

Custer County, NE
Summary Only

For full ordinance text, please find pdf below or visit county website.

Date Passed/Amended: December 2022

Summary Written: June 14, 2023

Agricultural Use Table:

Eligible Zoning:

- a) Commercial Wind Energy Conversion Systems (CWECS)
 - a. General Agricultural District (AG-G)
 - b. Transitional Agricultural District (AG-T)

Prohibition Language:

Required Information/Permits Required:

- a) Commercial Wind Energy Conversion Systems (CWECS)
 - a. Conditional Use Permit Required
 - i. Application for a Conditional Use Permit shall include:
 1. Name of project applicant
 2. Name of project owner
 3. Legal Description and address of the project
 4. Description of the project
 5. Site Layout
 6. Engineer's certification for code compliance
 7. Documentation of land ownership
 8. Latitude and longitude of each turbine
 9. USGS topographical map of the project
 10. Location of wetlands, scenic and natural areas within 1,320ft. of the project
 11. Acoustical Analysis
 12. FAA and NDA review and permit
 13. Decommissioning Plan
 14. Description of potential impacts on nearby WECS and wind resources on adjacent non-participating properties

Request for Variance:

Site and Structure Requirements:

- a) Compliance with all local, state, and federal regulations:
 - a. Commercial Wind Energy Conversion Systems (CWECS)

- i. Engineer shall certify that the CW ECS is compliant with National Electrical Codes.
- b) Concentrating Solar Power Facilities:
- c) Fencing/Security:
- d) Glare minimization:
 - a. Commercial Wind Energy Conversion System (CW ECS)
 - i. All CW ECS turbines and towers shall be white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.
 - ii. A Shadow Flicker study needs to be submitted in order to obtain a Conditional Use Permit.
- e) Height:
 - a. Commercial Wind Energy Conversion Systems (CW ECS)
 - i. Clearance of rotor blades must maintain a minimum of twelve (12) feet of clearance between their lowest point and the ground.
- f) Lighting:
 - a. Commercial Wind Energy Conversion System (CW ECS)
 - i. Lighting, including intensity and frequency of strobe shall adhere to but not exceed requirements established by the FAA and NDA permits and regulations.
 - ii. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 - iii. Red pulsating incandescent lights should be avoided.
- g) Minimum Lot Size:
- h) Noise:
 - a. Commercial Wind Energy Conversion Systems (CW ECS)
 - i. No CW ECS shall produce noise levels that exceed fifty (50) dba, or the ambient sound pressure level plus five (5) dba, whichever is greater at the nearest structure occupied by humans, applying commonly accepted measurement instruments and standards.
 - ii. CW ECS may exceed fifty (50) dba during periods of severe weather as defined by the U.S. Weather Service.
 - iii. A Noise Assessment Study is required when a propose turbine is located within three times the total heigh of the turbine from an occupied residence. This study is to be submitted during the application process.
- i) Outside storage:

j) Setbacks and Lot Coverage:

a. Commercial Wind Energy Conversion Systems (CWECS)

- i. Diameter plus applicable building setback from property lines other than right angle corners.
- ii. Right angle corner property line setback established behind a line on the property lines drawn between two points one hundred and fifty (150) feet from the property line intersection. Generator blades must not exceed the building setback lines on the non-roadside, and shall not encroach on the right-of-way on the roadside
- iii. Setback 1,320ft from an occupied dwelling. This setback may be waived through an easement with the property owner and is reciprocal for future dwellings being constructed.
- iv. Generator blades shall not encroach on any rights-of-way.
- v. Diameter plus applicable building setback from public conservation lands including Wildlife Management Areas and State Recreation Areas.
- vi. Diameter setbacks from other structures not on the applicants project site and river bluffs over fifteen (15) feet.

k) Screening:

l) Signage:

a. Commercial Wind Energy Conversion Systems (CWECS)

- i. All CWECS shall have a sign or signs posted on the tower, transformer and substations warning of high voltage. Other signs shall be posted at the entrance to the site with the 911 address and emergency contact information.
- ii. Consideration shall be given to painted aviation warnings on all towers less than two hundred (200) feet.
- iii. All other signage shall comply with the sign regulations found in the full ordinance.

m) Site Access/Emergency Response:

n) Utility Connections:

a. Commercial Wind Energy Conversion Systems (CWECS)

- i. All communications and feeder lines installed shall be buried, where feasible. Feeder lines installed as part of the CWECS shall not be considered an essential service.

o) Waste:

a. Commercial Wind Energy Conversion System (CWECS)

- i. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants,

shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal rules and regulations.

Operation and Maintenance Plan:

a) Monitoring and Maintenance:

a. Commercial Wind Energy Conversion Systems (CWECS)

- i. Applicants shall identify county, municipal or township roads to be used for the purposes of transporting CWECS substation parts, cement, and/or equipment for construction, operation and maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- ii. Conduct a pre-construction survey, in coordination with the applicable jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- iii. Applicant is responsible for restoring the road(s) and bridges to pre-construction or better conditions.

b) Soil and Erosion and Sediment Control:

a. Commercial Wind Energy Conversion Systems (CWECS)

- i. Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CWECS.

Decommissioning and Site Reclamation

a) Commercial Wind Energy Conversion Systems (CWECS)

- a. CWECS shall be considered discontinued after one (1) year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the CWECS to service.
- b. All CWECS and accessory facilities shall be removed to four (4) feet below ground level within one hundred and eighty (180) days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the CWECS.
- c. A Decommissioning Plan is to be submitted during the application process outlining the anticipated means and cost of removing the CWECS at the end of their serviceable life or upon being discontinued use.
- d. Cost estimates shall be made by a competent party, such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning.
- e. Decommissioning Plan shall identify the financial resources that will be available to pay for decommissioning and removal of the CWECS and accessory facilities.

