

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

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

6. **Sight Triangle:** All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 10. "I" INDUSTRIAL DISTRICT

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

10.02. Permitted Uses:

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

10.03. Conditional Uses: The following conditional uses may be permitted in the "I" District subject to approval procedures outlined in Section 18 of this Resolution:

1. Billboards in accordance with Section 12;
2. Communication towers (in accordance with Section 14);
3. Kennels;
4. Manufacturing or fabrication establishments which are not allowed as a permitted use;
5. Salvage Yard or scrap metal processor; and,
6. Sexually Oriented Businesses (In accordance with Section 15).

10.04. Performance Standards

1. **Height regulations:** Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing county resolution, state law or federal law.
2. **Minimum lot size:** none
3. **Minimum Setback:** 50 feet

4. Minimum Yard Requirements:

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

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

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

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

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

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

6. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 4.02-62.

SECTION 11. SUPPLEMENTARY DISTRICT REGULATIONS

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

1. Restrictions and Limitations:

- A. The home occupation shall be incidental and subordinate to the principal use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling unit or accessory structure in the case of a home business operated in a residential district;
- B. No outdoor storage of materials or equipment used in the home occupation shall be permitted in a residential district;
- 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 in a residential district;
- D. No equipment shall be utilized that creates a nuisance due to noise or electrical interference; and,
- E. Parking needs generated by the conduct of a home occupation in a residential district shall be provided off-street/road.

11.02. Temporary Uses: The following temporary uses shall be permitted:

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

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

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

11.04 Airport Requirements: The “Amended Airport Zoning Regulations” enforced by the Kimball-Kimball County Joint Airport Zoning Board shall continue in effect and control use and height in those instances where the “Amended Airport Zoning Regulations” are more restrictive than the Kimball County Zoning and Subdivision Regulations.

SECTION 12. SIGN REGULATIONS

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

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

SECTION 13. CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS

13.01. Operating Permit: No concentrated animal feeding operation that is required to obtain a General Permit from the Nebraska Department of Environmental Quality shall be developed without a conditional use permit from Kimball County. Likewise, any existing concentrated animal feeding operation shall not be physically expanded without first obtaining a conditional use permit from Kimball County if such expansion requires the concentrated animal feeding operation to have a General Permit from the Nebraska Department of Environmental Quality.

13.02. Permit Validity: Conditional use permits for a concentrated animal feeding operation shall be contingent upon receiving a General Permit from the Nebraska Department of Environment Quality.

13.03. Concentrated Animal Feeding Operation Development Standards: All new or newly expanded concentrated animal feeding operations shall conform to the following development standards:

1. Any concentrated animal feeding operation, as defined in this Resolution may not expand or locate within one mile of any residential or commercial zoning district, school, or public recreation area; and,
2. All concentrated animal feeding operations shall meet the environmental standards established by the Nebraska Department of Environmental Quality.

13.04. Exclusion: The confinement of an unrestricted number of animals for birthing, weaning or back grounding purposes for less than 210 days per calendar year shall not be considered a concentrated animal feeding operation.

SECTION 14. COMMUNICATION TOWER REGULATIONS

14.01. General Standards: The following minimum standards shall apply to all communication towers when seeking a conditional use permit:

1. The height of a communication tower shall not exceed the distance between the base of a tower and any permanent structure, utility line or road;
2. Communication towers shall not be constructed unless evidence is demonstrated that the communication transmitter(s) in question can not be practically located on either an existing structure or an existing communication tower;
3. Communication towers shall not contain transmitters which interfere with commercial or residential radio or television signals; and,
4. All communication towers must comply with FAA regulations.

14.02. Application Requirements: All applications for a conditional use permit for a communication tower shall contain the following items:

1. A vicinity map showing all permanent structures, roads, and utility lines within a two mile radius of the proposed tower; and,
2. Written evidence that the communication tower meets the requirements listed in Section 14.01.

SECTION 15. SEXUALLY ORIENTED BUSINESSES

15.01. Purpose and Intent.

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

15.02. General Standards

1. A sexually oriented business shall not be permitted to operate within one thousand (1,000) feet of:
 - A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - B. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - C. A residential district;
 - D. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land;
 - E. Auditoriums, convention centers, fairgrounds, visitor centers, tourist information areas, museums, art or music centers, and theaters;
 - F. Other sexually oriented businesses;
 - G. Commercial businesses that tend to cater to youth and adolescents including but not limited to fast food restaurants, hotels, convenience stores, and clothing stores; and,
 - H. An established residential subdivision.
2. All sexually oriented businesses shall comply with the following sign requirements.
 - A. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from persons walking or driving by the premises; and,
 - B. No merchandise or pictures of the products or entertainment on the premises shall be displayed on on-site or off-site signs or displays.

SECTION 16. WIND ENERGY CONVERSION SYSTEMS

16.01 Wind Energy Installation

In the Agricultural Districts (A-1 and A-2), a wind energy permit may be granted to allow wind energy conversion systems, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section.

16.02 Small Wind Energy Conversion Systems

1. Purpose

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

2. Definitions

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

1. *Small Wind Energy Conversion 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.
2. *Tower Height* shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

3. Requirements

Small wind energy conversion systems may be permitted as a Conditional Use within the Agricultural districts (A-1 and A-2). Certain requirements as set forth below shall be met:

1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Setbacks
 - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 50 feet to the property lines of the installation site.
3. Noise
 - a. Small wind energy conversion systems shall not exceed 50 dBA, as measured at the closet neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines
 - a. Small wind turbines must have been approved by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy conversion systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall also be submitted.

6. Compliance with FAA Regulations
 - a. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
 - a. Permit applications for small wind energy conversion systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
8. Utility Notification
 - a. No small wind energy conversion system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - b. Off-grid systems shall be exempt from this requirement.

16.03 Commercial/Utility Grade Wind energy conversion systems

1. Purpose

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

2. Definitions

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

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 WECS 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. *Commercial WECS* shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. *Decommissioning Security* shall mean a security instrument that is posted or given prior to construction by the wind developer to ensure sufficient funding is available for removal of a wind energy conversion system and reclamation at the end of the useful life of such a system.
4. *Fall Zone* shall mean the area, defined as the furthest distance from the tower base, in which a guyed or un-guyed tower will collapse in the event of a structural failure. This area is 1.1 times (hub height + rotor diameter).
5. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
6. *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.

7. *Operator* shall mean the person, persons or entities responsible for the day to day operation and maintenance of any WECS project, including any third party subcontractors.
8. *Owner* shall mean the entity or entities with an equity interest in the WECS, including their respective successors and assigns. Owner does not refer to the property owner from whom land is leased to locate WECS, unless the property owner has an equity interest in the WECS.
9. *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.
10. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades.
11. *Shadow Flicker* shall mean shadows on the ground and surrounding structures that may emanate from the rotating blades of a wind turbine.
12. *Site Plan* shall mean documents, including a scale diagram describing the purpose, scope and details of a proposed Wind Energy Conversion System and/or Wind Farm. Requirements for the Site Plan are set forth in of this regulation. A Site Plan is intended as a general document that provides the County an overview of a proposed WECS or Wind Farm. More specific information is required with the Wind Energy Permit.
13. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35 kV) for interconnection with high voltage transmission lines.
14. *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.
15. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
16. *Tower Height* shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
17. *Transmission Line* shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
18. *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.
19. *Wind Energy Conversion System Project* shall mean all necessary devices that together convert wind energy into electricity, including but not limited to any wind energy conversion system project, project towers, project substations, rotors, nacelles, generators, electrical components, foundations, transformers, electrical cables, transmission poles and lines, roads, operation and maintenance buildings, and all other and associated or related support facilities.

20. *Wind Energy Conversion System Project Site* shall mean a contiguous parcel of land, delineated and described by survey, on which all facilities, devices and infrastructure associated with a wind energy conversion system project are situated.
21. *Wind Energy Permit* shall mean a document issued by the County Board that approves the specific construction of large wind energy conversion systems. Requirements for the Wind Energy Permit are set forth in Section 9 of this regulation.
22. *Wind Farm* shall mean multiple large wind energy conversion systems under a single operational control or ownership designed for the primary purpose of sale, resale or offsite use of energy produced. A Wind Farm may be located on more than one property.
23. *Wind Turbines* shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

3. Applicability and Permit Requirement

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

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

4. Site Plan Procedure

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

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

A. Site Plan Approval

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

County Board. Prior to consideration of the site plan application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 18 giving public notice.

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

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

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

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

1. Documentation of land ownership or legal control of the property.
2. Statement that each WECS will be installed in compliance with manufacturer's specifications.
3. Statement that the Owner will construct and operate each WECS or Wind Farm in compliance with all applicable local, state and federal codes, laws, orders, regulations and rules.

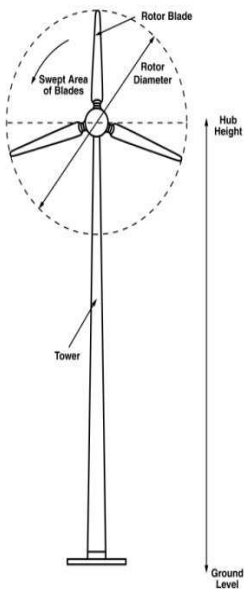
4. Preliminary construction documents describing general plans for appropriate drainage, erosion control and infrastructure improvements.
 5. Decommissioning plan in accordance with of this Regulation and with all applicable State and Federal Regulations.
 6. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
 7. An analysis on potential shadow flicker on any occupied structure on a nonparticipating property with direct line-of-sight to the WECS. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at those locations from sun-rise to sun-set over the course of a year. The analysis shall include a mitigation plan.
 8. Certification that Applicant has provided the Kimball Airport Authority a copy of the site plan submitted to the County and a copy of the submitted FAA form for approval.
 9. A proposed phasing plan showing areas or location of WECS for the purposes of permitting.
 10. Certification that Applicant has provided Warren Air Force Base and any other military sites a copy of the site plan submitted to the County.
- E. Approval of the Site Plan shall not constitute approval of the Wind Energy Permit. Rather, it shall be deemed an expression of approval or conditional approval of the submitted site plan a guide for the preparation of the Wind Energy Permit. Any modifications to the Site Plan must be reported to the Zoning Administrator immediately.

5. Design and Installation

- A. Design Safety Certification
WECSs shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”) and National Electrical Commission (“NEC”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL ”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energie (“GL ”), or an equivalent third party.
- B. Following the granting of a Wind Energy Permit under these Regulations, a Professional Engineer licensed in the State of Nebraska shall certify, as part of the Zoning Certificate application, prior to construction that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- C. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
- D. Controls and Brakes
All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

- E. Electrical Components
All electrical components of the WECS shall conform to applicable state, and national codes, and international standards.
- F. Color and finish
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Finishes shall be matte or non-reflective.
- G. Clearance
Clearance of rotor blades or airfoils must maintain a minimum of 25 feet of clearance between their lowest point and the ground.
- H. Lighting
Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
- I. Climb Prevention
All WECS towers must be unclimbable by design or protected by anti-climbing devices such as: 1) fences with locking portals at least six feet high; or 2) anti-climbing devices 15 feet vertically from the base of the WECS tower.
- J. Safety Signs
All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine and at the entrance to the site with the 911 address and with emergency contact information. A plainly visible warning sign regarding voltage be placed at the base of all pad-mounted transformers and substations. No other signage or logos of any type shall be installed on the towers except for signs related to safety, warning, emergency contact, and manufacturer's name or logo.
- K. Height
The total height shall comply with all Federal, State and local regulations, including FAA guidelines. Applicants are strongly encouraged to contact the Kimball County Airport concerning airport operations and approaches to flying safety and airspace conflicts prior to submitting an application.
- L. Feeder Lines
All communications and feeder lines installed as part of a WECS shall be buried, where feasible.

M. Setbacks



1. The center of the base of each WECS and permanent meteorological tower shall be located no less than 1.1 times the total height (hub height + rotor diameter) from the adjacent property lines, public roads and road right-of-way, third party transmission lines, and communication towers.

2. All WECS towers shall be set back at least 1,000 feet from any occupied dwelling.

3. The setback shall meet the Warren Air Force base missile site requirements (written documentation must be provide with the application).

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

5. The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

N. Soil Erosion and Water Quality

1. The applicant shall be responsible for soil erosion and water quality stemming from construction, operation or maintenance of the WECS. The applicant will minimize all applicable concerns and/or potential impacts with existing local, state and federal agencies.

2. The applicant shall be responsible for the control of all invasive and noxious weeds on all disturbed areas.

O. Federal Aviation Administration

The Applicant(s) for the WECS shall comply with all applicable FAA requirements.

6. Use of Public Roads

Applicant shall:

A. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.

B. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.

C. If during construction the road(s) and/or bridge(s) become unsafe for the posed speed limit or applicable weight limit, construction shall cease and applicant shall be responsible for restoring the road(s) and/or bridge(s) to preconstruction conditions.

D. Be responsible for restoring the road(s) and bridge (s) to preconstruction conditions.

7. Noise Levels and Shadow Flicker

A. No Commercial/Utility WECS shall exceed 50 dBA at the nearest occupied dwelling.

B. Shadow flicker on any occupied structure on a nonparticipating property shall not exceed thirty (30) minutes per day and thirty (30) hours per year.

C. The Applicant, as part of the site plan approval application process, shall appropriately demonstrate compliance with the above noise and shadow flicker requirements.

8. Compliance with Additional Laws and Regulations

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

9. Wind Energy Permit Procedure

Upon approval of the site plan, the Owner may submit a wind energy permit application to the Zoning Administrator. No wind energy permit shall be issued without a County Board approved site plan. The applicant shall provide a complete application. Upon submittal of the permit application, the Zoning Administrator shall have ten (10) business days to determine if the application is complete. An incomplete application shall be returned to the applicant until all required information is received. The Zoning Administrator shall forward the Wind Energy Permit Application to the Planning Commission for consideration and recommendation to the County Board. Prior to consideration of the permit application, the Planning Commission and County Board shall comply with the procedure in the Conditional Use Section 18 giving public notice.

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

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

10. Location of wetlands, scenic, natural areas (including bluffs), public conservation lands, easements, and government and/or military areas within one mile of the proposed WECS.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.
12. Evidence that there will be no interference with any commercial and/or public safety communication towers.
13. A Copy of a "letter of intent to interconnect" or interconnection agreement signed by the utility company.
14. Decommissioning Security and Plan as required by this regulation and with all applicable state and federal regulations.
15. All required studies, reports, certifications and approvals demonstrating compliance with the provisions of this regulation and with all applicable state and federal regulations.

10. Operation

A. Interference

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

B. Coordination with Local Fire Department

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

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
2. All hazardous materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations.

11. Liability Insurance

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

12. Discontinuation and Decommissioning Security

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

13. 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 right-of-way, may be less when adjoining property owners are within the same aggregate project.

SECTION 17. NON-CONFORMING USES

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

1. **Nonconforming Lot of Record:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and the lot does not comply with the lot area or width requirements of the district in which it is located;

2. **Nonconforming Buildings or Structures:** A building or structure that lawfully existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located;

3. **Nonconforming Use of Land and Buildings or Structures:** A use of land and a building or structure that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located; and,

4. **Nonconforming Use of Land:** A use of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

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

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

2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations; and,

3. The lot can meet all yard regulations for the district in which it is located.

17.03. Nonconforming Structures:

1. **Authority to Continue:** Any existing building or structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful;

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

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

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

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

6. **Ordinary Repair and Maintenance:**

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

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

17.04. Nonconforming Use of Land and Building or Structure:

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

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

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

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

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

6. Ordinary Repair and Maintenance:

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

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

17.05. Nonconforming Use of Land:

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

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

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

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

5. **Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.

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

SECTION 18. CONDITIONAL USES:

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

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

At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public in attendance and shall review the conditional use request in accordance with the requirements set forth in Section 18.02 of this Resolution. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth in Section 18.02 of this Resolution. If the Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall immediately be forwarded in writing to the County Board of Commissioners for its consideration.

Prior to consideration of a conditional use application, the Kimball County Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one time at least 10 calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing as described in Section 22 of this resolution and shall be an agenda item. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least 10 days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

At public hearing, the Kimball County Commissioners, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the conditional request in accordance with the requirements set forth in Section 18.02 of this Resolution. The Kimball County Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in Section 18.02 of this Resolution. Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven calendar days of the date of such approval. If the Kimball County Commissioners disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven calendar days of the date of such disapproval.

18.02. Application requirements for a Conditional Use Permit: An application for a Conditional Use Permit shall be in writing and signed by the owner of the lot, tract of land, building or structure for which the permit is being requested. The application, which shall consist of forms and information required by Kimball County and which may be amended from time to time by the Kimball County Planning Commission, shall be filed with the zoning administrator along with the appropriate filing fee. At a minimum the application form shall include the following:

1. General Information:

- A. Name, address, and telephone number of the applicants;
- B. Name, address, and authorization of the owner of the property proposed for the conditional use if different from above;
- C. Legal description of the property under consideration;
- D. Total acreage of the parcel under consideration;
- E. Existing land use of the parcel under consideration;
- F. Existing land uses of all the properties adjacent to said property;
- G. Signatures of the applicant and fee owners or their authorized legal agent; and,
- H. A certified list of the names, addresses and the corresponding Parcel Identification Number assigned by the Kimball County Assessor of the surface owners of the property within five hundred (500) feet of the property subject to the applicant. The source of such records shall be the records the Kimball County Assessor.

2. A detailed description of the proposed operation and use shall be supplied including the following:

- A. Type of use for which the application is being made;
- B. Proximity of the proposed use to residential structures;
- C. A statement explaining that the proposal is consistent with the Kimball County Comprehensive Plan; and,
- D. A statement which explains that the proposal is consistent with the intent of the district in which the use is located.

3. A vicinity map depicting the location of the proposed use related to roads, surrounding land uses and structures.

4. A site plan of the conditional use area depicting the location and extent of the proposed use and measures to lessen the impact of the use.

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

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

18.04. Additional Requirements:

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

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

SECTION 19. BOARD OF ADJUSTMENT

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

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

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

1. To hear and decide appeals where it alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location of soundness of structures;
2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map;
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulations.

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

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

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

19.04. Applications:

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

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

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

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

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

A. Appeals and Interpretations:

1. An application for an appeal or interpretation must be filed within fifteen (15) working days after a ruling has been made by the Board of Adjustment;
2. A copy of the order, requirement, decision or determination of the Board of Adjustment which the applicant believes to be in error shall be submitted;
3. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the applicant's position; and,
4. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

B. Variance:

1. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed this application will meet each of the conditions as set out in this Resolution; and,
2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing lot or lots included in the application; the structures existing; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application should be included; and,

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

19.06. Appeals: An appeal to the board of adjustment may be taken by any person or persons aggrieved, or by any officer, department, board, or bureau of the county affected by any decision of an administrative officer or planning commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken. (2) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person, by agent, or by attorney.

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

SECTION 20. AMENDMENTS TO ZONING RESOLUTION TEXT AND MAP

20.01. Amendment to the Zoning Resolution Text and Map.

1. **Authority:** The Board of County Commissioners may, by resolution, amend, supplement, change, modify or repeal these regulations and district boundaries. No amendment, change or repeal shall be adopted by the County Board until the Planning Commission has held a public hearing and submitted its recommendations.
2. **Proposal of Amendments:** Only the Board of County Commissioners, the Kimball County Planning Commission or the fee owner of a property, or a person with legal interest in a property in the unincorporated area of Kimball County may request an amendment. However, no person may apply for an amendment within a period of six (6) months following the denial by the County Board of the same amendment.
3. **Application:** When the owner of the property affected initiates an amendment to the regulations or the district boundaries, and Application for Amendment shall be obtained from the Zoning Administrator, completed, and filed with the County Clerk along with any required fees so that a public hearing can be set.
4. **Ownership List:** A certified list of the names, addresses and the corresponding Parcel Identification Number assigned by the Kimball County Assessor of the surface owners of the property within one-half mile of the property subject to the applicant. The source of such records shall be the records the Kimball County Assessor.
5. **Disposition of Amendment Proposals:** Upon receipt of a proposed amendment from the County Board or from the property owner affected, the Planning Commission shall hold a public hearing on the proposed amendment and forward its findings and recommendations with respect to the proposed amendment to the County board.

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

1. **Public Hearing:** The Planning Commission shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Planning Commission itself. The Planning Commission shall hold the public hearing within sixty (60) days from the date on which the proposed amendment is referred to, filed with or initiated;
2. **Notice of Hearing:** Public notice of the hearing on a proposed amendment shall include advertisement in a legal newspaper ten days prior to the hearing date and providing written notice to the chairman of any municipal or joint planning commission which has jurisdiction over land within three miles of the property affected by such action. Notice may include posting of the site in question and may include mailing notice or hearing to property owners within one-half mile of the site in question;
3. **Conduct of Hearing:** The hearing shall be conducted and record of the proceedings shall be preserved according to the procedures as the Planning Commission may prescribe by rule. Any interested person or party may appear and be heard in person, by agent or by attorney. The Planning Commission may request a report on any proposed amendment from any governmental official or agency. A copy of the report shall be made available to the applicant and any other interested persons and shall be available for review in the office of the County Clerk at least three days before the date set for the public hearing.
The Planning Commission may also require reports after the public hearing if additional information is deemed necessary. These reports shall also be made available to the applicant and any other interested persons; and,

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

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

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

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

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

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

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

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

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

SECTION 21. ADMINISTRATION

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

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

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

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

SECTION 22. NOTICES

22.01. 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 22.02 below.

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

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

22.03. 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 23. ENFORCEMENT

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

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

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

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

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

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

SECTION 24. SUBDIVISION REGULATIONS

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

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

24.03. Definitions: For the purposes of Section 24, a subdivision shall be defined as: The division of a lot, tract or parcel or tract of land into two or more parcels, or other divisions of land for the purpose, whether immediate or future, of ownership or building development. The definition includes resubdivision and shall relate to the process of subdividing or to the land subdivided. For the purpose of recording any separation of land, a plat of such division shall be submitted for approval in accordance with Section 24.04.

For the purposes of Section 24, 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.

24.04. Applicability:

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

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

There are six steps in the subdivision process:

1. Pre-Application Procedure:

- A. Before filing a preliminary plat the subdivider shall consult with the Zoning Administrator for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on the topographical survey map shall be submitted. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterials and existing community or county facilities.
 - B. The Zoning Administrator shall inform the subdivider of the requirements pertaining to the proposed subdivision as such requirements are established by these Regulations.
 - C. The pre-application procedure does not require formal application, fee, or filing of plat with the Zoning Administrator.
2. **Change of zone:** The subdivider should apply for a change of zone as outlined in the Kimball County Zoning resolution, if applicable. The change of zone shall be contingent on completion of the subdivision process.
 3. **Preliminary Plat:**
 - A. The subdivider shall submit to the zoning administrator nine (9) copies of the preliminary plat and supplemental material specified with written application for conditional approval. Said complete submittal shall occur at least 21 days prior to the regular meeting of the Planning Commission at which the request will be heard.

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

1. Name and address of the owner, person who prepared the plat, date, north arrow, graphic scale, subdivision name, total acreage, and legal description of the proposed subdivision.
2. Proof of ownership and title insurance commitment or written opinion of a licensed Nebraska attorney.
3. The location of tree clusters (need not show location of all trees)
4. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
5. The location, widths, and names of proposed streets, alleys, roads, easements, parks, and other opens spaces. All streets shall be named and shall conform to the E911 numbering system.
6. The layout of future streets adjacent to the subdivision shall be shown as a dashed line.
7. Topographical contour lines showing elevations two (2) foot intervals (or five (5) foot intervals at 1"=200' scale).
8. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
9. A utility service statement block shall appear on the preliminary plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
 - A. The name of the utility company.
 - B. A dated signature and statement from the representative of the utility company indicating one of the following:
 1. Service is available.
 2. Service is available subject to the following specific conditions.
 3. Service is not available for the subdivision.
10. The location and sizes of proposed culverts, storm drains, retention or detention ponds, and other drainage provisions.
11. Non-buildable flood plain areas shall be indicated.
12. A brief description of soil types and permeability rates.
13. A cross section of proposed streets showing the width of roadways, location and type of curb & gutter, paving and sidewalks to be installed. The subdivider shall consult the County Roads Department to determine minimum requirements.
14. Names of, and relationship to, adjoining subdivisions, streets, lots, easements and structures.
15. Location of existing lot lines, streets public utility easements, water mains, sewers drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision.
16. Zoning of surrounding land, and present and proposed zoning of subdivision.
17. Proposed easements, dedications and reservations of land.

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

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

4. Preliminary Plat Approval:

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

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

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

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

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

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

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

1. A copy of a title commitment issued by a title insurance company.
2. A summary explaining how the developer will address any problems or concerns that were identified in the preliminary plat plan.
3. If the applicant is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent from the appropriate public agency stating it will accept the lands to be dedicated.
4. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
5. A copy of a contract or some tangible guarantee providing for a common water supply if water is required to be supplied by a water district, municipality, or other.
6. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
7. A list of any covenants, grants of easement, and restrictions imposed upon any land, buildings and structures within the proposed subdivision.
8. A copy of a Nebraska Department of Roads access permit if a new street intersects with a state highway.

9. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Kimball County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.

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

A. Certificate of Dedication, Ownership, and Maintenance:

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

Executed this __ day of _____, 20__

(Owner, Mortgagee, or Lienholder)

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

Notary Public

Witness my hand and seal

My Commission expires _____

B. Surveying Certificate:

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

By: _____
Registered Land Surveyor

Date

C. Certificate of Approval by the County Board:

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

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

Chairman, Kimball County Board of Commissioners, Nebraska

ATTEST:

By: _____
Kimball County Clerk

Dated: _____

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

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

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

1. General Guidelines:

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

2. Streets:

- A. Right-of-way, street grade, and paving design shall be in conformance with minimum standards suggested in the Comprehensive Plan or as approved by the County Roads Department.
- B. Arterial streets and collector streets shall be properly integrated with the existing and proposed system of streets and highways.
- C. No subdivision shall prevent the extension of arterial and collector streets through and beyond the subdivision in a direction away from the center of a nearby City. The subdivider may plat and design the collector streets not extended on the Comprehensive Plan subject to approval of the Planning Commission.
- D. Minor streets shall be designed to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewer systems; and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- E. Cul-de-sac streets designed to have one end permanently closed shall not exceed 600 feet in length and shall be posted as a non-through street. The terminating end of a cul-de-sac shall have a turn-around with a minimum property line radius of 50 feet.
- F. The Planning Commission and County Commissioners may require dedicated passage (alleys) in commercial and industrial districts for off-street loading and service access.
- G. Minor streets shall not be designed for extension beyond the subdivision shown on the Preliminary Plat submitted for approval, unless the adjoining land is land locked without road access, or for some other reason access is desired by the Planning Commission or County Commissioners.

H. Curves in Streets -Horizontal and Vertical:

1. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
2. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made
3. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

3. Intersection of Streets:

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

4. Easements:

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

5. Blocks:

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

6. Lots:

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

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

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

2. Utility and Street Improvements:

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

24.08. Public lands:

1. Before Final Plat approval is given to the subdivider, they shall be required to dedicate to the public use all streets, alleys, buffer strips and parks as may be required by the Planning Commission. Acceptance of these dedicated lands shall be recorded in the minutes of the County Commissioners and on the subdivision plat.

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

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

24.10. Variance of requirements:

1. The Planning Commission may recommend and the County Commissioners may grant variance of requirements from the provision of the regulations in Section 24, but only after determining:
 - A. There are unique circumstances or conditions affecting the property.
 - B. The variance of requirements is necessary for the reasonable and acceptable development of the property in question.
 - C. The granting of the variance of requirements will not be detrimental to the public welfare or injurious to adjacent property.
2. The requirement of filing and recording a plat for subdivision shall not be waived.

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

SECTION 25. MISCELLANEOUS

25.01. 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.

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

25.03. 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.

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