

A RESOLUTION ADOPTING LAND USE ZONING DISTRICTS WITHIN SEDGWICK COUNTY, COLORADO; ADOPTING MAPS OF SAID AREAS AND ZONING DISTRICTS THEREIN; REGULATING THE USE OF LAND, THE AREA AND WIDTH OF LOTS, AND THE USE, HEIGHT, AND LOCATION OF BUILDINGS; DEFINING CERTAIN TERMS USED HEREIN; PRESCRIBING METHODS FOR GRANTING VARIANCES AND FOR AMENDMENT, ENFORCEMENT, INTERPRETATION, SEPARABILITY, AND REPEALS; AND DESCRIBING VIOLATIONS AND PENALTIES

Revised March 31, 2003

Resolution No. 2003-07

BE IT RESOLVED BY  
THE BOARD OF COUNTY COMMISSIONERS  
OF  
SEDGWICK COUNTY, COLORADO

RESOLUTION NO. 90-35

Upon motion duly made by Commissioner \_\_\_\_\_  
and seconded by Commissioner \_\_\_\_\_, and  
unanimously passed,  
the following Resolution was adopted:

Whereas the Sedgwick County Planning Commission has recommended certain revisions  
in the official Zoning Resolution for Sedgwick County,  
and

Whereas, the Sedgwick County Board of Commissioners agree with said  
recommendations and deem it necessary to update Sedgwick County's Zoning Resolutions  
accordingly;

Whereas, the public hearing before the Board of County Commissioners was held after  
publication of the proposed amendment and been published at least 30 days in advance of said  
public hearing;

NOW THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. Section XI of the official Zoning Resolution for Sedgwick County, Colorado is  
hereby amended to read in its entirety as follows:

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## **SECTION I**

### **APPLICATION OF REGULATIONS**

Except as hereinafter provided, no building, or other structure, or land shall be used and no building or other structure shall be erected, reconstructed, or structurally altered except in conformance with the regulations herein specified for district in which such building is located, nor shall a yard or lot area reduced in dimensions to an amount less than the minimum requirements specified by this Resolution.

## **SECTION II**

### **MAP DISTRICTS**

#### **2.1 ESTABLISHMENT OF DISTRICTS**

In order to carry out provisions of this Resolution, Sedgwick County, Colorado is hereby and in the future may be divided into the following zoning districts:

R	-	Residential District
A1	-	Agricultural District
A2	-	Agricultural District
M	-	Mobile Home District
REC	-	Recreation District
T	-	Tourist District
C	-	Commercial District
IND	-	Industrial District
U	-	Unclassified District
CHW	-	Commercial Hazardous Waste District

#### **2.2 BOUNDARIES**

The boundaries of these districts are established as shown on maps entitled "Zoning District Maps" of Sedgwick County, Colorado, dated September 30, 1970, which maps and all future amendments thereto are hereby made part of this Resolution.

Unless otherwise defined on the Zoning District Maps, district boundary lines are lot lines; the center lines of streets, roads, highway right-of-way, alleys, railroad rights-of-way, or such lines extended; section lines; municipal corporate lines; center lines of stream beds; or other lines drawn to scale on the Zoning District Maps.

Any land which is not shown on a Zoning District Map or has not been previously zoned in Sedgwick County shall now be zoned Unclassified. There will not be a map created to show this designation, but any portion of the county which does not carry another zoning classification shall be zoned Unclassified.

**SECTION III**

**R – RESIDENTIAL**

**3.1 USES PERMITTED**

- (1) One-family dwellings
- (2) Multiple-family dwellings, boarding & rooming houses, and rest homes
- (3) Schools, churches, and hospitals
- (4) Medical and dental offices and clinics
- (5) Park, playgrounds, and golf courses
- (6) Crop production, orchards, nurseries, flower production, forest land, and 4-H animal projects
- (7) Public utility and public service facilities, excluding business offices, and excluding repair and storage facilities
- (8) Accessory buildings and uses

**3.2 MINIMUM AREA OF LOT**

For each principal use:

- (1) on subdivided land.....two acres
- (2) on subdivided land not served by public water and public sewerage facilities.....30,000 sq. ft.
- (3) on subdivided land served by either public water or public sewerage facilities.....15,000 sq. ft.
- (4) on subdivided land served by both public water and public sewerage facilities.....7,500 sq. ft.

**3.3 MINIMUM LOT WIDTH**

For each principal use:

- (1) on subdivided land.....200 ft.
- (2) on subdivided land not served by public water and public sewerage facilities.....120 ft.
- (3) on subdivided land served by either public water or public sewerage facilities.....60 ft.
- (4) on subdivided land served both by public water and public sewerage facilities.....60 ft.

3.4 MINIMUM FRONT YARD.....30 ft.

3.5 MINIMUM SIDE YARD.....7 ft.

3.6 MINIMUM REAR YARD.....20 ft.

3.7 MAXIMUM HEIGHT OF BUILDINGS.....

**SECTION IV**

**A1 – AGRICULTURAL DISTRICT**

4.1 USES PERMITTED

- (1) All uses, permitted in the R, Residential District
- (2) Small animal clinics
- (3) Farm and garden buildings and uses, provided such use does not include feed yards, fur farms, kennels, veterinary hospitals, and commercial riding stables
- (4) Individual mobile homes, with area as defined in 6.2

4.2 MINIMUM AREA OF LOT.....two acres

4.3 MINIMUM LOT WIDTH.....200 ft.

**SECTION V**

**A2 – AGRICULTURAL DISTRICT**

5.1 USES PERMITTED

- (1) All uses permitted in the A1, Agricultural District
- (2) Commercial feed yards, fur farms, kennels, veterinary hospitals, and commercial riding stables, provided all such uses are located at least 1500 ft. from schools, churches, and dwellings on other lots
- (3) Airports, cemeteries, radio-transmitting stations, sanitary land fill operations, grain elevators, and sewage disposal areas, subject to the provisions of Section XII of this Resolution
- (4) Oil drilling facilities, mines, quarries, and sand and gravel operations, subject to the provisions of Section XII of this Resolution

5.2 MINIMUM AREA OF LOT.....two acres

5.3 MINIMUM LOT WIDTH.....200 ft.

5.4 MINIMUM DISTANCE FEED LOTS TO OTHER STRUCTURES.....1500 ft.

**SECTION VI**

**M – MOBILE HOME DISTRICT**

**6.1 USES PERMITTED**

- (1) All uses permitted in the R, Residential District
- (2) Individual mobile homes
- (3) Mobile home parks, subject to the provisions of the County Sub-Division Regulations

**6.2 MINIMUM AREA OF LOT**

For all uses permitted in the R District and individual mobile homes:

- (1) on subdivided land.....two acres
- (2) on subdivided land not served by public water and public sewerage facilities.....30,000 sq. ft.
- (3) on subdivided land served by either public water or public sewerage facilities.....15,000 sq. ft.
- (4) on subdivided land served by both public water and public sewerage facilities.....7,500 sq. ft.

**6.3 MINIMUM LOT WIDTH**

For all uses permitted in the R District and individual mobile homes:

- (1) on subdivided land.....200 ft.
- (2) on subdivided land not served by public water and public sewerage facilities.....120 ft.
- (3) on subdivided land served by either public water and public sewerage facilities.....60 ft.
- (4) on subdivided land served by both public water and public sewerage facilities.....60 ft.

6.4 MINIMUM FRONT YARD.....30 ft.

6.5 MINIMUM SIDE YARD..... 7 ft.

6.6 MINIMUM REAR YARD.....20 ft.

6.7 MAXIMUM HEIGHT OF BUILDINGS.....30 ft.

**SECTION VII**

**REC – RECREATION DISTRICT**

7.1 USES PERMITTED

- (1) All uses permitted in the R, Residential District
- (2) Outdoor recreational areas and facilities serving these areas, such as boat docks, playgrounds, ball parks, campgrounds (not including mobile home parks) for overnight, not weekly use, and picnic areas, provided natural environmental features are not damaged, and that such uses are not noxious, offensive or objectionable because of excessive noise, odors, dust or vibration

7.2 MINIMUM AREA OF LOT.....one acre

7.3 MINIMUM LOT WIDTH.....150 ft.

7.4 MINIMUM FRONT YARD.....30 ft.

7.5 MINIMUM SIDE YARD.....10 ft.

7.6 MINIMUM REAR YARD.....20 ft.

**SECTION VIII**

**T – TOURIST DISTRICT**

**8.1 USES PERMITTED**

(1) Restricted business uses, including but not limited to the following:

- All uses permitted in the R, Residential District
- Barber and beauty shops
- Cleaning and dyeing outlets
- Clothing stores
- Florists
- Gasoline stations
- Grocery stores
- Hardware stores
- Laundries, self-service
- Motels, hotels, and lodges
- Places of amusement or recreation
- Places serving food or beverages
- Souvenir or gift shops
- Sporting goods stores
- Theaters, indoor

Provided all previous listed uses do not allow objectionable or obnoxious amounts of noise, odor, dust, smoke, vibration or other similar causes to be disseminated beyond individual lot lines, and that all outdoor storage areas are completely concealed by a solid fence at least 8 ft. in height.

(2) All accessory uses are appurtenances to these uses will be allowed

- 8.2 MINIMUM AREA OF LOT.....one acre
- 8.3 MINIMUM LOT WIDTH.....150 ft.
- 8.4 MINIMUM FRONT YARD.....30 ft.
- 8.5 MINIMUM SIDE YARD.....10 ft.
- 8.6 MINIMUM REAR YARD.....20 ft.

**SECTION IX**

**C – COMMERCIAL DISTRICT**

9.1 USES PERMITTED

- (1) All uses permitted in the T, Tourist District
- (2) Mobile home parks, subject to the provisions of the County Sub-division Regulations
- (3) Single and Multiple family dwellings, including mobile home and modular homes
- (4) Any general business, commercial or wholesale activity, including but not limited to the following:

Automobile sales and repair	Hardware stores
Bakeries	Laundries
Banks	Lumber yards
Barber & beauty shops	Machine shops
Blacksmith shops	Meat stores
Bottling works	Manufacturer of handicraft products
Cabinet making & carpenter shops	Personal service shops
Cleaning & dyeing establishments	Places of amusement or recreation
Clothing stores	Places serving food or beverages
Commercial fertilizer sales	Plumbing shops
Dairies	Printing & publishing establishments
Drug stores	Roofing shops
Farm implement & equipment	Small animal clinics
Sales	Sporting goods stores
Frozen food lockers	Storage warehouses
Florists	Theaters, including drive-in
Gasoline stations	Tinsmith shops
Grocery stores	Upholstery shops

Provided all previous listed uses do not allow objectionable or obnoxious amounts of noise, odor, dust, smoke, vibration or other similar causes to be disseminated outside of the C District, and that all outdoor storage areas are completely concealed by a solid fence at least 8 ft. in height.

9.2 MINIMUM AREA OF LOT.....one acre

9.3 MINIMUM FRONT YARD.....30 ft.

**SECTION X**

**IND – INDUSTRIAL DISTRICT**

10.1 USES PERMITTED

- (1) All uses permitted in the C, Commercial District; and
- (2) Industrial and manufacturing uses which are not detrimental to the public health, safety or general welfare...provided adequate safeguards are taken to protect adjoining properties from objectionable or harmful substances, conditions or operations.

10.2 MINIMUM AREA OF LOT.....one acre

10.3 MINIMUM FRONT YARD.....30 ft.

**SECTION XI**

**U – UNCLASSIFIED**

**11.1 USES PERMITTED**

All uses unless otherwise prohibited by law, except the following uses shall be subject to the provisions of section XII of this Resolution:

- Automobile wrecking yards
- Cement, lime or gypsum manufacturing
- Chemical plants
- Dehydrating alfalfa plants
- Fireworks or explosives manufacturing
- Garbage, offal or dead animal dumping or reducing operations
- Glue manufacturing or fat rendering, or distillation of bones
- Junk yards
- Refineries
- Slaughter houses and packing houses
- Smelting of ore
- Major facilities of a public utility including major pipelines, transmission lines, cables and fiber-optic cables
- Private and/or commercial landfills
- Other manufacturing
- Creating, constructing or maintaining a reservoir, and
- Creating or constructing a wind turbine, a meteorological tower or wind energy facility or any part thereof

in general, all uses which may be obnoxious, offensive or hazardous, or detrimental to the public welfare by the emission of unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors or noises and any additions to any of the foregoing uses.

- 11.2 MINIMUM FRONT YARD.....30 ft.
- 11.3 MINIMUM DISTANCE OF ANY BUSINESS OR INDUSTRIAL  
USE FROM AN ADJOINING ZONING DISTRICT BOUNDARY.....200 ft.

**SECTION XI (a)**

**CHW – COMMERCIAL HAZARDOUS WASTE DISTRICT**

No commercial hazardous waste sites shall be established or operated or plans made to establish the same on any zoned or un-zoned areas of Sedgwick County without the prior designation of a Commercial Hazardous Waste Zone area by the Board of County Commissioners.

The request for an area to be designated as a Commercial Hazardous Waste Zone shall be accompanied by a non-refundable \$100,000 application fee. Due to the critical nature of locating such a site, this fee shall be utilized to complete comprehensive research into the re-zoning application.

**11a.1 USES PERMITTED**

The only use permitted in a hazardous waste district shall be a hazardous waste disposal site. This use shall be permitted nowhere else in Sedgwick County that is not specifically zoned CHW.

**11a.2 MINIMUM FRONT YARD.....2640 ft.**

**11a.3 MINIMUM DISTANCE OF ANY DISPOSAL SITE  
FROM AN ADJOINING ZONING DISTRICT BOUNDARY.....2640 ft.**

**11a.4 SPECIAL REVIEW OF COMMERCIAL HAZARDOUS WASTE DISPOSAL SITE**

If a portion of land receives the designated zoning of CHW, the use of hazardous waste disposal site shall then receive special review by the Board of County Commissioners before it can be allowed. Special review can be done either at special public hearings or regular sessions of the Board of County Commissioners and will continue until the Board of County Commissioners are satisfied that all the pertinent information has been made available by the applicant. Once the board makes a determination that all the information needed is before them, a decision may be rendered to deny, approve, or conditionally approve the application.

The application fee accompanying the application will be in the amount of \$100,000. The fee shall be utilized by the county to research the applicant’s background and the validity of the information provided by the applicant. Should the application review be extended beyond one year, a second \$100,000 will be required by the applicant.

Prior to allowing the hazardous waste disposal site use, the Board of County Commissioners must find the following information:

- (a) Adequate proof from the applicant that the area in question is situated such that it shall neither currently, or at a future date, adversely affect, contaminate, or pollute either surrounding air, soil, or underground water supplies.

- (b) Adequate proof from the applicant that access to the site will be such that an accident spill of hazardous waste material will not endanger any family dwellings, town, or water supplies above or below the ground.
- (c) Adequate proof from the applicant that the proposed method of disposal, specifically related to the preparation and sealing of containers, guarantee the containment of the hazardous waste material for a period of time determined to be adequate by the Board of County Commissioners.
- (d) Adequate proof by the applicant that the individual, company, corporation, or entity be financially capable of establishing, maintaining, and administering the site for a period of time determined to be adequate by the Board of County Commissioners.
- (e) Adequate proof by the applicant that the proposed methods of operation are feasible and practical on a day to day operation basis.
- (f) Adequate proof by the applicant that the proposed manager and/or operators are capable of managing the facility in the manner required in the regulations.

If the Board of County Commissioners should decide to approve the special use of a commercial hazardous waste site, the following minimum requirements must be part of the conditions in place:

1) Prior to any commencement of construction at the site, the applicant shall place a minimum of \$2,000,000.00 in an escrow account, set up for the purposes of dealing with the commercial hazardous waste disposal site should any leakage, spill or other accident occur, or if the applicant should, due to unforeseen circumstances, become financially incapable of carrying on the operation. The applicant is legally liable for any such occurrence. The escrow account in no way relieves actual liability. The escrow monies would only be used should the applicant prove unable to deal with the problem. The \$2,000,000.00 is a minimum figure. The Board of County Commissioners may choose to set the amount to be escrowed at a higher amount.

2) The applicant will be required to obtain an annual license to operate. Prior to any operator commencing operations at the site, he shall make applications for an operator's license. The operator's license will review the capability of the operator to run a hazardous waste disposal site. The initial license fee shall be \$100,000.00. A license shall not be issued unless the County Planning Commission and the Board of County Commissioners are satisfied that the applicant has sufficient training in such an operation.

The license can be revoked or suspended should any violations at the site be discovered. The license cannot be transferred, reassigned, or conveyed to any other entity, corporation or individual. The license shall be renewed annually on its anniversary. The annual renewal shall have a fee of \$10,000.00. The renewal applications shall be reviewed by the Board of County Commissioners and the County Planning Commission.

- a) The operator shall allow county officials to visit the site at any time for inspection.
  
- b) The operator shall pay the expenses for the county to train a full time Inspector qualified in hazardous waste disposal. The operator shall furnish the monies to pay the annual salary of said full time Inspector. The County shall hire and supervise the Inspector. Salary shall be determined annually by the Board of County Commissioners as the operator's license is reviewed for renewal.

## SECTION XII

### USES PERMITTED BY SPECIAL REVIEW (SPECIAL USE PERMIT)

#### 12.1 USES PERMITTED

Due to their unusual and unique features, which, in certain situations, could be injurious to the health, safety or welfare of inhabitants of Sedgwick County, the following uses shall be permitted in the designated zoning districts only after receiving favorable approval of the Board of County Commissioners:

- (1) Airports, cemeteries, radio-transmitting stations, grain elevators, land fill operations and sewage disposal areas in the A2 District, subject to the following additional provisions:
  - (a) Such areas shall serve an obvious public need
  - (b) Sufficient distance shall separate such uses from damaging abutting properties and
  - (c) Satisfactory proof shall be given that such areas will be properly maintained
- (2) Oil drilling facilities (not including refineries), mines, quarries, and sand and gravel operations in the A2 District, subject to the following additional provisions:
  - (a) Truck traffic to and from such uses shall not create hazards in developed residential and tourist areas
  - (b) Truck traffic to and from such uses shall not unduly damage public roads and
  - (c) A satisfactory general rehabilitation plan for the land shall be submitted prior to the start of operations and implemented thereafter
- (3) All uses itemized for special review in the U District, subject to the following additional provisions:
  - (a) A site plan, elevation, perspective or general written description of the proposed use shall be presented and
  - (b) An explanation shall be made in writing of methods to be used to minimize smoke, odors, noise, dust and similar environmental problems which might result from the operation of the proposed use
- (4) All uses itemized for special review in the U District shall be subject to the following additional provisions:
  - (a) A site plan, elevation, perspective or general written description of the proposed use shall be presented

- (b) An explanation shall be made in writing of methods to be used to minimize smoke, odors, noise, dust and similar environmental problems which might result from the operation of the proposed use; and
- (c) Documented information regarding the actual cost of materials and construction of the project in question, including such things as:
  - 1) right of way costs
  - 2) permit costs
  - 3) engineering costs
  - 4) per mile cost
  - 5) amount of revenue to be generated from the project
  - 6) length of time of construction for said project
  - 7) whether or not the project will be a replacement for an addition to any other improvement location within the County and
  - 8) any other information deemed pertinent by the Board of County Commissioners

SECTION 12.1.1 SPECIAL USE PERMIT APPLICATION REQUIREMENTS FOR WIND ENERGY FACILITY.

- A. APPLICATION MATERIALS.** The applicant shall submit an application for Special Use Permit to a County designated Administrator (hereafter Administrator) that contains the following material.
- 1. Written Description.** A brief written description of the proposed Wind Energy Facility.
    - a.** Applicant is not the owner. If the applicant is not the owner of the land where the proposed Wind Energy Facility will be located, the applicant shall submit a letter signed by the owner consenting to the submission of the application for Special Use Permit.
    - b.** Applicant is not the sole owner. If the applicant is not the sole owner of the land where the proposed Wind Energy Facility will be located, the applicant shall submit a letter or equivalent signed by the other owners, consenting to or joining in the application for a Special Use Permit. In addition any easement holders shall be notified as required by state law and proof of such notification shall be provided by the applicant.
  - 2. Location Map.** A location map, to scale, that illustrates the following:
    - a.** Proposed location of the Wind Energy Facility in the County, and description of the current land use.
    - b.** All property within 1500 feet of the exterior boundary of the site of the proposed Wind Energy Facility, and location and description of the current land use, including agricultural use, dwelling units, microwave communication links and airports.
      - (1)** Applicant shall provide a list of the individual property owners and mineral rights holders within 1500 feet of the exterior boundary, and their current mailing address.

3. Site Plan. The site plan, prepared at a scale acceptable to the Administrator, shall include the following elements:
  - a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
  - b. Clearly identified boundary lines, corner pins and dimensions of the site where the proposed Wind Energy Facility will be located.
  - c. Size of the site where the proposed Wind Energy Facility will be located, in acres or square feet.
  - d. Location and dimension of all existing structures and facilities on the site where the proposed Wind Energy facility will be located, and on properties adjacent to the site.
  - e. Proposed location and dimension of all proposed structures and facilities, including the location and dimensions for *each* Wind Turbine in the proposed Wind Energy Facility with final locations to be provided prior to the issuance of building permit:
    - (1) Setbacks of the Wind Turbines from property lines and the distance between each Wind Turbine.
    - (2) Setbacks of all accessory buildings and structures.
    - (3) The site plan shall be accompanied by a detailed drawing or a photograph of each model of Wind Turbine proposed to be installed as part of the Wind Energy Facility.
  - f. Existing and proposed roads, railroad tracks, utility lines and facilities, irrigation ditches, and easements and rights-of-way on and within 1500 feet of the exterior boundary of the site where the proposed Wind Energy Facility will be located, shown by location and dimension.
    - (1) Applicant shall provide a description of the ownership and purpose of the easements and rights-of-way identified on or within 1500 feet of the exterior boundary of the site.



- 7.** Utility Interconnection.
  - a.** Description of utility interconnection.
  - b.** Copy of written notice to applicable electric utility of intent to interconnect the Wind Energy Facility to the electric utility.
  
- 8.** Water and/or Wind Erosion Control Plan. A plan showing existing and proposed grading for the Wind Energy Facility site. The Drainage and Erosion Control Plan shall be accompanied by a description of practices that will be utilized to prevent erosion and run-off during and after construction.
  
- 9.** Analysis for Erosion, Sedimentation and Flooding. If any Wind Turbine or accessory facility included in the proposed Wind Energy Facility is located within the 100-year flood plain, the application shall be accompanied by a report that addresses the potential for wind erosion, water erosion, sedimentation and flooding.
  
- 10.** Geotechnical Report. A Geotechnical Report that includes:
  - a.** Soils engineering and engineering geologic characteristics of the site based upon on-site sampling and testing.
  - b.** Foundation design criteria for all proposed structures.
  - c.** Slope stability analysis.
  - d.** Grading criteria for ground preparation, cuts and fills, and soil compaction.

11. Noxious Weed Control Plan. A description of the measures for controlling noxious weeds existing on the property or that may become established as a result of the development.
12. Impact Analysis. Description of the impacts that the proposed Wind Energy Facility may cause. The Impact Analysis shall include a complete description of how the applicant will ensure that impacts will be mitigated and standards will be satisfied.
13. Notice to FAA. If any Wind Turbine included in the proposed Wind Energy Facility has a system height over two hundred (200) feet or is located within twenty thousand (20,000) feet of the runway of an airport, the application shall be accompanied by a copy of the written notification to the Federal Aviation Administration (FAA). This provision shall be satisfied prior to construction beginning on the project.
14. Notice to Operation of Communication Link. If any Wind Turbine included within the proposed Wind Energy Facility is located within two (2) miles of any microwave communications link, the application shall be accompanied by a copy of the written notification to the operator of the communication link.
15. Additional Information and Waivers. The Administrator may request additional information that may be required to evaluate the proposed Wind Energy Facility. The Administrator may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

SECTION 12.1.2 SPECIAL USE PERMIT REVIEW AND APPROVAL  
PROCESSES FOR WIND ENERGY FACILITY.

- A. PREAPPLICATION MEETING. Applicant shall schedule a Pre-application Meeting with the Administrator to discuss the proposed Wind Energy Facility.
  1. The Pre-application Meeting is intended to provide information pertinent to the site and the proposal, to provide an understanding of

the applicable review procedures and the standards to be met for approval of the application, and to explain the application materials required for submittal.

- B. COMPLETENESS DETERMINATION.** Within fifteen (15) calendar days following receipt of the land use permit application, the Administrator shall determine whether the application is complete. An application shall be deemed complete if it includes all information required.
1. **Application Not Complete.** If the application is not complete, the Administrator shall notify the applicant in writing of any materials that must be submitted for the application to be deemed complete. The time to review the application shall not begin to run until the application has been determined to be complete.
  2. **Completeness Date.** Once the application has been determined to be complete, the Administrator shall stamp the application with the date that it was determined to be complete, and all time frames pertaining to review of the application shall be based on the completeness date.
- C. REVIEW OF APPLICATION MATERIALS.**
1. **Review by Referral Agencies.** The Administrator shall request the professional analysis and recommendations of referral agencies, organizations, or technical consultants deemed appropriate and necessary to complete the review.
    - a. Upon determination of completeness, the Administrator shall cause the application materials or any portion thereof to be submitted for referral review and comment. The period for comment by the review agencies shall be thirty (30) calendar days from the date the application is deemed complete by the Administrator, unless an extension has been requested by the referral agency. The Administrator may grant an extension if it is determined that good cause for the delay has been shown. The failure of any agency to respond within the 30-day review period or within the period of extension shall not be deemed an approval of such plan by the referral agency.
    - b. Applicant shall be responsible for direct payment of review fees charged by consultants and referral agencies.





rights holders within a 1500 foot radius of the boundaries of the proposed Wind Energy Facility by sending a written notice describing the proposal for development of a Wind Energy Facility and the time, date and location of the public hearing by the Board of County Commissioners.

- b.** Publication of Notice of Board of County Commissioners Public Hearing. The County shall arrange for notice of the Board of County Commissioners public hearing on the application to be published at least fourteen (14) calendar days prior to the date of the public hearing in a newspaper of general circulation describing the proposal for development of a Wind Energy Facility and the time, date and location of the public hearing by the Board of County Commissioners.
  - c.** Posting on the Property. Not less than fourteen (14) calendar days prior to the date of the public hearing, the applicant shall post signs as appropriate to notify the public as determined by the administrator of the proposal Wind Energy Facility development.
- 3.** Board of County Commissioners Public Hearing. The Board of County Commissioners shall hold a public hearing to consider the application and evidence regarding compliance with the relevant approval standards in 12.1.3 before taking action on the application.
  - a.** Approval. The application shall be approved if the application satisfies all of the relevant standards in 12.1.3.
  - b.** Conditional Approval. The application may be approved with conditions if conditions are necessary to ensure compliance with the relevant standards.
  - c.** Denial. The application shall be denied if the application does not satisfy all of the relevant standards in 12.1.3.
  - d.** Contingent Approval. A Wind Energy Facility may be approved subject to the necessary approvals from state and federal agencies, and utility acceptance of any electrical interconnection.
  - e.** Phases of Development. If the application proposes phased development of the Wind Energy Facility, each phase of development shall be described in the permit approval, including the following information:

- (1) Number of Wind Turbines and the appurtenant facilities to be developed in each phase.
  - (2) Size of the area involved for each development phase.
4. Written Notice of Approval. Upon approval of a Wind Energy Facility, the County shall provide written notice to the Public Utilities Commission and to the concerned utility.
5. Activity Notice Required. Building permits shall be obtained for all new buildings and structures comprising the Wind Energy Facility, including each Wind Turbine, prior to beginning construction. A building permit fee in the amount of \$200.00 per wind turbine shall be payable at the time of issuance of the building permit.
6. Life of Permits.

The individual Activity Notice issued for each Wind Turbine in the Wind Energy Facility shall be valid for the useful life of the Wind Turbine.

- b. The Special Use Permit approval for a Wind Energy Facility shall be valid for the useful life of the Wind Energy Facility. The life of the Special Use Permit shall be determined at the time of approval.
7. Monitoring. Upon twenty-four hours notice to the landowner and the applicant, the Board or its official representative may enter the property on which a Wind Energy Facility has been permitted, for the purpose of ensuring compliance with the terms of permit approval and applicable County regulations, and of monitoring noise, environmental impacts and other impacts which may arise.

**8. Unsafe and Inoperable Wind Turbines.**

- a.** Any unsafe or inoperable Wind Turbine and Wind Turbines for which the Activity Notice has expired shall be removed by the owner. All safety hazards created by the installment and operation of the Wind Turbine shall be eliminated and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security may be required to cover the cost of removal and site restoration. The actual Special Use Permit may state the bond or other security required.
- b.** Any unsafe or inoperable Wind Turbine shall be considered a public nuisance subject to abatement by repair, rehabilitation, demolition or removal. A Wind Turbine shall not be considered unsafe or abandoned if the owner can demonstrate to the Board's satisfaction that modernization, rebuilding or repairs are in progress or are planned and will be completed within six months of the date of notice of violation issued by the County.

**12.1.3 STANDARDS APPLICABLE TO WIND ENERGY FACILITIES**

**A. GENERAL STANDARDS**

- 1. PUBLIC HEALTH, SAFETY AND WELFARE.** The proposed Wind Energy Facility shall not be detrimental to the health, safety or general welfare of the community.
- 2. COMPLIANCE WITH COMPREHENSIVE PLAN AND INTERGOVERNMENTAL AGREEMENTS.** The proposed Wind Energy Facility is consistent with relevant provisions of any Sedgwick County Comprehensive Plan and any intergovernmental agreement between the County and a municipality that applies to the area where the use will occur.

- 3. COMPLIANCE WITH OTHER REGULATIONS.** The Wind Energy Facility shall comply with all applicable rules and regulatory requirements of state and federal agencies, and of Sedgwick County.
  
- 4. WATER AND WASTEWATER SERVICE.**

  - a.** The water and wastewater service shall be adequate to serve the Wind Energy Facility.
  
  - b.** The water and wastewater systems shall comply with state standards.
  
- 5. ROADWAYS AND ACCESS.**

  - a.** Legal access to a public right-of-way to and from the Wind Energy Facility shall be safe and in conformance with access standards set forth in the County Road and Bridge Standards.
  
  - b.** The Wind Energy Facility shall not cause traffic congestion or unsafe traffic conditions.
  
  - c.** Adequate turning radius shall be installed at all entrances to accommodate large truck movement.
  
  - d.** Off-street parking and loading zones shall be surfaced with gravel or the equivalent and shall be graded to prevent drainage problems.
  
  - e.** Staging activities and parking of equipment and vehicles shall occur on-site and on private rights-of-way, and shall be

prohibited on maintained County roads, unless the applicant obtains written permission from the County Road Supervisor.

**f.** The applicant shall work with Sedgwick County Road and Bridge to ensure the proper maintenance and repair of all County roads utilized by the Wind Energy Project. All impacts to the roadway system shall be mitigated through roadway improvements or impact fees, or both.

**6.** **SERVICE DELIVERY SYSTEM CAPACITY.** The Wind Energy Facility shall not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.

**a.** **IMPACT FEES.** If the application shows that there will be unmitigated impacts to County roads or other County capital facilities caused by the Wind Energy Facility, the County may assess an impact fee in the amount necessary to offset the impact to roads or other capital facilities.

**B. RESOURCE AND ENVIRONMENTAL PROTECTION STANDARDS.**

**1.** **WATER QUALITY PROTECTION.** The Wind Energy Facility shall not cause significant degradation of the quality of surface or ground water resources. Groundwater pollution control measures shall be implemented that prevent the discharge of pollutants from the activity into groundwater. If the applicable state or federal regulations governing the Wind Energy Facility do not address protection of ground water, the County may require a water quality monitoring plan and reporting plan designed for the early detection of an impact to water quality associated with the Wind Energy Facility.

**2.** **AIR QUALITY.** The proposed Wind Energy Facility shall not cause air quality to be reduced below levels established by the Colorado Air Pollution Control Division.

- 3. WILDLIFE.** The proposed Wind Energy Facility must meet State and Federal requirements relating to wildlife habitat areas.
- 4. GLARE, DUST, OR NOISE.** Construction and operation of the Wind Energy Facility shall minimize through best commercial practices objectionable glare, dust, or noise to surrounding properties.

  - a.** The proposed Wind Energy Facility shall comply with the statutory provisions for maximum permissible noise levels in Section 25-12-103, C.R.S.
  - b.** Fugitive dust and particulate emissions shall be controlled on the site.
  - c.** Waste materials shall be handled, stored, and disposed of in a manner that controls fugitive dust, fugitive particulate conditions, blowing debris and other potential nuisance conditions.
  - d.** The Wind Energy Facility shall not be artificially lighted except to the extent required by the FAA or other applicable authority.
- 5. EROSION AND SEDIMENTATION CONTROL.** Erosion and sedimentation control measures that ensure that disturbed areas and soil stockpiles are stabilized during construction shall be implemented. Disturbed areas shall be controlled within one growing season, pursuant to an approved vegetation plan by Natural Resource Conservation Service (NRCS).
- 6. DRAINAGE / STORMWATER RUN-OFF.** Run-off shall be kept on the site in a stormwater detention system approved by the County, and waters in excess of historic run-off shall be prevented from leaving the site during construction and after site development.

- a.** If applicable, the applicant shall obtain a Stormwater Discharge Permit from the Colorado Department of Public Health and the Environment, Water Quality Control Division.
  
- 7.** PROTECTION OF AGRICULTURAL LANDS. The Wind Energy Facility shall not have a significant adverse impact on agricultural lands and agricultural operations.
  
- 8.** PROTECTION OF IMPORTANT AREAS. The Wind Energy Facility shall not significantly degrade areas of paleontological, historic, or archaeological importance. If the site of the Wind Energy Facility includes or potentially affects known areas of historic, paleontological or archaeological resources, applicant shall coordinate with the State Historic Preservation Office to minimize and or avoid impacts during construction.

**C. SITE AND FACILITY DEVELOPMENT STANDARDS**

- 1. GENERAL SITE PLAN STANDARDS.**
  - a.** The site must be adequate in size and shape to accommodate the Wind Energy Facility and all appurtenant facilities.
  
  - b.** To the extent practicable, the site shall be developed in a manner that preserves the natural features of the site, avoids areas of environmental sensitivity, and minimizes adverse visual impacts.
  
- 2. HEIGHT RESTRICTIONS.** The height of any structure within the Wind Energy Facility shall not exceed five hundred (500) feet.
  - a.** The Board may waive the height restriction based upon one of the following determinations:

- (1) The Applicant has demonstrated to the satisfaction of the County that it is technically infeasible to comply with the height restriction; or
  - (2) The Board has determined that the purpose of these regulations would be better served by approving the waiver of height restriction requested by the applicant.
- b.** A decision by the Board to waive the height restriction shall include the following considerations:
- (1) The applicant will otherwise design, construct and operate the Wind Energy Facility in compliance with County standards to the maximum extent feasible.
  - (2) The waiver will not cause substantial injury to the owner or occupant of adjacent land(s).
  - (3) The waiver will not cause substantial injury to the environment.
  - (4) The waiver will not interfere with established FAA-regulated public airport flight paths or structural height restrictions within public airport influence zones.
  - (5) If the structural height does not comply with applicable state and federal regulations, the applicant has obtained written approval of the proposed height, from the appropriate agency.
- c.** The burden is on the applicant to demonstrate the need for the Board to waive the height restriction.

**3. SETBACKS.** Unless otherwise required by federal or state regulations applicable to the Wind Energy Facility, the following minimum setbacks shall apply.

**a. Measurement.** Front, rear and side setbacks shall be measured as the distance between the nearest lot line and the foundation of a structure, along a line at right angles to the lot line. The foundation for a turbine is that part of the pedestal above-grade at the base of the steel tower section.

**b. Safety Setbacks.** The following setbacks shall apply to each Wind Turbine comprising the Wind Energy Facility.

	<b>MINIMUM SETBACK</b>
Setback from above-ground public electric power lines or communication lines <sup>1</sup>	1.1 times system height
Setback from public road or highway or railroad <sup>2</sup>	1.1 times system height
Setback from public road or highway with ADT of 7,000 or more <sup>3</sup>	1.1 times system height or 400 feet, whichever is greater
Setback from property line of any lot containing inhabited structures, including: residence, school, hospital, church or public library.	1.1 times system height, or 1000 feet, whichever is greater
Setback from all other property lines, unless appropriate easements are secured from adjacent property owners or other acceptable mitigation is approved by the Board.	1.1 times system height or 100 feet, whichever is greater
1. Measured from the outer boundary of the public utility right-of way or easement [or from existing power line or telephone line] 2. Measured from the outer boundary of the public road/highway right-of-way or railroad right-of-way 3. Average daily trips, based on traffic field measurements [determined by CDOT or County]	

**c. Scenic Resource Setback.** Wind Turbines comprising the Wind Energy Facility shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Sedgwick County Comprehensive Plan or by the state.

**(1)** A scenic resource protection setback requirement may be reduced to 1.5 times the total Wind Turbine height if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

- d.** Notice and Record of Waiver or Reduction of Setback.
  - (1)** Any proposed setback waiver or reduction shall be included in all public notices regarding the land use permit application review.
  - (2)** If the application is approved with a setback waiver or reduction, the approved setbacks shall be specified in the approval.
  
- 4.** MINIMUM GROUND CLEARANCE. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
  
- 5.** SAFETY AND SECURITY.
  - a.** Fencing, or other barriers acceptable to the County, shall be installed to prevent unauthorized access to the Wind Energy Facility. This provision may be waived by the County.
  
  - b.** All wiring and/or collector cables between Wind Turbines and the Wind Energy Facility substation shall be underground.
  
  - c.** Guy wires shall be distinctly marked.
  
  - d.** The outside/exterior climbing apparatus shall be a minimum of fifteen (15) feet from ground level.
  
  - e.** All access doors to Wind Turbine towers and electrical equipment shall be lockable.



- d.** As-built drawings. As-built drawings shall be provided to Sedgwick County Road and Bridge once the installation has been completed.
- e.** Permit and Notice to Proceed. Work shall not commence until the required permit(s) and notice to proceed with the installation(s) have been issued by Sedgwick County Road and Bridge.

**8. INTERCONNECTION AND ELECTRICAL DISTRIBUTION FACILITIES.**

- a.** All distribution lines, electrical substations, and other interconnection facilities shall be constructed using industry standards and practices that conform to all applicable state and federal requirements.
- b.** Interconnection shall conform to the requirements of the electric utility company, and applicable state and federal regulatory requirements.

**9. INTERFERENCE WITH NAVIGATIONAL SYSTEMS.** The applicant shall minimize or mitigate any interference with electromagnetic communications caused by the Wind Energy Facility, including radio, telephone or television signals.

- a.** Every Wind Turbine shall comply with Federal Aviation Administration regulations for siting structures near an airport or VORTAC installation.
- b.** Every Wind Turbine shall include a locking mechanism which prevents the blades from rotating when not producing power, in order to limit airport radar interference or clutter. The requirement for a locking mechanism may be modified or eliminated if it is established that no significant airport radar interference or clutter will be caused by the Wind Energy Facility.

**10. CERTIFICATION OF EQUIPMENT AND APPURTENANT FACILITIES.**

- a.** All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable state, federal and local regulations and to conform with good engineering practices.
- b.** The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable state, federal and local regulations, and to conform with good engineering practices.

**11. SIGNS.** Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy facility.

**12. COLOR AND FINISH.**

- a.** All Wind Turbines shall be painted a non-reflective, non-obtrusive color, unless specific written permission for a variance is granted by the County Commissioners.
- b.** Design of accessory buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility to the natural setting and existing environment.

**13.** In addition to any other provisions herein pertaining to Wind Energy Facilities, the Board of Commissioners may, in its discretion, require the Applicant to enter into a detailed Development Agreement between the Board and the Applicant in order to memorialize all actions in the form of a Contract for the purpose of further clarifying the duties, responsibilities and liabilities of the parties involved with each phase of the project. This provision may also be waived at the discretion of the Board of Commissioners.

## 12.2 REVIEW PROCEDURE

The Board of County Commissioners shall be guided in their review of each use requesting approval by special review by the purpose of this Resolution, by the unique conditions of the surrounding neighborhood, and by the county-wide need for such use.

## **SECTION XIII**

### **USES NOT ITEMIZED**

Upon application, or on its own initiative, the Board of County Commissioners may, by Resolution, add to the uses listed for a zoning district any other similar use which conforms to the conditions set for in the following special findings:

- (1) Such use is appropriate in the use group to which it is added
- (2) Such use conforms to the basic characteristic of the use group to which it is added and
- (3) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influence or more traffic hazards than the minimum amount normally resulting from the other uses listed in the use group to which it is added

When any use has been added to any group in accordance with this Section, such use shall be deemed to be listed in the appropriate zoning district, and shall be added thereto in the published text of this Resolution at the first convenient opportunity.

## SECTION XIV

### ACCESSORY BUILDINGS AND USES

#### 14.1 DESCRIPTION OF

- (1) An “accessory building and use” is a subordinate use of a building, other structure, or tract of land or a subordinate building or other structure which:
  - (a) Is clearly incidental to the use of the principle building, other structure or use of land
  - (b) Is customary in connection with the principle building, other structure or use of land and
  - (c) Is ordinarily located on the same lot with the principle building, other structure or use of land
- (2) “Accessory building and uses” may include, but are not limited to, the following:
  - (a) home occupations
  - (b) household pets
  - (c) signs
  - (d) off-street parking areas
  - (e) fences
  - (f) incinerators incidental to residential use;
  - (g) storage of merchandise in business and open district
  - (h) storage and sale of crops, vegetable plants, and flowers produced on the premises
  - (i) mobile homes in the A1 and A2 Districts only, provided that such mobile homes are occupied by persons employed on the farm and their families, and that there are not more than two mobile homes per farm in the A1 District

#### 14.2 HOME OCCUPATIONS

A home occupation shall be allowed as a permitted accessory use provided all the following conditions are met:

- (1) Such use shall be carried on by the inhabitants living on the premises and no others
- (2) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character thereof
- (3) There shall be no exterior advertising other than identification of the home occupation; and
- (4) There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line.

### 14.3 SIGNS

Signs shall be permitted as accessory uses in accordance with the following regulations:

- (1) Signs shall be set back from the right of way a distance equal to the front yard requirement for the zoning district in which they are located;
- (2) Signs in the R District may include:
  - (a) One on-site identification sign per occupied residential lot, provided such sign does not exceed 2 sq. ft. in area
  - (b) One on-site “for sale” or “for rent” sign per lot, provided such sign does not exceed 6 sq. ft. in area and is unlighted and
  - (c) One identification sign per public or semi-public use provided such sign does not exceed 35 sq. ft. in area and has only indirect illumination.
- (3) Signs in the A and M Districts may include:
  - (a) Signs permitted in the R District
  - (b) One on-site identification sign per principle use, or other than a residential use, provided such sign does not exceed 80 sq. ft. in area per face
  - (c) On-site signs advertising the sale of products produced on the premises, provided the total area of all such signs does not exceed 40 sq. ft. in area per face or faces and
  - (d) Off-site directional signs, not exceeding 20 sq. ft. in area per sign, and limited to not more than two such off-site signs per principle use.
- (4) Prohibited in all districts are signs which:
  - (a) Contain statements, words, or pictures of an obscene, indecent, or immoral character
  - (b) Contain or are an imitation of an official traffic sign or signal or contain the words “stop”, “go slow”, “caution”, “danger”, “warning”, or similar words
  - (c) Are of a size, location, movement, content, coloring, or manner of illumination, which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal
  - (d) Advertise any activity, business, product or service no longer conducted on the premises upon which the sign is located
  - (e) Have a major moving part or
  - (f) May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment
  - (g) Have flashing illumination

- (5) Illumination of signs in all districts shall be in accordance with the following standards:
  - (a) The light from any illuminated sign be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas
  - (b) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices and
  - (c) Neither the direct, nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares
- (6) All signs erected in a public right of way by a public agency controlling or directing traffic shall be exempt from the provisions of this Resolution.
- (7) All Interstate Highway signs must be at least 400 feet apart, with the exception of "On Premise" signs.

## SECTION XV

### SUPPLEMENTARY REGULATIONS

#### 15.1 SUPPLEMENTARY AREA OF LOT WIDTH REGULATIONS

- (1) Where an individual lot was held in separate ownership from adjoining properties or was platted in a recorded subdivision approved by the Board of County Commissioners prior to the effective date of this resolution or any amendment thereto applicable to such lot, such lot may be occupied according to the permitted uses provided for the district in which such lot is located without regard for “minimum area of lot” and “minimum lot width” requirements otherwise specified in this Resolution.
- (2) No part of a lot area or width required for a lot for the purposes of complying with the provisions of this Resolution shall be included as a lot area or width required for another lot.
- (3) The “minimum area of lot” regulations shall be increased in any district where percolation test show the soil incapable of handling the septic system required for the maximum population density of the proposed use.
- (4) The “minimum area of lot” requirements state in this Resolution may include one-half the width of all adjacent right of ways for each lot, which is one acre or more in size.

#### 15.2 SUPPLEMENTARY YARD REGULATIONS

- (1) In any district where lots comprising 50 percent or more of the frontage on one side of a street between intersection streets are developed with building having an average front yard with a variation of not more than 10 ft., the average front yard of such buildings shall be the minimum required.
- (2) Cornices, canopies, eaves or similar architectural features may extend into a required yard not more than 3 ft.
- (3) Fire escapes may extend into a required yard not more than 6 ft.
- (4) No part of a yard required for a building for the purpose of complying with the provisions of this Resolution shall be included as a yard for another building.
- (5) Accessory buildings may be located in rear yards required for principle buildings.
- (6) In all districts, no fence, hedge, or wall shall be higher than 60 inches above the elevation of the roadway when located within 100 feet of the centerline intersection of any two streets, roads, or highways.

- (7) In all districts, the planting of trees, shrubs, hedges, bushes, or windbreaks must be set back a minimum of 100 feet of the center of any public roadway unless a variance is obtained from the Sedgwick County Board of Commissioners.

### 15.3 MAJOR FLOOD CHANNELS

Buildings or other structures, except a flood control dam or irrigation structure, shall not be constructed in areas subject to inundation unless and until the plans for such buildings or structure are first approved by the Board of County Commissioners subject to the following special conditions:

- (1) Any building or structure which is approved shall be located so as to offer minimum obstruction to the flow of flood water, and shall not cause lands outside of the natural flood channel to be flooded.
- (2) No dwelling shall be permitted
- (3) No schools, churches, or other places of public assembly shall be permitted and
- (4) No storage of materials which could be moved by floodwaters shall be permitted.

## **SECTION XVI**

### **NON-CONFORMING USES AND NON-CONFORMING BUILDINGS**

#### **16.1 DEFINITION OF A NON-CONFORMING USE AND A NON-CONFORMING BUILDING**

- (1) A “non-conforming use” shall include any legally existing use, whether within a building or other structure or on a tract of land which does not conform to the “use” regulations of this Resolution for the district in which such “non-conforming use” is located, either at the effective date of this Resolution or as a result of subsequent amendments which may be incorporated into this Resolution.
- (2) A “non-conforming building” shall include any legally existing building which does not conform to the “location and bulk” regulations of this Resolution for the district in which such “non-conforming building” is located, either at the effective date of this Resolution or as a result of subsequent amendments which may be incorporated into this Resolution.

#### **16.2 CONTINUATION OF USE**

A non-conforming use may be continued and a non-conforming building may continue to be occupied, except as both of the foregoing are otherwise provided in this Section.

#### **16.3 CHANGE OF USE**

A non-conforming use may be changed to any conforming use or to any use of a more restrictive classification.

#### **16.4 ABANDONMENT OF USE**

If active and continuous operations are not carried on in a non-conforming use during a continuous period of twelve months, the building, other structure or tract of land where such non-conforming use previously existed shall thereafter be occupied and used only for a non-conforming use. Intent to resume active operations shall not affect the foregoing.

#### **16.5 RESTORATION**

A non-conforming building or a building containing a non-conforming use which has been damaged by fire or other causes may be restored to its original condition provided such work is started within six months of such calamity and completed within one year of the time the restoration is commenced.

16.6 ENLARGEMENT OF BUILDING OR LAND CONTAINING A NON-CONFORMING USE

A building containing a non-conforming use shall not be expanded by more than one-half the total floor area existing in the building at the time of adoption of this Resolution. Land containing a non-conforming use shall not be expanded in area.

16.7 ALTERATION OF A NON-CONFORMING BUILDING

A non-conforming building may be structurally altered, repaired, or enlarged in any way permitted by these regulations, provided no alterations, repairs or enlargements shall be made in a non-conforming building which would increase the degree of non-conformity with the location and bulk regulations of the Resolution.

## **SECTION XVII**

### **BOARD OF ADJUSTMENT**

#### **17.1 ORGANIZATION**

- (1) A Board of Adjustment is hereby established, the members of which shall be appointed by the Board of County Commissioners. The word "Board" shall be construed of three members, not more than one of who may, at any time be a member of the County Planning Commission. Until otherwise provided, the members of the Board shall serve without compensation. Each member shall serve for three years and shall be eligible for reappointment, provided, however, that of the first appointed Board, one member shall serve three years, one member two years, and one member one year. Any member of the Board of Adjustment may be removed for a cause by the Board of County Commissioners upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term in the same manner as in the case of the original appointments. The Board of County Commissioners may appoint associate members of such Board, and in the event that any regular member is temporarily unable to act due to absence from the county, illness, interest in a case before the Board or any other cause, his place may be taken during such temporary disability by an associate member designated for the purpose.
  
- (2) Meetings of the Board of Adjustment shall be held at the call of the chairman and such other times as the Board in its rules of procedure specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public.

The Board 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 in the office of the Board and shall be a public record. Three members shall be present to constitute a quorum. The board shall adopt supplemental rules of procedure not inconsistent herewith.

#### **17.2 POWERS AND DUTIES**

The Board of Adjustment shall have the following powers and duties, all of which shall be exercised subject to the laws of the State of Colorado and subject to appropriate conditions and safeguards, in harmony with the purpose and intent of this Resolution and in accordance with the public interest and the most appropriate development of the area.

- (1) To hear and decide appeals from, and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of the regulations established by this Resolution. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative official.

- (2) To authorize, upon appeal in specific cases, variances to the
  - (a) Minimum area of lot
  - (b) Minimum lot width
  - (c) Minimum front yard
  - (d) Minimum side yard
  - (e) Minimum rear yardRegulations where, by reason of exceptional shape, size, or topography of lot, or other condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of this Resolution.
- (3) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Resolution in the district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said district.

### 17.3 PROCEDURE

- (1) Any person adversely affected by an interpretation, requirement or regulation of this Resolution may file an application for a variance with the secretary of the Board of Adjustment on a furnished form specifying the grounds of appeal.
- (2) The Board of Adjustment shall not hold a public hearing on all applications and appeals with the following special conditions required:
  - (a) A notice of said hearing shall be published once in a newspaper of general circulation within that part of the County where the property is located at least 14 days prior to the hearing date.
  - (b) A written notice of said hearing shall be mailed by registered mail at least 14 days prior to the hearing date, to the owners of property adjacent to the property in question.
  - (c) Preparation of and payment for all notices shall be the responsibility of the applicant.
- (3) Before any variance is granted, the Board of Adjustment shall include a written finding in its minutes as part of the record in each case, stating specifically the exceptional conditions, the practical difficulties, or unnecessary hardships involved.
- (4) Unless otherwise stated in the Board of Adjustment minutes, all variance permits shall be issued within six months from the time such variance is granted by the Board, after which such variance permit has not been obtained, it shall become null and void.

## **SECTION XVIII**

### **AMENDMENTS**

#### **18.1 GENERAL PROCEDURE**

Amendments to this Resolution shall be in accordance with the laws of the State of Colorado, which requires the following action before adoption of any such amendments:

- (1) Study and recommendation regarding each proposed amendment by the County Planning Commission.
- (2) Completion of a public hearing before the Board of County Commissioners after at least 30 days notice of the time and place of such hearing shall have been given by at least one publication in a newspaper of general circulation within that part of the County where the proposed amendment is located.

#### **18.2 SPECIAL PROCEDURE**

After receiving a report and recommendations concerning any proposed amendments to this Resolution, as required in 18.1 above, The Board of County Commissioners shall hold a public hearing on the proposed amendment with the following special conditions required:

- (1) The notice of said hearing to be published in a newspaper of general circulation within the County shall be the responsibility of the applicant.
- (2) Following the public hearing, the Board of County Commissioners shall approve or disapprove the re-zoning request stating their reasons for such action in an official Resolution.

## **SECTION XIX**

### **ENFORCEMENT**

#### **19.1 INSPECTIONS**

This Resolution shall be enforced by the Board of County Commissioners and their authorized representatives, who are hereby empowered to cause any building, other structure, or tract of land to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Resolution. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct or comply with such violation.

#### **19.2 ZONING PERMIT**

No principle building or other structure (not including fences and accessory buildings) shall be erected, moved or structurally altered in a zoned area unless a Zoning Permit therefore has been issued by the Board of County Commissioners or its authorized representatives. In addition, no use set forth as a use by Special Review in the Unclassified Zone shall be erected, constructed, reconstructed, altered, or changed without first being approved by the Board of County Commissioners under the provision of Special Review in Section XII. Permits shall be issued only in conformance with the provisions of this Resolution and with the payment of the permit fee set from time to time by the Sedgwick County Board of Commissioners. The Board reserves the right to bring in an outside consultant at the expense of the applicant at the Commissioner's discretion.

## **SECTION XX**

### **VIOLATIONS AND PENALTIES**

It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure or to use any land in violation of any regulation in, or any provisions of, this Resolution, or any amendment hereto. Any person, firm or corporation violating any such regulation, or provision of this article, shall be guilty of an amendment and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than ten days, or both. Each day during which illegal construction, reconstruction, erection, alteration, maintenance, or use continues shall be deemed a separate offense. In case any building or structure is or is proposed to be constructed, reconstructed, erected, or is proposed to be erected, constructed, reconstructed, altered, maintained or used or any land is or is proposed to be used, in violation of any regulation or provision of this Resolution, or amendment thereof, the Board of County Commissioners, the District Attorney, or County Attorney of Sedgwick County, or any owner of real estate within the district which such building, structure, or land is situated, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful construction, reconstruction, erection, alteration, maintenance or use.

## SECTION XXI

### DEFINITIONS

For the purpose of this Resolution, certain words or phrases are defined as follows:

When not inconsistent with the content, words used in the present tense include the future, words in the singular include the plural number, words in the plural include the singular number, and the masculine includes the feminine.

- (1) “Area of Lot”  
The total horizontal area within the lot lines of a lot.
- (2) “Building”  
Any structure permanently affixed to the ground and built for the shelter or enclosure of persons, animals, chattels, or property of any kind, the total value of which exceeds the sum of \$5,000.00. Building does not include advertising signboards or fences.
- (3) “Dwelling”  
Any building or portions thereof, which is used as the private residence or sleeping place of one or more human beings, but not including mobile homes, hotels, motels, tourist courts, resort cabins, clubs, hospitals, or similar uses.
- (4) “Dwelling, One-Family”  
A detached building designed exclusively for occupancy by one family.
- (5) “Dwellings, Multiple-Family”  
A building, or portion thereof, designed for or occupied by two or more families living independently of each other.
- (6) “Dwelling Unit”  
One or more rooms in a dwelling designed for occupancy by one family for living purposes and having not more than one kitchen. All dwelling units shall contain at least 400 sq. ft. of floor area measured on the outside walls.
- (7) “Farm and Garden Buildings”  
Those buildings or structures used to shelter or enclose livestock, poultry, feed, flowers, field equipment or similar uses.
- (7.5) “Hazardous Waste”  
Hazardous waste means any waste included by definition in § 25-15-101 (9) of the Colorado Revised Statutes, 1973, as amended.
- (8) “Mobile Homes”  
Any vehicle of a trailer type without motive power constructed for use as temporary or permanent living quarters.

- (9) “Family”  
An individual or any number of persons related by blood or marriage, or a group of not to exceed four persons living together as a single housekeeping unit in a dwelling unit.
- (10) “Feed Yard, Commercial”  
An enclosure for the feeding and fattening of cattle, fowl, rabbits, hogs, and other animals, where the following conditions exist: the animals or fowl are confined to a restricted area; more than 70 percent of feeding for such animals or fowl is purchased rather than being produced on the immediate farm or contiguous leased property; and, the animals or fowl are being fed primarily for commercial and retail sales purposes.
- (11) “Hotel” or “Motel”  
A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, and in which there are six or more guestrooms.
- (12) “Lot”  
A parcel of real property, as shown with a separate and distinct number or letter on a plat recorded in the Sedgwick County Courthouse, or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one public street and held under separate ownership.
- (13) “Lot Line, Front”  
The property line dividing a lot from a street. On a corner lot, only one street line shall be considered as a front line and the shorter street frontage shall be considered the front line.
- (14) “Lot Line, Rear”  
The line opposite the front lot line.
- (15) “Lot Line, Side”  
Any lot lines other than front lot lines or rear lot lines.
- (16) “Lot, Width”  
The distance parallel to the front lot line measured between side lot lines through that part of the building or structure where the lot is narrowest.
- (16.5) “Major Facilities of a Public Utility”  
This includes but is not limited to:
- a) Transmission lines, power plants, and sub-stations of electrical utilities
  - b) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives and gas compressor stations
  - c) Coal slurry lines
  - d) Telephone trunk lines and telephone sub-stations
  - e) Railroads and public transportation services
  - f) Repeater sites, regenerator stations, microwave towers, and other communication towers and facilities

- (17) “Occupied”  
The word “occupied” includes arranged, designed, built, altered, converted, rented, or leased, or intended to be occupied.
- (18) “Person”  
The word “person” shall also include association, firm, co-partnership, or corporation.
- (19) “Public Water and Public Sewerage Facilities”  
Those facilities of a municipality or sanitation district approved by the Colorado State Health Department.
- (19.1) “Reservoir”  
The dam, water tank or similar structure designed to hold or impound water having a capacity of more than 100 acre feet of water with a surface area in excess of 20 acres. Livestock water tanks are defined in C.R.S. § 35-49-103 shall not be considered reservoirs.
- (20) “Street”  
A public thoroughfare, which affords the principal means of access to abutting property.
- (21) “Structures”  
Anything constructed or erected, which requires location on the ground or attached to something having a location off the ground, but not including fences or walls used as fences less than six feet in height.
- (21.5) “Transmission Lines”  
Any line beginning in a power plant or sub-station and terminating at a sub-station within or beyond the jurisdiction at a nominal voltage of 69 KV or greater.
- (22) “Use”  
The purpose for which any land or building is designed, arranged, intended, occupied, or maintained.
- (23) “Yard”  
An open space other than a court, on a lot, unoccupied and obstructed from the ground upward, except as otherwise provided in this Resolution.
- (24) “Yard, Front”  
A yard extending across the full width of the lot between the front line and the nearest line or point of building.
- (25) “Yard, Rear”  
A yard extending across the full width of the lot between the rear lot line and the nearest line or point of building.
- (26) “Yard, Side”  
A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building or accessory building attached thereto.

(27) “Major Electrical Facility”

A major electrical facility includes one or more of the following:

1. Electrical generating facilities;
2. Substations used for regulating, transforming or in any other way modifying the characteristics of electricity;
3. Transmission lines operated at a nominal voltage of 34,500 volts or more; or
4. Structures and equipment associated with such electrical generating facilities, substations or transmission lines.

(28) "Wind Energy Facility"

An electricity generating facility consisting of one or more Wind Turbines under common ownership or control and includes substations MET Towers, cables, wires and other buildings or parts accessory to such facility, whose main purpose is to supply electricity to off-site customers or end users.

(29) "Wind Turbine"

A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. This term shall include the turbine, blade, tower, base and pad transformer.

(30) “Met Tower”

A meteorological tower used for measurement of wind speed, wind direction and temperature.

## **SECTION XXII**

### **INTERPRETATION, CONFLICT WITH OTHER LAWS**

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of any other lawfully adopted rules, regulations or resolutions, the more restricted or that imposing the higher standards shall govern.

## **SECTION XXIII**

### **VALIDITY**

Should any section, clause, provision, sentence, or word of this Resolution be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof, other than the part so declared to be invalid.