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21-101 Conditional Uses - Purpose and Intent: The establishment of virtually all land uses except agricultural and traditional single-family residential, in most cases, are not appropriate in the bulk of unincorporated portion of Dickinson County; especially those land uses that are of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity. However, it is recognized that it may be acceptable, on a case-by-case, site-by-site basis, to permit the development of such land uses where conditions warrant and adequate safeguards are taken to mitigate any of the potential problems associated with said development. Therefore, in order to develop any land use other than agricultural and traditional single-family residential in the unincorporated portion of Dickinson County, a Conditional Use Permit issued in accordance with these Regulations shall be required.

It is the intent of this Article to require a Conditional Use Permit for all proposed land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. As such, it is acknowledged that any property owner may seek a Conditional Use Permit for any of the types of land uses indicated herein for any property within the unincorporated portion of Dickinson County. The subsequent approval of such request by the Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use Permit for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use Permits that provides for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use Permit, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations. (For example: a Conditional Use Permit could be approved for a "strip shopping center" in a location where transportation and adequate water and sewage disposal services are available. The Conditional Use Permit could indicate a range of "retail and/or service businesses" as being appropriate for this location and included in the Permit.)

21-102 Application of Conditional Uses: Before the location or establishment of any land use requiring a Conditional Use Permit, or before any change or use of the premises

existing at the time of the effective date of these Regulations or permitted as herein provided is made, a Development Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 14 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 26 of these Regulations and shall review such Development Plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 14 of these Regulations.

21-103 Qualification of Existing Conditional Uses: Properties with land uses operating under an existing Conditional Use approved prior to the adoption of these Regulations, or that were zoned and used as commercial or industrial under the previous Zoning Regulations, shall be permitted to continue, but with an unapproved Conditional Use Permit. Changes in the building(s), operation(s) or use(s) of said properties shall be treated as requiring an amendment to said unapproved Conditional Use Permit and considered as provided Section 21-102 herein.

21-104 Additions and Changes to Conditional Uses: All subsequent requests for additions and structural alterations to Conditional Uses approved by the Governing Body shall be considered in the same procedure as outlined in Section 21-102 herein.

21-105 Conditional Uses Enumerated: The following Conditional Uses are some of the uses that may be approved by the Governing Body as provided in this Article. Other land uses may also be permitted by Conditional Use Permit except those specifically listed as permitted uses in the zoning districts or as prohibited uses in these Regulations.

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.
2. Bed and breakfast facility.
3. Boat sales and service, including storage yard.
4. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards.
5. Bus barns or lots.

6. Cemeteries, mausoleums or crematories for the disposal of the dead.
7. Ceramic, pottery or concrete ornament product processing, sales and/or yard.
8. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
9. Commercial and/or retail stores and activities not otherwise prohibited by these Regulations.
10. Commercial offices and office parks.
11. Commercial parking lots.
12. Commercial stockyard or feedlot.
13. A Commercial Wind Energy Conversion System per the requirements of Section 112.
14. Any small Wind Energy Conversion System proposed to exceed the Performance Standards as stated within these Regulations.
15. Convenience food stores.
16. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
17. Drinking establishments, taverns, membership clubs, or other places that serve alcohol for consumption on the premises.
18. Drive-in and drive-through establishments.
19. Drive-in theatres.
20. Dwellings for resident night watchmen and caretakers employed on the premises of a business.
21. Exposition centers and/or buildings.
22. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.
23. Fairgrounds.
24. Farm machinery sales and service, including storage yard.

25. Fire stations.
26. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
27. Greenhouses, nurseries and/or hydroponic farms operated as a retail business.
28. Group Boarding Home, Licensed Group Day Care Home, Child Care Center, Licensed Day Care Home, Preschool, Detention Center, Family Day Care Home, or Residential Center, except as permitted by K.S.A. 12-736 as amended, provided:
 - a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
 - b. A report from the Dickinson County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
 - c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
 - d. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - (1) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - (2) Outside play areas shall be fenced.
29. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
30. Hospital or clinic for large or small animals, provided, such hospital or clinic and treatment rooms shall be maintained within a completely enclosed, soundproof building, and that such hospital or clinic shall be operated in such a way as to produce no objectionable odors outside its walls.
31. Hotels, motels, and motor hotels.
32. Judicial centers, jails, penal or correctional institutions.
33. Junkyard.
34. Keeping of exotic birds and/or animals on any tract of land, whether in a building or not.

35. Keeping of farm animals, including but not limited to horses, ponies, cows, hogs, pigs, sheep, and/or goats on a lot or tract of less than three (3) acres.
36. Kennels, either boarding or breeding, on less than 10 acres of land, provided:
 - a. All kennel buildings, runs and open areas shall be a distance of at least 1,000 feet between the outer perimeter of the breeding or boarding operation and the nearest residence other than the residence on-site, church, school, public meeting place, commercial business or confined livestock operation.
 - b. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
37. Laboratories; research, experimental, and/or testing.
38. Lawn and garden supply sales and service, including storage yards.
39. Manufactured home and recreational vehicle sales and service, including display yard.
40. Manufactured home as a single-family dwelling on an individual lot in the "V-1" Village District only.
41. Manufactured home parks, subject to the standards established in the Manufactured Home Code of Dickinson County.
42. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage.
43. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
44. Mortuaries and attendant accessory activities and facilities.
45. Motor vehicle sales, service and repair.
46. Multi-family dwellings, including two-family dwellings, townhouses, garden apartments, condominiums; provided, consistent with single-family residential developments, the provision of adequate public water and sewer service, along with other public infrastructure, is necessary in order for development of said dwellings to be permitted. In addition, the introduction of accessory apartments for extended family members in accessory buildings on the same lot; provided ownership and all services for such unit are maintained in the name of the owner of the principle building and/or occupant.
47. Offices and office buildings.

48. Parks and playgrounds.
49. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
50. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:
 - a. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Governing Body when the same are visible from any public road.
 - b. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads if any part of the operation is located within 1/4 mile of any residential dwelling.
 - c. Where applicable, a maintenance agreement between the applicant and the County and/or Township having jurisdiction shall be required to maintain the roads that provide the ingress/egress to the operation.
 - d. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface. The setback areas may be used for the erection of berms or other screening features required by the Conditional Use Permit.
 - e. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site and a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Governing Body before reclamation work may begin. Said approval of a revised reclamation plan shall require a public hearing under the same procedure as the original Conditional Use Permit.
 - f. A bond in the amount necessary to reclaim all lands opened at any given time shall be placed in effect and submitted to the Governing Body prior to the operation of all quarries, mining or removal of sand, gravel, coal or topsoil authorized by the Conditional Use Permit.
 - g. All area quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface.

- h. No building, equipment, quarry products or other materials shall be erected or stored within 100 feet of any property or right-of-way line.
 - i. A copy of the annual survey of mining operations, as required to be filed by State law with the State, shall also be filed with the Governing Body. Said annual survey applies only to underground mining activities, not to open pit mines or quarries.
 - j. The applicant's operation shall be inspected by the Zoning Administrator on or before July 1st of every year following approval of the Conditional Use Permit for compliance with the above listed requirements. All deficiencies or violations shall be corrected within 60 days of written notice from the Zoning Administrator itemizing the violations and corrective measures necessary for compliance. There shall be a mandatory (5) five year review by the Planning Commission for all quarries, mining or removal of sand, gravel, coal or topsoil operating under a Conditional Use Permit.
51. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, commercial telecommunication towers, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
- a. The location of every tower must be such that it is at least an equal distance from all property lines as it is in height.
 - b. Every commercial telecommunication tower shall be designed to provide co-location with a minimum of forty-eight (48) antennas and their attendant cables.
 - c. No new commercial telecommunication tower location shall be approved unless the applicant shall show there is not sufficient or usable space on existing or approved towers in the same service area. Such verification shall be in the form of written correspondence from the owner of such towers or structures of their unavailability. At a minimum, the service area for every tower shall be three (3) miles from the tower location.
 - d. All lighting necessary to comply with the FAA lighting requirements shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.
 - e. Any communication tower that is unused for a period of twelve (12) months or more shall be declared abandoned and shall be notified of the necessity of removing the tower and appurtenances and reclaiming the lands as provided herein.
 - f. A plan for reclamation of the site shall be prepared and submitted as a part

of the application. The plan shall indicate a timetable for the reclamation of the proposed use of the site upon the removal of the tower. The applicant shall also provide financial security in a form acceptable to the County to assure the reclamation of the property shall occur in conformance with the reclamation plan. Financial security provided to the landowner is sufficient, provided it names the County as well.

52. Recreational or sports-related activity or facility, whether publicly or privately owned.
53. Recreational vehicle park or campground, subject to the standards established in the Recreational Vehicle Code of Dickinson County.
54. Restaurants.
55. Riding academies, stables and/or show arenas, indoor or outdoor rodeo arenas and/or facilities.
56. Sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law.
57. Schools, preschools or kindergartens, either publicly or privately owned or operated.
58. Sexually oriented businesses.
59. Truck stops and/or truck terminals.
60. Warehousing, wholesaling and storage of any commodity except junk or salvage.
61. Zoos, commercial aquariums, or aviaries.
62. Any other use not specifically listed as a permitted and/or accessory use in any district in these Regulations, or as a prohibited use.

21-106 Continuance of a Conditional Use: A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its original authorization, as long as all conditions placed on it are met. However, if that particular use ceases to exist for a period of one (1) year, it will forfeit its Development Plan and will not be allowed to exist again unless a new application is made, a public hearing held, and a new Development approved in conformance with the requirements of these Regulations. The County may initiate an action to remove the Conditional Use, but must follow the same procedures as followed to establish the Conditional Use originally.

21-107 Accessory Uses: Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is

injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof, and shall be on the premises of the main use.

21-108 Eligibility for Accessory Use: The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

21-109 Accessory Uses Allowed: Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In the "AG 80" and "AG 40" Agricultural Districts, the following, or similar accessory uses are allowed:
 - a. Open or enclosed storage of farm materials, products or equipment; but not junk.
 - b. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
 - c. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG 80" or "AG 40" District.
 - d. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
 - e. Wholesale or retail sales of agricultural products grown or raised on the premises or by the farm operator.
 - f. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
 - g. Home occupations.
 - h. Home schooling of the children of the occupants of the residence in accordance with standards established by the State of Kansas.
 - i. Kennels, either boarding or breeding. In addition, there shall be a distance of at least 1,000 feet between the outer perimeter of the breeding or boarding operation and the nearest residence other than the residence on-site, church, school, public meeting place, commercial business or confined livestock operation.
 - j. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:

Private garages

Guest houses
Home barbecue grills
Small storage sheds
Satellite dish antennas
Accessory off-street parking and loading spaces

- k. Small wind energy conversion systems.
 - l. Storage buildings, including those originally designed or intended for use as a transportation vehicle or shipping structure.
2. In District "RR" Rural Residential, "SR" Suburban Residential, "R-1" Single-Family Residential, "LL" Single-Family Residential Lake Lot, "SS" Sand Springs Residential, "RB" Red Bud Lake Residential and "V-1" Village District only the following accessory uses are allowed:

- a. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

Accessory off-street parking and loading spaces
Fences or walls
Flag poles
Gates or guard houses for subdivisions
Guest houses
Home barbecue grills
Parabolic and satellite dish-type antennas
Play equipment
Private garages and carports
Servants quarters
Small storage sheds
Solar collectors
Swimming pools
Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet, except in the "RR" Rural Residential and "SR" Suburban Residential Districts where this restriction shall not apply.

- b. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- c. In the "RR" Rural Residential District and "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning

districts.

- d. Home occupations such as, but not limited to, the following:

Accountant
Architect
Artist
Attorney
Author or writer
Chiropractor
Clergyman
Cosmetologist
Counselor
Dentist
Engineer
Home crafts
Insurance Agent
Osteopath
Photographer
Physician
Planner
Real Estate Agent
Seamstress/Dressmaker
Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

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

- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
- (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
- (3) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
- (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
- (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.

- (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
- f. Home schooling of the children of the occupants of the residence in accordance with standards established by the State of Kansas.
- g. Kennels, either boarding or breeding, provided the tract of land has at least 10 acres. In addition, there shall be a distance of at least 1,000 feet between the outer perimeter of the breeding or boarding operation and the nearest residence other than the residence on-site, church, school, public meeting place, commercial business or confined livestock operation.
- g. Small wind energy conversion systems.
- h. Storage buildings, including those originally designed or intended for use as a transportation vehicle or shipping structure in property zoned "RR" Rural Residential. Storage buildings shall be subject to all setback requirements of the district and shall be limited to placement of one (1) structure originally designed or intended as a transportation vehicle or shipping structure.

21-110 Specialty Accessory Uses: The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.

2. Recreational Vehicles and Trailers:

- a. Recreational vehicles may be parked in a recreational vehicle park or campground. Recreational vehicles or equipment may also be stored or parked outdoors in the "AG 80" or "AG 40" Agricultural Districts. Recreational vehicles may be stored within any "RR", "SR", "R-1", "LL", "SS", "RB" or "V-1" District, provided; said recreational vehicle or recreational equipment, as defined in these Regulations, is stored within an enclosed structure (which structure otherwise conforms to the requirements of these Regulations), or may be permanently parked upon the private property of the premise if said recreational vehicle or recreational equipment is not parked within the front yard; within the required yard along any public street; or within 10 feet of side or rear lot line.
- b. At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes, except in a recreational vehicle park, or as a permitted temporary dwelling on a lot on which a valid Zoning Certificate is issued for construction of a dwelling on said lot.

- c. The provisions of these Regulations regarding recreational vehicles do not apply to those businesses displaying recreational vehicles or recreational equipment for sale or service when said business is properly located.

21-111 Prohibited Uses: After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in the unincorporated portion of Dickinson County, including within any Manufactured Home Park or Manufactured Home Subdivision.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article. At no time shall a manufactured home or mobile home be converted to an agricultural building for use as storage of agricultural products or equipment or shelter for animals.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use, unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.
5. No structure constructed or intended for use as a shipping container, whether as originally as a transportation vehicle or as a separate structure, shall be used as a storage container on property zoned "SR" Suburban Residential District, "R-1" Single-Family Residential District, "LL" Single-Family Lake Lot Residential District, "SS" Sand Springs Residential District, "RB" Red Bud Lake Residential District or "V-1" Village District. All other such placements where allowed shall be in conformance with the restrictions within these Regulations.
6. No application for a Conditional Use Permit shall be considered and no Conditional Use Permit shall be issued for any person on any property which proposes as the only use the placement of an advertising sign or billboard. Further, an advertising sign or billboard permitted as an accessory structure in an approved Conditional Use Permit shall not be built, used or remain in use unless the principal use and/or structure on the property is first built and/or currently used. Upon the cessation of the principal use and/or structure on the property, the advertising sign or billboard shall lose its standing as an accessory structure and must be removed. At no time shall an advertising sign or billboard first established under these regulations gain

standing as a non-conforming use since the placement and continued use of such advertising sign or billboard is accessory to another principal structure or use.

21-112 Wind Energy Conversion Systems (WECS) Requirements.

21-112-01. Purpose. The purpose of this section is to provide for the construction and operation of Commercial Wind Energy Conversion Systems (WECS) in Dickinson County, subject to County restrictions, which will preserve the public health and safety. Except for the public hearing procedures of obtaining a Conditional Use Permit as detailed in Section 26-102, the provisions of this Section 112 of Article 21 exclusively control the regulation of Wind Energy Conversion Systems and any explicit or implicit conflicts between this Section 112 and other provisions of these regulations, including, but not limited to, Articles 14, 21, and 26, shall be governed by this Section 112.

21-112-02. Findings. Dickinson County finds that wind energy is an abundant, renewable energy resource and that its conversion to electricity will reduce individual dependence on nonrenewable energy resources by increasing energy supply for the established grid.

21-112-03. Definitions.

- a. *Private wind energy facility:* An energy facility that consists of one or more small-scale wind turbines or other such devices and their related or supporting facilities that produces electric power from wind that is to be used primarily by the individual or entity that owns the property on which the facility is located. (See Section 21-109).
- b. *Commercial Wind Energy Facility:* An energy facility that consists of one or more wind energy conversion systems or other such devices and their related or supporting facilities that produces electric power from wind, some or all of which is to be distributed to an off-site customer or customers. The terms “Wind Energy Conversion System”, “WECS”, “WECS facility”, and “Commercial Wind Energy Facility” are synonymous and may be used interchangeably within these Regulations.

21-112-04. Application process—Commercial Wind Energy Facility. Commercial Wind Energy Facilities shall be permitted in all AG Agricultural Districts (e.g. “AG 40” and “AG 80”) and shall require approval of a Conditional Use Permit by the County following a public hearing and recommendation from the Dickinson County Planning Commission, and a Zoning Permit issued by the Dickinson County Zoning Administrator. Commercial Wind Energy Facilities shall be prohibited in all other zoning districts governed by these regulations.

Minimum requirements for Conditional Use Permit submittal for a Commercial Wind Energy Facility:

- a. The name, address, telephone number, and e-mail address of the WECS owner and its authorized representative.
- b. A topographic map of the WECS project boundary inclusive of the entire WECS project showing the location of the proposed facility. The term “WECS project boundary” shall be defined as the outermost boundary of the WECS that is inclusive of structures, improvements, or buildings that are to be constructed by the WECS owner, or its contractor, as part of a single WECS facility. For example, the WECS project boundary shall include, turbines, collection lines, transmission lines, substations, meteorological towers, project roads, and battery storage facilities associated with the WECS facility. Such map shall also include, if applicable, a depiction of the most current FEMA 100-year floodplain.
- c. A preliminary site plan of the proposed facility in general conformance with the applicable requirements of Article 14-103(2) of the zoning regulations. The preliminary site plan must provide sufficient detail to understand the nature and scope of the proposed project and the attributes of the specific location. Project infrastructure identified in the preliminary site plan may be adjusted or moved without additional approval from the Zoning Administrator or the County so long as such modifications do not expand the WECS project boundary beyond its originally filed location and all setbacks within these regulations are maintained.
- d. Evidence of written submission to FAA of FAA Form 7460-1 for each proposed wind turbine comprising the WECS or evidence of non-applicability.
- e. Evidence of consultation with the Kansas Department of Wildlife and Parks regarding potential impacts to threatened or endangered species as designated by the Kansas Nongame and Endangered Species Conservation Act of 1975 and amendments thereto. If affected, the applicant shall provide a copy of any applicable action permit(s) issued from the KDWP for the proposed use.
- f. A map showing all occupied residences within, and up to 1,500 feet outside of, the WECS project boundary and, if applicable, any setback waivers signed by property owners that do not have a land use agreement with the owner of the Commercial Wind Energy Facility (“Non-Participating Landowners”).
- g. Proof that the affected utility company or electricity grid operator has been informed of the customer’s intent to install a Commercial Wind Energy Facility.
- h. Standard drawings of the wind turbine structure, including the tower, base, footings and foundation.
- i. Narrative including how noise, soil erosion and dust, water quality, safety issues, and fire risks will all be addressed during construction phase and lifespan of project.
- j. Decommissioning Plan describing the manner in which the Commercial Wind Energy Facility shall be dismantled and removed from the site at the end of its useful life. Requirements as outlined in 21-112-09.

- k. An approved Road Maintenance Agreement between the County and Developer that includes, but is not limited to, a provision for the retention of a third-party inspector, whose reasonable fees shall be paid by Developer, to inspect the condition of County roads to be utilized by Developer prior to construction, during construction, and following completion of construction of the WECS.
- l. In review of an application for a Conditional Use Permit, the Zoning Administrator may accept various forms of information within an application that are reasonably similar to those specified within this Section 21-112-04.

21-112-.05. Requirements for a Commercial Wind Energy Facility.

- a. No turbine shall be located closer than two (2) times its height from public roads or property lines of Non-Participating Landowners unless a signed and executed waiver form signed by the property owner of the affected property lines is supplied to the applicant and included in the CUP application. "Total turbine height" is defined as the height of the structure supporting the turbine, plus the height of the rotor blade at its highest point, measured from the elevation of the ground surface at the base of the tower. Any setback waiver(s) acquired following the issuance of a Conditional Use Permit shall be provided to the County no later than the date the WECS owner submits the individual turbine's application for a building permit as discussed in Sec. 21-112-10.
- b. No turbine shall be located closer than two (2) times its height to any occupied residence of Non-Participating Landowners in existence as of the CUP application submission date unless a signed and executed waiver form signed by the property owner of the affected occupied residence is supplied to the applicant and included with the CUP application. Any setback waiver(s) acquired following the issuance of a Conditional Use Permit shall be provided to the County no later than the date the WECS owner submits the individual turbine's application for a building permit as discussed in Sec. 21-112-10.
- c. No turbine shall be located closer than two times the total turbine height from another turbine.
- d. The lowest point of the rotor blades shall be at least 30 feet above ground level at the base of the tower.
- e. Individual wind turbines shall be set back from existing above-ground utilities a minimum of two (2) times the total turbine height. In order to be closer to the existing above-ground utilities, written permission from the utility owner will be required and shall be submitted to the County no later than the date the WECS owner submits the individual turbine's application for a building permit as discussed in Sec. 21-112-10.

- f. All new collection lines associated with the facility shall be installed underground. Transmission lines associated with distribution and interconnection of energy from the facility may be located above ground.
- g. All turbines shall be mounted on non-guyed or monopole type structures.
- h. All wind turbines shall maintain a galvanized finish or be painted a color in conformance with the surrounding environment (white, gray, pale blue or pale green). Except for instances related to construction, operation, and maintenance of the facility no signage, writing or images may be placed on the tower at any time. In addition, no flags, streamers or other items may be attached to the facility.
- i. Individual wind turbine heights, lighting and markings shall comply with but not exceed FAA requirements.

21-112-06. Nuisance management. Commercial Wind Energy Facilities shall be located in areas where there are adequate setbacks from residential areas and adjacent rural homes so that negative impacts from the turbines are mitigated.

- a. Upon receipt by the Dickinson County Planning and Zoning Department of a credible complaint from a Non-Participating Landowner regarding noise from an existing wind turbine, the owner of the WECS may be required, no more than once per year, at its expense, to have prepared by an independent acoustical consultant an acoustical study that shall demonstrate that the noise level on Non-Participating Landowner property caused by the operation of the turbine—measured at five feet above ground level on the side of the property line that is the subject of the complaint—shall not exceed 65 decibels.
- b. Upon receipt by the Dickinson County Planning and Zoning Department of a credible complaint regarding any other valid mechanical issues from an existing wind turbine, the owner of the WECS may be required, at its expense, to have prepared by an independent consultant a study that shall demonstrate that the issue identified in the complaint is either within reasonable standards or can be mitigated to be within reasonable standards.
- c. The owner of the WECS shall, at its sole expense, take measures reasonably necessary to resolve any interference with electromagnetic communications, such as radio, telephone, or television signals caused by the WECS.
- d. Any wind turbines that are not functional shall be repaired by the WECS owner or removed at the WECS owner's expense.
- e. In the event that the County becomes aware that the entire WECS facility has been nonfunctional for a continuous period of six months, the County will notify the WECS owner by registered mail and provide 45 days for corrective action or a written response. In such a response, the WECS owner shall either (i) detail the circumstances surrounding the interruption(s), identify the corrective action(s) and provide an anticipated timetable to remedy such interruption(s), or (ii) provide a reasonable timetable for decommissioning. If the County

Commissioners unanimously find, after a public hearing, that (a) the WECS owner is the proximate cause of the WECS facility's inability to operate and (b) that the WECS owner is unable to cure the interruption within reasonable period of time, then the County Commissioners may elect to revoke the Conditional Use Permit and require the WECS owner to remove all evidence of the project under the requirements of 21-112-09 within a reasonable time frame at their expense. This provision shall not abrogate the County's responsibility to notify landowners per Kansas statutes, when necessary, for code enforcement issues related to leased areas, but not associated with the WECS facility.

- f. So long as any WECS Conditional Use Permit is in effect, the WECS owner shall maintain with the Zoning Administrator the name, address, telephone number, and e-mail address of at least one authorized representative. Such authorized representative shall be a point-of-contact available to speak with the County during ordinary business hours, and in case of emergency, after hours. The County shall be notified of any change of the WECS owner's authorized representative or their contact information within ten (10) business days of such change.

21-112-07. Environmental Factors.

- a. All commercial facilities shall be required to meet any applicable floodplain requirements.
- b. Construction and operation shall be done in a manner so as to minimize soil erosion; facilities should avoid steep slopes.
- c. Dust emission control measures shall be utilized during construction and, where appropriate, during the life of the project.
- d. In areas where grassland burning is practiced, infrastructure should be able to withstand periodic burning of vegetation.

21-112-08. Enforcement and Penalties.

- a. The Zoning Administrator shall be responsible for the administration and enforcement of this section.
- b. If the Zoning Administrator determines that any of the provisions of the zoning resolution are being violated or if any of the conditions of approval of the Conditional Use Permit are being violated, the property owner of the commercial facility will be notified in writing. The written notice will indicate the nature of the violation and order the action necessary to correct the violation within a reasonable time frame at the WECS owner's expense. The County will determine on a case-by-case basis what a reasonable time frame is.
- c. Any violation of any condition of Conditional Use Permit approval that cannot be resolved between the Zoning Administrator and the WECS owner shall be addressed at a public hearing before the Dickinson County Commissioners. Upon a finding by the County Commissioners of three material violations, the County may elect to revoke the Conditional Use Permit. Upon revocation of the Conditional Use Permit, the County shall

notify the WECS owner and such property owner shall remove all evidence of the project within a reasonable time frame at their expense. The County will determine on a case-by-case basis what a reasonable time frame is.

- d. On all of the above issues, a "reasonable length of time" for property owners to respond to complaints shall not exceed 30 days; a "reasonable length of time" to correct confirmed violations shall be based on the nature of the violation(s) and shall be determined by the County.

21-112-09 Decommissioning

At the end of a project's or an individual turbine's or tower's useful life (excluding maintenance, replacements, or repairs), all applicable WECS equipment shall be removed from the site and the foundation for the base of each applicable tower shall be removed such that each location can be covered over with a minimum of 18 inches of topsoil and re-seeded with native grass. Any request greater than the minimum requirements shall be negotiated between the WECS Developer and the landowner at, or before the time of decommissioning. Access roads shall be removed to the landowner's satisfaction, and the ground shall be restored to a use compatible with surrounding uses. The requirement to remove access roads shall not apply to roads in existence before the WECS application was filed. Landowner may choose to have such roads left intact. In the event that a WECS owner abandons the WECS facility, notifies the County that it is unable to decommission the WECS facility or, if following the termination of a Conditional Use Permit, the WECS owner does not initiate decommissioning within a reasonable period of time, then the County may elect to exercise the Decommissioning Bond to decommission the WECS facility.

21-112-10 Building (zoning) Permits

- a. Notwithstanding anything within these regulations to the contrary, a WECS owner shall have a period not exceed twenty-four (24) months from the date of the issuance of a Conditional Use Permit for the WECS to (i) submit its building permit application(s) for each wind turbine, structure, or building to be constructed as part of the WECS facility; and (ii) commence construction of the WECS facility.
- b. Prior to the issuance of any building permits for the facility, the County Zoning Administrator must be in receipt of the following:

i. Standard drawings of the wind turbine structure, including the tower, base, footings and foundation that account for structural loads. In addition, a site-specific engineering analysis (which shall include a soils analysis), and certification of all wind turbine foundations by a licensed professional engineer shall also be required.

ii. To the extent that it is publicly available, data pertaining to the wind turbine tower's safety and stability, including, for example, safety results from test facilities or a qualified third party assessment.

iii. Surety in the form of an escrow account, surety bond, or insurance policy in an amount determined by a 3rd Party engineer with experience in the decommissioning of WECS and approved by the Board of County Commissioners as necessary to restore the site to its pre-development state ("Decommissioning Bond"). Pre-development shall mean removing all visible above-grade infrastructure; and

iv. Copies of the following executed documents by and between Dickinson County and the WECS owner: (i) PILOT (Payment in Lieu of Taxes) Agreement and/or Development Agreement, (ii) Road Maintenance Agreement, and (iii) Decommissioning Plan.

v. Copies of each FAA Determination of No-Hazard for each wind turbine and MET Tower that will be constructed as part of the WECS facility.

vi. Proof that the WECS owner has obtained liability insurance coverage in an amount not less than \$1,000,000.00 per incident with the County named as an additional insured. In lieu of such coverage the WECS owner may provide an indemnification agreement satisfactory to the County.

vii. In review of application(s) for building permits, the Zoning Administrator may accept various forms of information within an application that are reasonably similar to those specified within this Section 21-112-10.