



Cherry County Planning Commission Minutes

August 11, 2026

Cherry County Courthouse Meeting Room

The meeting was called to order at 4:30 pm CDST by Chairman Duane Kime in the advertised location of the Cherry County Courthouse Meeting Room.

Roll Call

Roll call was taken. The following members were present: Sherri Bacon; Bill Wachob; Gordon Witte; Marla Shelbourn; Gary MacLeod, and Duane Kime. Absent were: Gary Swanson; Chad Tetherow; Wade Andrews. Also present were Jane Stolzenburg, Interim Zoning Administrator, and various members of the public.

The Open Meetings Act was noted as well as verification of proper advertisement for the meeting. The meeting was advertised in the Valentine Midland News, August 5, 2026.

Approval of minutes

Gordon W. made a motion to approve the July 21, 2026 meeting minutes with no changes, seconded by Marla S. Roll call vote was taken. Bill W. – Yes, Gordon W. – Yes, Gary M. – Yes, Duane K. – Yes, Sherri B. – Yes, Gary S – Absent, Chad T. Absent, Marla S. – Yes, Wade A. – Yes. Motion carried 6-0.

Public Comment

None

Old Business

Animal Feeding Operation Regulations were discussed. Duane K. spoke to Keith Marvin yesterday and he had no response to the e-mail sent asking the question of adding ¼ mile setback for AFO 100 – 300 AU provided such setback does not require a CUP. Page 99 6.06 number 2 the word Feeding needs to be inserted to read: Agricultural Feeding Operations... change 1000 A.U. to 300 A.U. in the same sentence. Sherri made a motion and then withdrew that motion after discussion. Sherri then made a motion: "In the event of a catastrophic natural occurrence such as fire, flood, drought, etc, a producer who has communicated with, completed a Title 130 Form A Request for Inspection, and received



such authorization from NDWEE to temporarily house livestock in a dry lot, AFO type situation, shall be exempt from Cherry County AFO CUP regulations. Such authorization shall be submitted to and retained on file by the Zoning Administrator. This is to be inserted as #2 section 6.06.03.” Bill W. seconded the motion. Roll call vote was taken. Sherri B. – Yes, Gary S – absent, Marla S. – Yes, Chad T. – absent, Gary M. – Yes, Bill W. – Yes, Gordon W. – Yes, Wade A. – absent, Duane K. – Yes.

4.08.06 should be kept as a list of regulations. On page 68, number 15 should read Animal Feeding Operations (AFOs), as defined and classified in Section 2.03 of this Resolution. Strike the remainder of the sentence. It was the consensus of the Planning Commission to keep this as a list and add as needed for other types of CUPs. Omit letter A as this is the same as the chart on page 100. Move B through L (page 68-70) to page 100 under table 6.01.01 between letters C & D. Discussion on letter G page 70 in changing “may” to “shall”. It was a consensus of the Planning Commission to keep “may”, so the Board of Commissioners have the option to utilize the advice and recommendations from organizations with the expertise on the subject matter.

Discussion was held regarding Cattle Country Easements vs Impact Easements and the difference between the two types. Definitions on page 14 Cattle Country Easement and page 28 Impact Easement. Impact Easements would be for existing homes and would have to be obtained from the neighboring properties by the applicant.

Number 16 page 70 should read Application of (add the word “all”) animal manure from livestock being fed (add the words “inside or”) outside... replace the word “dwelling” with “habitable dwelling” in Cherry County or the adjoining county. Strike the remainder of the sentence “which is located north or south of such....

Add Brown County’s definition on Page 26 for “habitable dwelling” - Any structure or part thereof that can be occupied in reasonable comfort and used as a living situation for one or more persons or a single family. A habitable dwelling must have intact exterior walls and roof structure, complete indoor plumbing and kitchen facilities, a sanitary waste disposal system, complete interior wiring and heating system.

4.08.07 is acceptable as written.

4.08.08 page 71 letter D the word order should be odor.

6.06 Livestock regulations page 100 number 4 will need to have “greater than 300 AU” added and should read... All new AFOs greater than 300 AU and those.... 4. A. Strike the first two sentences. 4. A. will then start with “Each operation type...” Under 4. A. Add Class



IA Facility, 100 – 300 animal units and change Class I Facility to Class IB Facility. Number 5 strike entirely.

Page 8 change the definition of Animal Feeding Operation (AFO) to include the Class IA 100 – 300 AU also change the chart on page 100 to include Class IA 100 – 300 AU. Page 100 chart 6.06.1 remove the ECH – OPEN column and the corresponding definition of ECH and OPEN. Marla S. clarified her notes regarding one distance from non-farm or other residence and other AFO (miles) for each of the classes listed in the first column.

6.06.1 letter A. change 300 to 100 animal units, strike “under the ECH or Open Lots” and strike “a platted residential area...through the end of the sentence and replace with “the nearest point of neighboring property line.”

6.06.1 Note: 20,000 AU not to exceed (add) “an additional” setback of 2 miles... In no event shall any Class IV AFO be located less than (change two to four) miles from any

6.06.1 letter C strike “Cherry County Planning Commission and”

Page 101 strike Letter F and the table 6.06.2. Re-number 6.06.03 to 6.06.02 Exceptions.

Page 101 number 1 strike “any church, school, public use, other AFO or single-family dwelling and replace with “the nearest point of the neighboring property line”. Letter A also replace with the same wording.

Page 102 C and D are acceptable, and 6.06.03 number 2 will be the motion Sherri made.

6.06.04 number 1 strike “6.06.02” and strike “dwellings or operations” and replace with “neighboring property owner”. Letter A replace the word “tile” with “title”. Letter C strike “such dwelling” and replace with “the nearest point of neighboring property line.”

6.06.05 strike number 2.

Communications

Duane K. spoke with Keith Marvin regarding Data Center regulations, and he sent an email with information. Duane will forward to Jane S. and then it can be forwarded to the Planning Commission.

New Business

The next meeting date is set for September 1, 2026 in the Cherry County Courthouse Meeting Room at 4:30 PM CDST.



Duane K suggested that Solar Regulations should be the next item for updating and to wait for more data center information prior to moving forward with that item.

Reports and Recommendations

Jane S. reported the email that was forwarded to the Planning Commission regarding Livestock Feeding Operation (LFO) that was unoccupied for five years if the CUP was still valid. Per state statute it is invalid after one year of being unoccupied.

Jane S. advised the Planning Commission there is a NPZA fall virtual workshop in October and will send more information when available. The continuing education will need to be tracked and a spreadsheet was created to track the hours for the Planning Commission. Each member will need to notify the Zoning Administrator of any hours completed.

Excused Absences

Marla S. made a motion to excuse Wade A. and Gary S. from the meeting. Gordon seconded the motion. Roll call was taken. Chad T. – absent, Gary M.-yes, Marla S. – yes, Gordon W. – yes, Bill W. – yes, Wade A. – absent, Gary S – absent, Duane K – yes, Sherri B. – yes.

Adjournment

The meeting was adjourned at 7:42 pm.

Jane Stolzenburg

Interim Zoning Administrator