

## ARTICLE 6

### SPECIAL USE PERMIT

#### 6.1 GENERAL

The County may authorize by special permit after public hearing, any of the buildings or uses designated in this Regulation as permitted special uses.

#### 6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three (3) miles of the property affected by such action of the County Board, one (1) time at least ten (10) days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County Board, or Planning Commission which has jurisdiction over land within three (3) miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three (3) miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas.

Except as otherwise provided herein, no special use permit shall be granted by the County Board (Ref. 23-114.01 R.S. Neb.), without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds (2/3 or five (5) members) of the total seven (7) members of the County Board of Supervisors (Section 23-165 of Nebraska Revised Statutes, as amended).

### **6.3 SALVAGE OR JUNK YARD**

Salvage or junk yard operations and related facilities shall only be allowed by Special Permit in the AG-1 Zoning District under the following conditions:

1. The operation shall be located on a tract of land at least one-half (1/2) mile from a residential or agricultural farm residence, as measured from the property line of the salvage operation to the nearest point on the dwelling unit.
2. A remediation fund or bond shall be posted for clean up of facility in the event of abandonment.

3. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge.
  - a) When the property abuts a paved road, the side of the property abutting the paved road shall be screened with a fence or wall.
  - b) The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color and shall be so maintained by the proprietor to effectively screen the property as to insure maximum safety to the public and preserve the general welfare of the neighborhood.
  - c) The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence, wall or hedge.
  - d) When a hedge is used, the hedge shall be planted before a Zoning Permit will be issued. Thereafter, the hedge must be maintained so as to reach full maturity within a reasonable time based on the species of vegetation used.
4. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge, fence or wall, or within the public right-of-way.
5. All customer and employee parking shall be within the hedge, fence or wall.
6. Any other requirements deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
7. Special use permits granted under this section may be subject to annual review by the County Board with written notice of hearing of such review given to permit holder at last known address.

In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots and other appropriate safeguards as required to protect adjoining property.

#### **6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS**

Livestock confinement facilities/operations that exceed the maximum capacity of animal units for permitted conditional uses and structures shall only be allowed by special permit in the AG-1, AG-2, AG-3 and AG-4 Agricultural Districts under the following conditions:

1. Distance requirements:

Any new or expanding livestock confinement facilities/operations, as defined in Section 3.50, shall be a minimum distance, in accordance with

the table below, measured from the livestock confinement facility/operation to the nearest wall of any residence other than seasonal use dwellings, commercial or industrial facility, or church, cemetery, school or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. If a cemetery within the minimum distance requirement is determined by the County Board of Supervisors to be of such infrequent use for burial, visitation, or care and maintenance that it should not prevent a proposed or new confinement facility, then the County Board may grant a special permit for a new confinement facility or expansion regardless of the existence of such cemetery.

Any residence which is within the minimum distance requirement for an existing facility under its existing classification as stated below, and which was constructed following establishment of the facility shall not be treated as being within such minimum distance requirement with respect to expansion of the facility.

Expansion of an existing livestock facility/operation which meets the minimum distance requirements in the following table, is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger facility.

**MINIMUM DISTANCE REQUIREMENTS  
FOR LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS**

	Facility A	Facility B	Facility C	Facility D	Facility E	Facility F
Total Animal Units Allowed (Section 3.50)	300 to 500	501 to 1,000	1,001 to 2,500	2,501 to 5,000	5,001 to 10,000	10,001 +
Minimum Distance Required	1/4 mile	3/8 mile	1/2 mile	3/4 mile	1 mile	1.5 mile

2. A management plan for the facility, acceptable to the Nebraska Department of Environmental Quality and the County Board, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor.
3. Disposal and storage of livestock confinement facility/operation animal waste shall be in conformance with the following:
  - A. Disposal and storage of livestock confinement facility/operation animal waste on land within Gage County other than on the

property upon which the livestock confinement facility/operation is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska and subject to the approval of the Gage County Board of Supervisors.

- B. There shall be no storage, or disposal, of livestock waste from a livestock confinement facility/operation upon land designated as wetlands by the United States Department of Agriculture, Farm Services Commission.
  - C. Paunch waste disposal shall only be allowed in the AG-1, AG-2, and AG-3 Agriculture Districts in conformance with a Special Use Permit process.
4. Special use permits granted under this section shall be subject to review by the County Board if not in compliance with the Nebraska Department of Environmental Quality regulations.
5. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health, safety and welfare of the residents of Gage County.
6. Feedlot Minimum Requirements:
- A. Application for proposed or new construction of feedlot shall be published in the local newspaper ten (10) days prior to each public hearing. Notices by mail shall be sent by Gage County to all landowners in accordance with the minimum distances identified by facility type in the table in Section 6.4, Subsection 1.
  - B. Design and management plan shall be required for new and expanding operations, using a form supplied by the County as a checklist to include:
    - 1. Distances from water sources ie: surface water\_\_\_\_\_ feet, wellheads feet (200 feet from state water source or agricultural drainage well.)
    - 2. Scaled drawings for location of facilities and lagoon of confinement including setback distances from center of road.
    - 3. Distances from nearest residences to include all within minimum distances identified by facility type in the table in Section 6.4, Subsection 1, also note prevailing wind. Any owned by livestock operator neighbors.

4. Application of manure, nutrients.
  1. injection
  2. irrigation
  3. surface application
5. Signed, long-term contracts with other landowners showing that the operator has access to additional land for manure distribution.
6. Treatment technologies, if alternate waste management is to be practiced.
  - Additional steps to assure proper utilization of nutrients.
  - Initial deep soil test, nutrient analysis of manure, compost and effluent.
  - Calibration of manure spreaders to accurately determine amount of manure being spread per acre.

**\*All such operations shall be operated in conformance with local, state and federal standards.**

## **6.5 TELECOMMUNICATION TOWERS, FACILITIES and ANTENNAS**

6.51 INTENT: The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. This Section is intended to regulate telecommunication towers, facilities and antennas within the zoning jurisdiction of the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services; to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging; to promote and encourage shared use and colocation of towers and other antenna support structures rather than the construction of additional single use towers; to avoid potential damage to property caused by telecommunication towers, facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound; and to ensure that towers and antennas are compatible with surrounding land uses.

6.52 DEFINITIONS: As used in this Section, the following terms shall have the following meanings:

- a) **ANTENNA:** A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
- b) **ANTENNA SUPPORT STRUCTURE:** Any building or structure other than a tower that can be used for location of telecommunications facilities.
- c) **APPLICANT:** Any person, firm, partnership, association, company, corporation or other legal entity, private or public, whether for profit or not, that applies for a Tower Development Permit.
- d) **APPLICATION:** A process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the County concerning such request.
- e) **CONFORMING COMMERCIAL EARTH STATION:** A satellite dish that is six feet (6') or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this Zoning Regulation.
- f) **ENGINEER:** Any engineer qualified and licensed by any state or territory of the United States of America.
- g) **OWNER:** Any person with fee interest or a leasehold interest of three years or longer to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.
- h) **PERSON:** Any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- i) **SATELLITE DISH ANTENNA:** An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

- j) **STEALTH:** Any telecommunication tower, facility or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles and trees.
  - k) **TELECOMMUNICATIONS FACILITIES:** Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
    - i. Any Conforming Commercial Earth Station antenna six feet (6') in diameter or less which is located on real estate zoned Industrial.
    - ii. Any earth station antenna or satellite dish antenna of three feet (3') or less in diameter, regardless of the zoning applicable to the location of the antenna.
  - l) **TOWER.:**A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
  - m) **TOWER DEVELOPMENT PERMIT:** A special use permit issued by the County upon approval by the County Board of Supervisors of an application to develop a tower within the zoning jurisdiction of the County, which permit shall continue in full force and effect for the term of the permit granted. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed and assigned by the applicant to assigns and successors-in-interest.
  - n) **TOWER OWNER:** Any person or applicant with an ownership or lease interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.
- 6.53 **NON-DEFINED TERMS:** All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC).

6.54 **LOCATION OF TOWERS AND CONSTRUCTION STANDARDS:**



Towers shall be permitted special uses of land in only the following zoning districts: AG-1, AG-2, and AG-4. Towers less than 100 feet shall be permitted special uses in the following zoning districts: R and C. Towers greater than 100 feet shall be prohibited uses in the following zoning districts: R and C.

2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Tower Development Permit by the County Board of Supervisors and issuance of the permit by the County. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator in triplicate and shall pay a filing fee in accordance with Section 10.5.
3. All telecommunication towers, facilities and antennas on which construction is commenced within the zoning jurisdiction of the County after April 1, 2002, shall conform to the County Building Code and all other construction standards set forth in the County Zoning Regulation, federal and state law, and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

**6.55 APPLICATION TO DEVELOP A TOWER:** Prior to commencement of development or construction of a tower, an application shall be submitted in triplicate to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. The name, address and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. All applicants shall execute the application.
2. The legal description of the parent parcel and the leased parcel (if applicable) and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a three (3) mile radius of the location of the proposed tower, including publicly and privately owned towers or structures.

4. A propagation map and inventory of all existing towers in excess of one hundred feet (100') located within a three (3) mile radius of the proposed tower location, including specific information on the owner, location, height and design of each tower.
5. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicant's telecommunications facilities on a tower or useable antenna support structure within a three (3) mile radius of the proposed tower location or written technical evidence from an engineer that the applicant's telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure within a three (3) mile radius of the proposed tower location.
6. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future uses and, if collocation can be accommodated, a specific description of the type and number of additional antennas and the engineering requirements for collocation.
7. A notarized statement by the applicant as to whether the applicant agrees to permit the collocation of the County's emergency service antennas as provided in Section 6.523.
8. Written technical evidence from an engineer that the proposed tower will meet the Building Code, all other construction standards set forth by the County Zoning Regulations and federal and state law and applicable ANSI standards.
9. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residential zoned property and nearest roadway, street or highway.
10. Aerial photo showing the proposed location of the tower and lands within a one (1) mile radius of the proposed tower.
11. Descriptions and diagrams of the proposed telecommunication towers, facilities and/or antenna, manufacturer's literature, appurtenances such as buildings, driveway, parking area and fences or other security enclosures with sufficient detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

12. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, floodways, floodplains, drainage plan, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this chapter.
13. An application for a building permit pursuant to the County Zoning Regulations.

6.56 APPLICATION; COPIES; DISTRIBUTION: The applicant for a Tower Development Permit shall submit to the Zoning Administrator an original and six (6) copies of the application and all supporting documents and materials. Said original and copies shall be distributed by the Zoning Administrator as follows:

Original to the County Clerk for filing.

One (1) copy to the County Clerk for public inspection.

Three (3) copies review by the members of the County Board of Supervisors and the Planning Commission.

One (1) copy each to the Zoning Administrator and County Attorney.

6.57 TOWER DEVELOPMENT PERMIT; PROCEDURE: Notice of an application for a Tower Development Permit shall conform to the requirements contained in Section 6.2. The County Board of Supervisors may approve a Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearing or deny the application. In all zoning districts in which towers are a permitted special use of land, the Tower Development Permit shall be deemed a special use permit.

6.58 SETBACKS AND SEPERATION OR BUFFER REQUIREMENTS:

1. All towers shall be set back from all property lines, rights-of-way, and public roads a distance equal to one hundred percent (100%) of the height of the proposed tower plus the required setback. The height of a tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding one hundred feet (100') in height may not be located in any residential zoned district and must be separated from all residential zoned land and/or residential structures other than those owned by the tower owner, by a minimum of one-thousand feet (1000').

3. Towers of one hundred (100') or less in height may be located in residential zoned districts provided said tower is separated from any residential structure, school, church, and/or residential structures other than those utilized by the tower owner, by a minimum of three hundred percent (300%) of the height of proposed tower.
4. Towers must meet the following minimum separation requirements from other towers:
  - a) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred fifty feet (750').
  - b) Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of one thousand five hundred feet (1,500').

6.59 STRUCTURAL STANDARDS FOR TOWERS ADOPTED: The Structural Standards For Steel Antenna Towers And Antenna Supporting Structures, 1991 Edition (ANSUEIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by Regulation and set forth in this chapter of the County Zoning Regulation.

6.510 ILLUMINATION AND SECURITY FENCES:

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential zoned properties located within a distance of three hundred percent (300%) of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.

All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

6.511 EXTERIOR FINISH: Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the County Board of Supervisors as part of the application approval process. All towers which must be approved as a special use shall be of stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

6.512 SIGNS: No signs shall be allowed on any antenna or tower.

6.513 MULTIPLE ANTENNA PLAN: The County encourages the development of towers that permit the colocation of multiple antennas. Towers greater than one hundred feet (100') shall be designed for two (2) or more antennas.

6.514 FACTORS CONSIDERED IN GRANTING APPROVAL: The County Board of Supervisors will consider the following factors, in addition to those factors set forth in Section 6.2 of these regulations, in determining whether to issue a special use permit for a tower:

1. Height of proposed tower.
2. Proximity of the proposed tower to residential structures and residential zoning district boundaries.
3. Nature of uses on adjacent and nearby properties.
4. Surrounding topography.
5. Surrounding tree coverage and foliage.
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
7. Proposed ingress and egress.
8. Availability of suitable existing towers, other structures or alternative technologies not requiring the use of towers or structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the County Board of Supervisors that no existing tower, structure, or alternative technology can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a) Certification of a licensed engineer that no existing towers or structures are located within the geographic area which meet the applicant's engineering requirements; that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements; existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment; or the applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- b) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable. An applicant submitting evidence under this subsection must provide specific information concerning the anticipated fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure and the anticipated costs of new tower development.
- c) The applicant demonstrates that there are other limiting factors that render collocation on an existing tower or other structure unreasonable.
- d) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall be presumed to render the technology unsuitable.

6.515.1.1 ADMINISTRATIVE APPROVAL: The tower and antenna uses described in this section are permitted either as principal or accessory uses upon issuance of an administrative approval.

1. The Zoning Administrator may administratively approve the uses listed in Section 6.516.
2. Each applicant for administrative approval shall apply to the Zoning Administrator by providing the information set forth in Section 6.55 and a non-refundable fee as established by the County Board of Supervisors.
3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with this Article.

4. The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application.

6.516 ADMINISTRATIVELY APPROVED USES: The Zoning Administrator may approve the following uses after conducting an administrative review.

1. Locating antennas on existing structures or towers consistent with the terms of this Article.
  - a) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial or professional structure, provided that:
    - i. The antenna does not extend more than thirty feet (30') above the highest point of the structure;
    - ii. The antenna complies with all applicable FCC and FAA regulations; and
    - iii. The antenna complies with all applicable building codes.
  - b) Antennas on existing towers. An antenna which is attached to an existing tower may be administratively approved by the Zoning Administrator, and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, colocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such colocation is accomplished in a manner consistent with the following:
    - i. A tower that is modified or reconstructed to accommodate the colocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
    - ii. Height.
      - A. An existing tower may be modified or rebuild to a taller height, not to exceed thirty feet (30') over the tower's existing height, to accommodate the colocation of an additional antenna.
      - B. The height change referred to above may only occur one time per communication tower.

- C. The additional height referred to above shall not require an additional distance separation as set forth in Section 6.58 of this Article.
- c) Conditions of Administratively Approved Uses. The following conditions shall be applicable to any application for administrative approval and shall be a condition of any administrative approval by the Zoning Administrator.
  - i. In the case of a dish antenna, the diameter of the antenna shall not exceed five feet (5’).
  - ii. Conformance with all other requirements of Article 6.5.

6.517 LANDSCAPING: All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the County Zoning Regulation.

6.518 MAINTENANCE, REPAIR OR MODIFICATION OF EXISTING TOWERS: All towers constructed or under construction on April 1, 2002 may continue in existence as a nonconforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on April 1, 2002 shall require compliance with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to approval by the County Board of Supervisors, an exemption from compliance as a condition of the Tower Development Permit.

6.519 INSPECTIONS: The County reserves the right to conduct an inspection of towers, antenna support structures, telecommunications facilities and antennas upon reasonable notice to the tower owner or operator to determine compliance with this Article and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the Building Code and any other construction standards set forth in the County Zoning Regulation, federal and state law or applicable ANSI standards.

6.520 MAINTENANCE: The telecommunication towers, facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.



6.521 ABANDONMENT: The tower owner shall be responsible to notify the Zoning Administrator of any periods of non-use of the tower, or of an abandonment of the tower. If any tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Zoning Administrator shall notify the tower owner that the site will be subject to a determination by the Zoning Administrator that the site has been abandoned. Upon issuance of notice by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of the evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the County or County designee and a written request shall be directed to the County Attorney to proceed to abate said public nuisance, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

6.522 SATELLITE DISH ANTENNAS, REGULATION: After April 1, 2002 installation of satellite dish antennas shall be permitted within the zoning jurisdiction of the County only upon compliance with the following criteria:

1. In residential zoned districts, satellite dish antennas may not exceed a diameter of five feet (5').
2. All satellite dish antennas installed within the zoning jurisdiction of the County after April 1, 2002, shall be of a neutral color such as black, gray, brown, or such other color as will blend with the surrounding dominant color in order to camouflage the antenna.

6.523 COLOCATION FOR COUNTY EMERGENCY SERVICES: All Tower Owners of towers having a height in excess of one hundred feet (100') shall permit Gage County or other governmental agencies as so designated to place and operate antennas and communications facilities on the tower and tower site without charge to the County if colocation of the County's equipment is technically feasible. Provided, however, the County shall be responsible for the cost of equipment, materials, and labor for the installation and operation of any such antennas and communications facilities and shall further be responsible for utility services required for the support of any such antennas and communications facilities.

6.524 RECORDING REQUIREMENTS: Ownership information for tower facility and leasehold contracts shall be filed in the Gage County Register of Deeds office. Said information shall also be sent via certified mail to the Gage County Zoning Administrator. All future ownership and/or leasehold agreements or transfers shall also be recorded in the Gage County Register of Deeds office and mailed via certified mail to the Gage County Zoning Administrator. All recording and mailing fees shall be paid at the cost of the tower owner and/or leaseholder. Failure to record said documents shall result in permit revocation and the institution of abandonment procedures, regardless of any colocations.

6.525 SEVERABILITY: If any clause, section, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

## **ARTICLE 7**

### **PARKING REGULATIONS**

#### **7.1 GENERAL PROVISIONS**

1. All buildings and structures erected and all uses of land in all Districts established after the effective date of this Regulation shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Regulation shall be located on the same lots as the use it serves, except as provided herein.
3. Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds or easements to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and

driveways may be considered as off-street parking spaces.

5. A plan, drawn to scale, indicated how the off-street parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

## 7.2 OFF-STREET PARKING REQUIREMENTS

At the time of construction, alteration or enlargement of a structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential Single family, two-family dwelling	1 per dwelling unit
2. Mobile Home Trailer Park	1 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift

- 5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc. 1 per every four persons
- 6. Bowling Alley 2 for each alley
- 7. Retail sales department stores, restaurants, taverns, grocery stores, etc. 1 per 200 square feet of floor area as determined by exterior wall dimensions
- 8. Professional office establishments 1 per 500 square feet of floor area as determined by exterior wall dimensions
- 9. Manufacturing, wholesale warehouse and similar uses 1 for every 2 employees on the largest working shift

**7.3 OFF-STREET LOADING REQUIREMENTS**

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of five hundred (500) square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

	<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
1.	One	500 square feet	For every 5,000 to 20,000 square feet
2.	One feet or	500 square feet	For every additional 20,000 square fraction thereof

**ARTICLE 8**

**ACCESSORY USES**

**8.1 ACCESSORY BUILDING**

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.

## **8.2 HOME OCCUPATIONS**

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

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

- a) The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as their private residence.
- b.) No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

## **8.3 MANUFACTURED HOMES**

All manufactured homes located outside mobile home parks shall have upon it any required seal as set forth in Section 71-1555, et. seq., Revised Statutes of Nebraska.

- a) The home shall have no less than nine hundred (900) square feet of floor area;
- b) The home shall have no less than an eighteen (18) foot exterior width;
- c) The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- d) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
- e) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
- f) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

## **8.4 YARD REGULATIONS:**

8.41 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases:

Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the

average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty (40) percent or more of the frontage on one (1) side of a street between two (2) intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest adjacent existing building.

8.42 **STRUCTURAL PROJECTIONS:** The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to five (5) feet in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

## **8.5 EXCEPTIONS TO HEIGHT REGULATIONS**

The height limitations contained in the permissible heights for the various Zoning District Regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

## **8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS**

If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

## **8.7 RURAL RIGHT-OF-WAYS**

All buildings and sight impairing or “solid” fences, walls and hedges shall have a minimum set back of seventy-five (75) feet measured from the center of county roads, state or federal highways. Furthermore, all buildings, fences, walls, retaining walls, diversions, walkway structures or planting of trees, shrubbery, or similar uses are prohibited within the right-of-ways of rural roads or state and federal highways.

Planting of shelter belts shall have a minimum set back of seventy-five (75) feet measured from the center-line of the street, county or township road.

## **8.8 TEMPORARY HOUSING**

The Zoning Administrator may authorize temporary housing under the following conditions:

1. The temporary housing shall be located on the same lot or parcel as a permanent dwelling or use.
2. The owner of the property is (re)constructing a permanent dwelling on the same lot.
3. A Temporary Housing Permit shall be issued prior to the property owner locating a temporary housing unit on the lot.
4. A Temporary Housing Permit or Renewal Permit application shall include a site plan showing the following information:
  - a) The location of any existing or proposed permanent structures.
  - b) The location of any existing or proposed temporary structures.
  - c) The location of any existing or proposed septic field, lagoon, or other waste handling facility.
  - d) The location of any existing or proposed well.
5. A Temporary Housing Permit application shall include copies of any State of Nebraska permits relating to the location and use of wells and septic systems, lagoons, or any other waste handling facility, or shall include evidence that public water and/or sewer will be provided to the temporary housing unit.
6. A Temporary Housing Permit shall be issued for a maximum of one (1) year. A renewal application may be submitted at any time within sixty (60) days prior to the expiration of the original permit. A maximum of one (1) Renewal Permit may be issued, for a maximum duration of one (1) year. The fee for Temporary Housing Permits and Renewal Permits shall be set by the Board of Supervisors.
7. Permitted temporary housing units shall be limited to mobile or manufactured homes. Recreational Vehicles shall not be permitted for use as temporary housing units. However, Recreational Vehicles will be permitted for one (1) year in case of a Natural Disaster.

\*\*\*In addition, each district that allows residential dwellings shall have the following provision added to its Accessory Uses:

- Temporary housing units pursuant to Section 8.8
- Permit should say possible extension after one (1) year, absolutely no extension beyond two (2) years.