MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 112
TUESDAY, JUNE 30, 2020
9:00 A.M.

Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on June 26, 2020.

Commissioners present: Sean Flowerday, Chair; Rick Vest, Vice Chair; Roma Amundson; Deb Schorr; and Christa Yoakum

Others present: Kerry Eagan, Chief Administrative Officer; David Derbin, Chief Administrative Officer; Ann Ames, Deputy Chief Administrative Officer; Jenifer Holloway, Deputy County Attorney; Dan Nolte, County Clerk, Cori Beattie, Deputy County Clerk; and Monét McCullen, County Clerk's Office

The meeting was called to order at 9:04 a.m., the Pledge of Allegiance was recited and the location of the Nebraska Open Meetings Act was announced.

1) <u>MINUTES</u>:

A. Approval of the minutes of the Board of Commissioners meeting held on Tuesday, June 23, 2020.

MOTION: Vest moved and Yoakum seconded approval of the minutes. Schorr, Amundson, Yoakum, Vest and Flowerday voted yes. Motion carried 5-0.

B. Approval of the minutes of the Board of Commissioners special budget meeting held on Tuesday, June 23, 2020.

MOTION: Amundson moved and Yoakum seconded approval of the minutes. Vest, Schorr, Amundson, Yoakum and Flowerday voted yes. Motion carried 5-0.

2) <u>CLAIMS</u>:

A. Approval of all claims processed through June 23, 2020.

MOTION: Vest moved and Yoakum seconded approval of the claims. Yoakum, Vest, Schorr, Amundson, and Flowerday voted yes. Motion carried 5-0.

3) <u>SPECIAL PRESENTATION:</u>

A. Recognizing Dean Wiegert, recipient of a 2020 Nebraska Association of County Officials (NACO) Scholarship – Larry Dix, NACO Executive Director.

This item was held until after item 3B.

B. Recognizing Ken Schroeder, Lancaster County Surveyor, for 32 years of service to Lancaster County - Pam Dingman, Lancaster County Engineer.

Pam Dingman, Lancaster County Engineer, said Mr. Schroeder began working for the County on April 11, 1988, and gave a brief overview of Mr. Schroeder's career background with the County Engineering Department. She thanked him for his years of service and dedication to the County and presented him with a plaque.

Ken Schroeder, Lancaster County Surveyor, said his time working for the County went by fast as everyone was a pleasure to work with.

The County Commissioners gave brief overviews of their experiences with Mr. Schroeder and thanked him for his service, guidance, dedication and hard work.

RETURNING TO ITEM 3A

Larry Dix, NACO Executive Director, gave a brief overview of the application process and presented Dean Wiegert with the $1,000 scholarship.

Dean Wiegert said he will be enrolling at Nebraska Weselyn University in the fall and he plans to major in special education.

Kari Wiegert, Lancaster County Employee and mother of Dean Wiegert, thanked the County for employing her and providing her son with the opportunity.

C. Recognizing Kerry Eagan, Chief Administrative Officer, for 31 years of service to Lancaster County.

Schorr read a brief statement for Mr. Eagan (Exhibit 1).

Leirion Gaylor Baird, City of Lincoln Mayor, thanked Mr. Eagan for his services. She read a proclamation into the record (Exhibit 2).

Ray Stevens, former Lancaster County Board of Commissioners member, thanked Mr. Eagan for his years of service.

Bernie Heier, former Lancaster County Board of Commissioners member, congratulated Mr. Eagan on his retirement.

Schorr presented Mr. Eagan with gift.

Eagan recognized a number of individuals he has worked with throughout his career and thanked the County, Board of Commissioners and his wife for their support.

The Commissioners expressed their gratitude towards Mr. Eagan and thanked him for his work with the County.

4) <u>CONSENT ITEMS</u>: These are routine business items that are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. Utility Permits with no cost to the County for the following:

1. **No. 1994 allowing Windstream to place new fiber optic line in the east right-of-way of South 54th Street, starting at Hickman Road then going south for 1/2 mile. (C-20-0367)**
2. **No. 1995 allowing Windstream to reinstall communication line on Roca Road east of South 96th Street due to the removal and replacement of County structure S-179. (C-20-0368)**

B. Grant contracts with the following funded by the Joint Budget Committee (for the period of July 1, 2020 through June 30, 2021):

1. **Asian Community & Cultural Center for the Family Resource program in the amount of $10,350. (C-20-0369)**
2. **CenterPointe for the Community Support, Outpatient Counseling, and Medication Management programs in the amount of $251,284. (C-20-0370)**
3. **Community Action Partnership of Lancaster and Saunders Counties for the Basic & Emergency Needs program in the amount of $167,000. (C-20-0371)**
4. **El Centro de las Americas for the Financial Grants Manager program in the amount of $15,000. (C-20-0372)**
5. **Good Neighbor Community Center for the Basic & Emergency Needs and Food Distribution programs in the amount of $90,350. (C-20-0373)**
6. **Lutheran Family Services for the Health 360 program in the amount of $30,000. (C-20-0374)**
7. **People's City Mission for the Family & Women's Shelter program in the amount of $78,000. (C-20-0375)**

C. Grant contracts with the following funded by the Juvenile Justice Prevention Funds (for the period of July 1, 2020 through June 30, 2021):

1. **Asian Community & Cultural Center for the Yezidi Youth Club program in the amount of $20,000. (C-20-0376)**
2. **Boys & Girls Club of Lincoln/Lancaster County for the Keystone Leadership program in the amount of $10,000. (C-20-0377)**
3. **The Salvation Army for the Sudanese Advocacy program in the amount of $30,000. (C-20-0378)**
4. **The Salvation Army for the Teen Night program in the amount of $10,000. (C-20-0379)**
5. **Yazda for the Yazidi Summer Youth program in the amount of $6,500. (C-20-0380)**
6. **YWCA Lincoln for the Girls Circle program in the amount of $15,000. (C-20-0381)**
7. **YWCA Lincoln for the Project Restore Family Support program in the amount of $5,000. (C-20-0382)**
8. **HopeSpoke for the Outpatient program in the amount of $51,750. (C-20-0389)**
9. **The HUB Central Access Point for Young Adults for the Volunteer & Employment Coordination program the amount of $6,852. (C-20-0390)**

D. Grant contract with Family Violence Council for the Coordinated Response to Reducing Domestic Violence program funded by the Violence Against Women Act (VAWA) (for the period of July 1, 2020 through June 30, 2021) in the amount of $11,000. (C-20-0383)

E. Grant contracts with the following funded by the Nebraska Commission on Law Enforcement and Criminal Justice Juvenile Services Aid Grant (for the period of July 1, 2020 through June 30, 2021):

1. **Cedars Youth Services for the 5-O Fun Club program in the amount of $21,268. (C-20-0384)**
2. **Cedars Youth Services for the Crisis Stabilization program in the amount of $50,000. (C-20-0385)**
3. **Cedars Youth Services for the Reporting Center program in the amount of $4,995. (C-20-0386)**
4. **El Centro de las Americas for the Joven Noble & Latina Leaders programs in the amount of $90,372.98. (C-20-0387)**
5. **The HUB Central Access Point for Young Adults for the Volunteer & Employment Coordination program in the amount of $30,417. (C-20-0388)**

F. Amendment to the following County contracts:

1. **C-18-0424 with Fastenal Company for Facilities Maintenance and Repair & Operations and Industrial Supplies. (MOU026, using the NASPO ValuePoint Contract No. 8497, State of NE Contract No. 15002. The amendment renews the contract from July 1, 2020 through June 30, 2021. The estimated cost to the County is not to exceed $5,000.) (C-20-0365)**
2. **C-18-0468 with Datashield Corporation for On-Site Secure Document Shredding, (MOU025, using the State of NE Contract No. 81421 O4. The amendment renews the contract from July 15, 2020 through July 14, 2021. The estimated cost to the County is not to exceed $6,000.) (C-20-0366)**
3. **C-20-0001 with Bauer Underground, Inc., for an overrun of $16,349.27 for Project 19-22; NW 84th Street Paving O Street to I-80. (C-20-0392)**

MOTION: Schorr moved and Yoakum seconded approval of the consent items. Amundson, Yoakum, Vest, Schorr and Flowerday voted yes. Motion carried 5-0.

5) <u>NEW BUSINESS</u>:

A. Reappointment of Jim Cada to the Lancaster County Veterans Service Committee for a term from July 1, 2020, through June 30, 2025.

Rick Ringlein, Lancaster County Veteran Service Officer, said the Veteran Service Committee is made up of five war veterans who volunteer their time in an effort to oversee the operations of the County Veteran Service Office.

Jim Cada, gave a brief overview of his service in the war and expressed his excitement to continue to serve on the Veteran's Service Committee

Pat Condon, Lancaster County Attorney, thanked Mr. Cada for all the work he does for the veterans of Lancaster County.

In regard to Schorr's inquiry, Cada said he has served on the committee for over 20 years.

Amundson thanked Mr. Cada for his services to Lancaster County and to the nation.

MOTION: Schorr moved and Vest seconded approval of the reappointment of Jim Cada. Schorr, Amundson, Yoakum, Vest and Flowerday voted yes. Motion carried 5-0.

B. Contract with NMC, Inc., to provide Electrical Generator Maintenance and Repair, (MOU082, using the City of Lincoln, Bid No. 16-115.) The term of the contract is upon execution through May 13, 2021. The pricing will be pursuant to the City of Lincoln's contract. The cost to the County is not to exceed $5,000.) (C-20-0391)

MOTION: Amundson moved and Vest seconded approval of the contract. Vest, Schorr, Amundson, Yoakum and Flowerday voted yes. Motion carried 5-0.

C. Contract with Bauer Underground, Inc., for the Replacement of County Bridge S-179 (Bid 20-081, Project 20-15). The work is to be completed within 42 working days upon notice to proceed by the County. The cost to the County is $497,763. (C-20-0393)

Dingman said this bridge has been closed since the flooding of 2019. It takes almost 18 months to design and receive all permits for construction. This bridge is complex because it is the backwater to one of the County dams. There also has to be certification that the bridge is not impeding the volume of flood water. This bridge is located on Roca Road, west of South 96th Street.

MOTION: Amundson moved and Schorr seconded approval of the contract. Yoakum, Vest, Schorr, Amundson and Flowerday voted yes. Motion carried 5-0.

D. Contract with Constructors, Inc., for Asphalt Paving and Resurfacing 2020 on South 82nd Street Grading from Hickman Road to Roca Road (Bid 20-126, Project 20-20). The work shall commence on August 15, 2020 or upon notice to proceed by the County and shall be completed on October 15, 2020. This project will be considered a 30-working day project. The cost to the County is $622,470.15. (C-20-0394)

Dingman said this contract is for road overlay on South 82nd Street.

MOTION: Vest moved and Amundson seconded approval of the contract. Amundson, Yoakum, Vest, Schorr and Flowerday voted yes. Motion carried 5-0.

E. Contract with Highway Improvement, Inc., for Crack Sealing Bituminous Surfacing 2020 (Bid 20-125, Project 20-16). The work shall commence on September 16, 2020 or upon notice to proceed by the County and shall be completed on or before November 1, 2020. This project will be considered a 46-calendar day project. The cost to the County is $266,000. (C-20-0395)

Dingman said this is for the annual crack sealing projects to try and maintain the assets which will help extend the life on the asphalt slabs and roads.

MOTION: Vest moved and Yoakum seconded approval of the contract.

In response to Vest's question, Dingman said this is one of the largest crack sealing contracts and the work is done throughout the County where there is no overlay work being done.

ROLL CALL: Schorr, Amundson, Yoakum, Vest and Flowerday voted yes. Motion carried 5-0.

F. Special Event Permit application from Dave Mlnarik, Nebraska Sports Council for the Cornhusker State Games Cycling Tour event on July 26, 2020.

MOTION: Schorr moved and Yoakum seconded approval of the special event permit application. Vest, Schorr, Amundson, Yoakum and Flowerday voted yes. Motion carried 5-0.

G. Special Designated License application from Ken's Liquor Inc., for an event at Hillside Event Center, 12400 West Denton Road on August 22, 2020.

MOTION: Schorr moved and Vest seconded approval of the special designated license application. Yoakum, Vest, Schorr, Amundson and Flowerday voted yes. Motion carried 5-0.

H. Resolution in the matter of transferring appropriations from the General Fund Miscellaneous Budget to the General Fund Public Defender and Election Commissioner Budgets. The amount to be transferred is $40,750. (R-20-0035)

Dennis Meyer, Budget and Fiscal Director, said this resolution will clean up the Election Commissioner and the Public Defender's budgets. Once the transfer is made, every department will be within their allowable budget for the fiscal year.

MOTION: Schorr moved and Yoakum seconded approval of the resolution. Amundson, Yoakum, Vest, Schorr and Flowerday voted yes. Motion carried 5-0.

I. Resolution in the matter of Change of Zone 20014 - AG Agricultural to AGR Agricultural Residential on 7.59 acres located at 13350 North 84th Street, Lancaster County, Nebraska. (R-20-0036) (Note: This item will be voted on after the public hearing, Item 6A)

This item was held until after the public hearing, Item 6A.

J. Amusement License application from Jerry McCabe, Sleepy Bees Lavender Farms LLC (for outdoor events on July 11, 18, and 25 and August 1 and 8, 2020 at Sleepy Bees Lavender Farm, 25700 S. 38th Street, Firth, Nebraska). (Note: This item will be voted on after the public hearing, Item 6B)

This item was held until after the public hearing, Item 6B.

6) PUBLIC HEARINGS:

A. Change of Zone 20014 - AG Agricultural to AGR Agricultural Residential on 7.59 acres located at 13350 North 84th Street, Lancaster County, Nebraska. (See correlating item 5I)

Steve Henrichsen, Lincoln-Lancaster County Planning Department, was administered the oath and said they provided a copy of the County Zoning Regulations to the County Clerk's Office (Exhibit 3). He noted this was previously presented to the County Board and there are no additional comments.

Schorr clarified that the applicant was notified of today's hearing and notified of the denial from the Planning Commission. Henrichsen said he spoke with the applicant's after the Planning Commissioner meeting about the public hearing date.

Vest asked for the reasoning behind the Planning Commissions denial. Henrichsen said this is not shown in the Comprehension Plan for low density residential. This small area is also on two roads that are not paved. In addition, there were some concerns regarding the lack of water. There is no other land designated as residential in the surrounding area. He noted approving this application could set a precedent for future requests.

The Chair closed the public hearing.

RETURNING TO ITEM 5I

MOTION: Amundson moved and Schorr seconded denial of the resolution. Schorr, Amundson, Yoakum, Vest and Flowerday voted yes. Motion carried 5-0.

B. Amusement License application from Jerry McCabe, Sleepy Bees Lavender Farms LLC for outdoor events on July 11, 18, and 25, 2020, and August 1 and 8, 2020 at Sleepy Bees Lavender Farm, 25700 S. 38th Street, Firth, Nebraska. (See correlating item 5J)

In response to Flowerday's inquiry, Holloway explained the first application was for a one-day event. This application is to conduct a number of small tours over the course five weeks. She noted the applicant also intends to follow the guidelines of the Health Department regarding the gathering limit.

The Chair closed the public hearing.

RETURNING TO ITEM 5J

MOTION: Schorr moved and Amundson seconded approval of the amusement license application. Vest, Schorr, Amundson, Yoakum and Flowerday voted yes. Motion carried 5-0.

7) UPDATE ON COVID-19 AND LANCASTER COUNTY RESPONSE:

Vest said he read a headline that the European Union is opening their boarders but will continue to ban visitors from the United States because some areas have not responded well. He thanked everyone in the County who are working so diligently to keep the numbers from rising.

Amundson recognized the work of the Health Department.

8) PUBLIC COMMENT: Those wishing to speak on items relating to County business not on the agenda may do so at this time.

No one appeared for public comment.

9) ANNOUNCEMENTS:

A. The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, July 2, 2020 at 8:30 a.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln)

B. The Lancaster County Board of Commissioners will hold its next regular meeting on Tuesday, July 7, 2020 at 9:00 a.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln) with the Board of Equalization immediately following.

C. County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.

D. The Lancaster County Board of Commissioners meeting is broadcast live on LNKTV City. For the rebroadcast schedule visit lincoln.ne.gov (keyword: LNKTV). Meetings are also streamed live on LNKTV and can be viewed on YouTube (LNKTVcity).

10) ADJOURNMENT

MOTION: Schorr moved and Vest seconded to adjourn the Lancaster County Board of Commissioners meeting at 10:00 a.m. Yoakum, Vest, Schorr, Amundson and Flowerday voted yes. Motion carried 5-0.

Dan Nolte
Lancaster County Clerk

EXHIBIT

tabbies

1

Kerry Eagan:

Deb has worked closely with Kerry for the past 18 years. In his time as Lancaster County's Chief Administrative Officer, he's worked with dozens of County Board members and elected officials and dozens of department directors. He jokes he was well trained for this role during his days on the Stanford football team as a kickoff returner....lots of things coming at you while continuing to move forward toward the goal. Kerry's encyclopedic knowledge of Nebraska state statues, legislative history, and court legal opinions is impressive and invaluable. Kerry is an avid cyclist, riding his bike to and from work each day and traveling around the Midwest to competitive cycling events. He also is a crazy downhill skier and amateur photographer. Kerry will be retiring in 2020 and Deb will truly miss his wise input, advice, and counsel.

City of Lincoln
Proclamation

EXHIBIT
2

Kerry Eagan Day

Whereas, Kerry Eagan was hired by Lancaster County on October 16, 1989, and over the next 31 years, he facilitated an estimated 1,612 staff meetings and attended more than 1,600 County Board meetings; and

Whereas, Kerry has served diligently as Chairperson of the Lancaster County Pension Review Committee and has been a faithful steward of the retirement funds for all county employees; and

Whereas, Kerry provided invaluable guidance and leadership to Lancaster County on numerous major projects, including the construction of the Lancaster County Adult Correctional Facility; and

Whereas, Kerry promoted the city and county through his vital leadership role with the Visitor Promotion Committee; and

Whereas, Kerry has successfully guided Lancaster County with his extensive knowledge of Nebraska State Statutes and his ability to create strong legislative proposals; and

Whereas, Kerry was awarded the Nebraska Association of County Officials President's Award in 2019 in recognition of his remarkable career; and

Whereas, as part of Kerry's work on the Joint Budget Committee, he was instrumental in establishing an endowment with Keno funds to ensure that services would always remain available to our most vulnerable community members; and

Whereas, Kerry's calm, knowledgeable and insightful views will be missed by his colleagues and friends, yet we do all wish him the best as he enjoys retirement with his wife Deb,

Now, therefore, I, Leirion Gaylor Baird, Mayor of the City of Lincoln, Nebraska, do hereby proclaim June 30, 2020, as **Kerry Eagan Day** to recognize Kerry for his many years of excellent service to Lancaster County and our entire community.

June 30, 2020
Date

Leirion Gaylor Baird
Mayor Leirion Gaylor Baird

EXHIBIT

3

CERTIFICATE

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER)
)
CITY OF LINCOLN)

I, David R. Cary, Lincoln-Lancaster County Planning Director, City of Lincoln, Lancaster County, Nebraska, do hereby certify that the preceding or attached document is a true and correct copy of the Lancaster County Zoning Regulations as it appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand officially this 10th day of June, 2020.

David R. Cary
Director, Lincoln-Lancster County
Planning Department

State of Nebraska)
) ss.
County of Lancaster)

The foregoing Certification was acknowledged before me this 10th day of June, 2020, by David R. Cary, Director of the Lincoln-Lancaster County Planning Department, City of Lincoln, Lancaster County, Nebraska.

GENERAL NOTARY - State of Nebraska
RHONDA M. HAAS
My Comm. Exp. April 11, 2023

Notary Public

Lancaster County Zoning Regulations

Table Of Contents

County Zoning Regulations
- Cover Image
- 1979 ZONING RESOLUTION OF LANCASTER COUNTY, NEBRASKA
- ARTICLE 1 PURPOSE AND TITLE
  - 1.001 Purpose.
  - 1.003 Title.
- ARTICLE 2 DEFINITIONS
  - 2.001. Definitions - General Provisions.
  - 2.002. A.
  - 2.003. B.
  - 2.004. C.
  - 2.005. D.
  - 2.006. E.
  - 2.007. F.
  - 2.008. G.
  - 2.009. H.
  - 2.010. I.
  - 2.011. J.
  - 2.012. K.
  - 2.013. L.
  - 2.014. M.
  - 2.015. N.
  - 2.016. O.
  - 2.017. P.
  - 2.018. Q.
  - 2.019. R
  - 2.020. S.
    - Small Animal Feeding Operation (Small AFO)
  - 2.021. T.
  - 2.022. U.
  - 2.023. V.
  - 2.024. W.
  - 2.025. X.
  - 2.026. Y.
  - 2.027. Z
- ARTICLE 3 DISTRICTS AND BOUNDARIES
  - 3.003.
  - 3.005. Interpretation of District Boundaries.
  - 3.007
  - 3.009
  - 3.011 Extraterritorial Jurisdictions
  - 3.013. Except as hereinafter provided:
- ARTICLE 4 "AG" AGRICULTURAL DISTRICT
  - 4.001 Scope of Regulations
  - 4.003 Permitted Uses.
  - 4.005 Permitted Conditional Uses
  - 4.007 Permitted Special Uses

4.011 Accessory Uses
4.013 Parking Regulations
4.015 Sign Regulations
4.016 AG Preservation
4.017 Height and Area Regulations
ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT
5.001. Scope of Regulations
5.003. Permitted Uses
5.005. Permitted Conditional Uses
5.007. Permitted Special Uses
5.009. Accessory Uses
5.011. Parking Regulations
5.013. Sign Regulations
5.015. Height and Area Regulations
ARTICLE 6 "R" RESIDENTIAL DISTRICT
6.001. Scope of Regulations
6.003. Use Regulations
6.004 Permitted Conditional Regulations
6.005. Permitted Special Uses
6.007. Use Regulations
6.009. Parking Regulations
6.011. Height Regulations
6.013. Sign Regulations
6.015. Area Regulations.
ARTICLE 7 "B" BUSINESS DISTRICT
7.001. Scope of Regulations
7.003. Use Regulations
7.005. Permitted Special Uses
7.007. Parking Regulations
7.009. Height Regulations
7.011. Sign Regulations
7.013. Area Regulations
ARTICLE 8 RESERVED FOR FUTURE USE
ARTICLE 9 "I" INDUSTRIAL DISTRICT
9.001. Scope of Regulations
9.003. Use Regulations
9.005. Parking Regulations
9.007. Height regulations
9.009. Sign Regulations
9.011. Area Regulations
ARTICLE 10 PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES
10.001. Purpose
10.002. Definitions
10.003. Permits Required
10.008. Location Preferences
10.009. Application Requirements
10.010. Standards for Evaluation
10.011. Design Criteria for Personal Wireless Service Facilities
10.012. General Requirements
10.013. Non-use; Abandonment

10.014. Zoning districts allowed
10.015. Permitted Special Use: Personal Wireless Services Facilities
ARTICLE 11 FLOOD PLAIN DISTRICT
11.003. Scope of Regulations
11.009. Permits Required
11.011. Application
11.013. Establishment of Zoning Districts
11.015. Standards Applicable to both FW and FF Districts
11.017. Additional Standards Applicable to FF Districts
11.019. Permitted Uses - FF Districts
11.021. Permitted Uses - FW Districts
11.023. Subdivisions
11.025. Variance
11.027. Miscellaneous Provisions.
11.029. Definitions
ARTICLE 12 NONCONFORMING AND NONSTANDARD USED
12.001. Continuation of Nonconforming Use
12.003. Use Becoming Nonconforming by Change in Law or Boundaries
12.005. Discontinuance of Nonconforming Use
12.007. Extension or Enlargement
12.009. Restoration after Damage
12.011. Sign Regulations
12.013. Open Storage
12.015. Effect On Use Which Is Illegal Under Prior Law
12.017. Continuation of Nonstandard Uses
ARTICLE 13 SPECIAL PERMIT
13.001. Special Permit
13.002. Procedures
13.003. Appeal of Planning Commission Action.
13.004. Administrative Amendments
13.005. Enforcement and Revocation of Special Permits.
13.006. Reserved.
13.007. Reserved.
13.008. Academies, Private Schools, or Post-Secondary Education Facilities in the AG, AGR, R or B zoning districts.
13.009. Health Care Facilities, Non-Residential
13.010. Cemeteries
13.011. Reserved.
13.012. Airfields, Commercial Agriculture Airfields and Heliports
13.013. Mobile Home Courts
13.014. Campground
13.015. Private Recreational Activities
13.016. Riding Stables and Private Stables
13.017. Personal Wireless Services Facility
13.018. Broadcast Towers
13.019. Excavation
13.020. Clubs
13.021. Health Care Facilities, Residential
13.022. Industrial
13.023. Dwellings for Members of Religious Orders

13.024. Pet Cemeteries
13.025. Mobile Homes
13.026. Recreation Facilities
13.027. Veterinary Facilities
13.028. Sale Barns
13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals
13.030. Place of Religious Assembly Steeples, Towers and Ornamental Spires Exceeding the Height of the District
13.031. Community Unit Plans
13.032. Expanded Home Occupations
13.033. Garden Centers
13.034. Non-Commercial Distillation and Storage of Fuel
13.035. Commercial Feedlot
13.036. Market Garden
13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation
13.038. Flood Plain Construction
13.039. Expansion of Nonconforming and Nonstandard Uses
13.040. Heritage Center
13.041. Historic Preservation
13.042. Wind Energy Conversion Systems (WECS)
13.043. Storage of Agriculture Conservation Equipment and Materials.
13.044. Dwellings Withing 1,320 feet of a Publicly Owned Lake
13.045. Off-Premises Signs
13.046. Sexually Oriented Live Entertainment Establishment
13.047. Race Tracks, Drag Strips and Motor Sport Facilities in "AG" District;
13.048. Commercial Wind Energy Conversion System (CWECS)
13.049 Early Childhood Care Facilities
13.050 Accessory Dwelling Unit (ADU)
ARTICLE 14 COMMUNITY UNIT PLAN
14.001. General Purpose
14.003. General Requirement
14.005. Procedures
14.009. Requirements after Approval
14.011. Community Unit Plan Amendments
14.013. Form of Community Unit Plan
ARTICLE 15 ADDITIONAL USE REGULATIONS
15.001. Home Occupations
15.003. Dwellings for Non-Related Persons
15.005. Subdivision Promotion Activity
15.007. Outlots, Permitted Use
ARTICLE 16 SIGNS
16.001. Scope of Regulations
16.003. General Provisions
16.005. Permitted Signs
16.007 Off-Premises Signs
ARTICLE 17 ADDITIONAL HEIGHT AND AREA REGULATIONS
17.005.
17.027
17.029 Enlargement and Alteration of Lots.

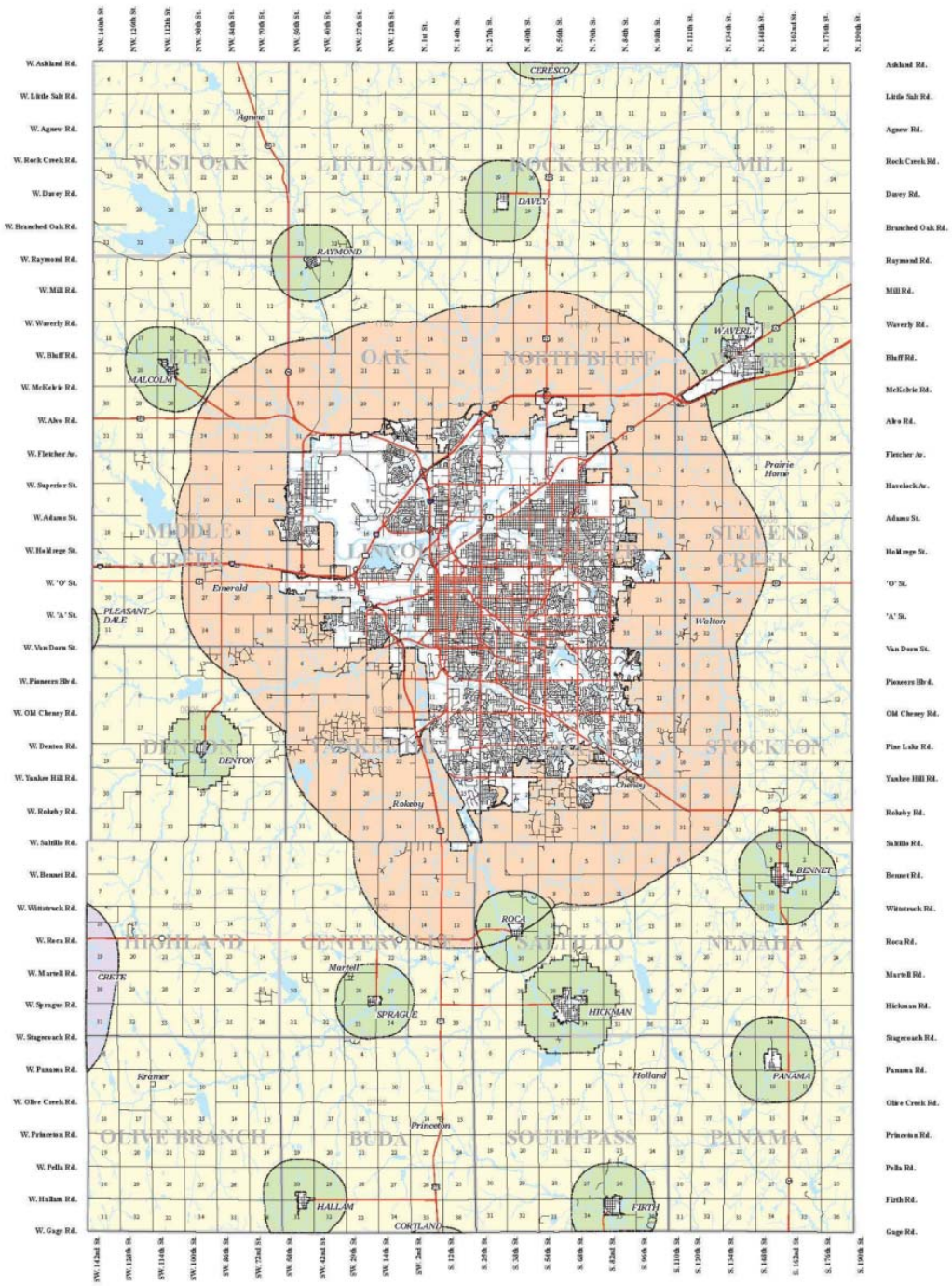
17.031 Buildings, Places of Religious Assembly, Height of
ARTICLE 18 SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS
18.001. Lincoln Airport Areas
18.002. Definitions
18.003. Zone Descriptions.
18.004. Airport Hazard Area; Boundaries
18.005. Height Restrictions
18.006. Permit Required; Procedure.
18.006.A. Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory Structure.
18.007. Airport Hazards.
18.008. Non-conforming Structures.
18.009. Marking of Non-conforming Structures.
18.010. Administrative Agency.
18.011. Zoning Board of Adjustment.
18.012. Notice.
18.013. Use Limitations.
ARTICLE 19 BOARD OF ZONING APPEALS
19.005.
ARTICLE 20 OCCUPANCY PERMITS AND CERTIFICATE OF COMPLIANCE
20.001. Required for Changed or New Occupancy.
20.003. Required for Building Permit
20.005. Required for Non-Conforming Use
20.007. Record of Certificate of Occupancy Be Kept
20.009. Special Permits; Certificate of Compliance
ARTICLE 21 PLOT PLAN
21.001. Plot Plan to Accompany Application for Building Permit
ARTICLE 22 GENERAL PROVISIONS, LEGISLATIVE PROVISIONS, PENALTY
22.001. Interpretation, Purpose and Conflict
22.003. Amendments
22.005. Notice of Hearing
22.007. Enforcement
22.009. Violation and Penalty
22.011. Validity
22.013. Conflicting Resolutions Repealed
22.015. Purpose of Catch Words
22.017. Effective Date
22.019. Expiration of Applications
ARTICLE 23 FEES
23.001. General Regulations
ARTICLE 24 HISTORIC PRESERVATION DISTRICT
24.010. Name and Citation of Title
24.020. Purpose
24.030 Definitions; General Provisions
24.040 Landmark
24.050 Landmark District
24.060 Historic Preservation Commission Created
24.070 Membership
24.080 Organization
24.090 Secretary and Staff of Preservation Commission
24.100 Attorney; Duties

24.110 Powers and Duties
24.120 Designation of Landmarks and Landmark Districts
24.130 Requirement for Certificate for Certain Work
24.140 Procedure for Certificate
24.150 Certificate Approval or Denial
24.160 Procedure Following Certificate Denial
24.170 Hazardous Structures
24.180 Appeal

COUNTY ZONING REGULATIONS

Contents:

Cover Image
1979 ZONING RESOLUTION OF LANCASTER COUNTY, NEBRASKA
ARTICLE 1 PURPOSE AND TITLE
ARTICLE 2 DEFINITIONS
ARTICLE 3 DISTRICTS AND BOUNDARIES
ARTICLE 4 "AG" AGRICULTURAL DISTRICT
ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT
ARTICLE 6 "R" RESIDENTIAL DISTRICT
ARTICLE 7 "B" BUSINESS DISTRICT
ARTICLE 8 RESERVED FOR FUTURE USE
ARTICLE 9 "I" INDUSTRIAL DISTRICT
ARTICLE 10 PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES
ARTICLE 11 FLOOD PLAIN DISTRICT
ARTICLE 12 NONCONFORMING AND NONSTANDARD USED
ARTICLE 13 SPECIAL PERMIT
ARTICLE 14 COMMUNITY UNIT PLAN
ARTICLE 15 ADDITIONAL USE REGULATIONS
ARTICLE 16 SIGNS
ARTICLE 17 ADDITIONAL HEIGHT AND AREA REGULATIONS
ARTICLE 18 SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS
ARTICLE 19 BOARD OF ZONING APPEALS
ARTICLE 20 OCCUPANCY PERMITS AND CERTIFICATE OF COMPLIANCE
ARTICLE 21 PLOT PLAN
ARTICLE 22 GENERAL PROVISIONS, LEGISLATIVE PROVISIONS, PENALTY
ARTICLE 23 FEES
ARTICLE 24 HISTORIC PRESERVATION DISTRICT



1979 ZONING RESOLUTION OF LANCASTER COUNTY, NEBRASKA

A Resolution to promote, in accordance with present and future needs, the health, safety, morals and general welfare of the citizens of the prescribed unincorporated portions of Lancaster County, Nebraska and to secure safety from fire, flood and other dangers; to conserve the value of property, to encourage the most appropriate use of land; to regulate and restrict the location, height, bulk and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, business, residence and other purposes; to safeguard adequate provision for

water, sewage, schools, parks and other public facilities, all in accordance with a Comprehensive Plan; and providing for a Board of Zoning Appeals and for enforcement of this Resolution.

Be it resolved by the Board of Commissioners of Lancaster County, Nebraska.

ARTICLE 1 PURPOSE AND TITLE

Contents:

1.001 Purpose.

1.003 Title.

1.001 Purpose.

This resolution has been made in accordance with a Comprehensive Plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements. These regulations have been made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for encouraging the most appropriate use of land throughout the prescribed unincorporated portions of Lancaster County, Nebraska. (Resolution No.R-17-0040, November 20, 2018)

1.003 Title.

This resolution shall be known, referred to and recited as the 1979 Zoning Resolution of Lancaster County.

ARTICLE 2 DEFINITIONS

Contents:

2.001. Definitions - General Provisions.

2.002. A.

2.003. B.

2.004. C.

2.005. D.

2.006. E.

2.007. F.

2.008. G.

2.009. H.

2.010. I.

2.011. J.

2.012. K.

2.013. L.

2.014. M.

2.015. N.

2.016. O.

2.017. P.

2.018. Q.

2.019. R

2.020. S.

2.021. T.

2.022. U.

2.023. V.

2.024. W.

2.025. X.

2.026. Y.

2.027. Z

2.001. Definitions - General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Certain chapters contain definitions which are additional to those listed here. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "structure" shall include the word "building" and the word "shall" is mandatory.

2.002. A.

Academies shall mean education and instruction facilities including but not limited to dance or music academies, gymnastic or martial arts school. Academies shall not include early childhood care facilities, public schools, or private schools that meet the State of Nebraska requirements for elementary or secondary education, or industrial trade schools. (Approved Resolution No. R-17-0040, May 30, 2017)

An **accessory building** is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An **accessory use** is one which is incidental to the main use of the premises.

Accessory Dwelling Unit is a subordinate building or portion of the main building for use as a secondary single-family dwelling which is incidental to use of the main building for a primary single-family dwelling.

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Agriculture** shall mean the use of land for the purpose of raising and harvesting crops; for the raising, breeding, or management of fish or honeybees; for Small Animal Feeding Operations, for truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. (Resolution No. R-20-0011, March 10, 2020)

For special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Agriculture** shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. (Resolution No. 4921, June 30, 1987).

Agricultural Attraction shall mean a premises used primarily for agriculture for the purpose of raising and harvesting crops for sale, but that also includes a limited amount of area devoted to the provision of entertainment for a period of no more than four months per year. Examples of agricultural attractions include, but are not limited to, pumpkin patch, apple orchard, or corn maze where, in addition to agricultural production, there are areas for sale of other goods and entertainment. Attractions shall not include mechanical rides other than hayrack and sightseeing vehicles. (Resolution No. R-18-0078, November 20, 2018)

Airfield. An area of land and/or water, publicly or privately owned, that is used or intended to be used for the landing and takeoff of aircraft, including general aviation aircraft, helicopters, seaplanes and ultra-light aircraft or vehicles, but excluding air carrier aircraft, that may be open to the public for commercial or business purposes and shall meet State standards on the basis of Mean Sea Level (MSL) elevations. It may include appurtenant areas, facilities or buildings suitable to house, handle or service aircraft. Any such aircraft or vehicle operating from a private airfield shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996; Resolution No. R-18-0078, November 20, 2018)

Airfield, Commercial Agricultural An airfield that is the permanent base of operation for an aerial applicator, under land ownership or lease, within the County, the operator of which is a certified applicator under the Rules and Regulations of the State of Nebraska, Department of Aeronautics. The Commercial Agricultural airfield shall be for the exclusive use and operation of the Commercial Agricultural airfield owner or lessee for their aircraft and shall not be open to the public. Any such aircraft or vehicle shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

Airfield, Family An airfield, the use of which is restricted to the non-commercial use by the airfield owner (who must be a natural person) or members of the owner's family, or to an individual person, lessee (who must be a natural person) or members of the lessee's family. A maximum of four (4) families may jointly use a family airfield in the manner provided in this section, so long as each family owns or is leasing a buildable parcel which has 150' frontage on the runway of the family airfield. The use of a family airfield may include an occasional guest or visitor. The family airfield shall accommodate a minimum paved runway length of 300 feet, and the vehicle using the runway shall clear the adjacent property line by a height of 50 vertical feet above the end of the runway during normal takeoff operations or by a height of 150 feet over a Residential zoned property and 100 feet over Agriculture Residential property. Any such aircraft or vehicle shall attain safe and reasonable clearances over utility lines, poles, towers and appurtenances which may be located in the path of any runway. (Resolution No. 5367, August 26, 1996)

Airport An area of land and/or water, open to the public which is designed and built for the landing and takeoff of various aircraft, including but not limited to air carrier, commuter or general aviation aircraft, and normally would include passenger terminals and other aviation related facilities and buildings. The design and minimum standards for each airport shall conform to State and Federal regulations. (Resolution No. 5367, August 26, 1996)

Alley A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

Anaerobic Digestion Anaerobic digestion shall mean the controlled biological breakdown of biodegradable organic material in the absence of oxygen. (Resolution No. R-17-0040, May 30, 2017)

Anaerobic Digestion Operation, Commercial Commercial Anaerobic Digestion Operation shall mean any premises that is maintained, used or operated, wholly or partially, for accepting, receiving or otherwise utilizing organic materials that originated on the premises or are derived off the premises for the purpose of creating biogas, biosolids, or digestate through the process of anaerobic digestion on the premises. Commercial Anaerobic Digestion Operation includes any profit or not for profit operation that collects or accepts organic materials from a premises other than the premises from where the anaerobic digestion occurs. (Resolution No. R-17-0040, May 30, 2017)

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Animal Feeding Operation** (AFO) shall mean an operation and any buildings or designated areas necessary for an operation that stables or confines and feeds or maintains beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock for a total of forty five (45) days or more in any twelve (12) month period. AFO does not include aquaculture. (Resolution No. R-20-0011, March 10, 2020)

Apartment A room or suite of rooms in a multiple dwelling, or where more than one dwelling unit is established above non-residential uses, intended or designed for use as a residence by a single family including culinary accommodations.

Apartment House See Dwelling, Multiple.

2.003. B.

Basement shall mean that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

Biodegradable shall mean an organic material with the ability to be broken down using aerobic or anaerobic processes into the raw materials of nature and disappear into the environment. (Resolution No. R-17-0040, May 30, 2017)

Biogas shall mean a gas produced through anaerobic digestion and is primarily composed of methane and carbon dioxide, but also may contain impurities such as hydrogen sulfide. (Resolution No. R-17-0040, May 30, 2017)

Biosolids shall mean solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or

chemically stabilize solids to the extent that they do not attract vectors. Biosolids shall include digestate resulting from the anaerobic digestion of organic materials. (Resolution No. R-17-0040, May 30, 2017)

Broadcast Tower shall mean a structure for the transmission or broadcast of radio, television, radar or microwaves which exceeds the maximum height permitted in the district in which it is located.

Building Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property. Poles used for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as buildings or structures under this resolution.

Buildings, Height of The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip, shed and gambrel roofs.

2.004. C.

Campground shall mean a parcel of land intended for temporary occupancy by any of the following: tent, tent trailer, cabin or recreational vehicle. (Resolution No. 4123, August 25, 1986; Resolution No. R-18-0078, November 20, 2018)

Cellar shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Clinic A clinic is an establishment where patients are admitted for special study and treatment by a group of physicians practicing medicine together.

Closing Section Any section of land bordering on the north or west line of a township. (Resolution No. 3478, June 24, 1980)

Club shall mean a building or facility owned or operated by persons associated for a social, educational or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have been associated; this shall not include a building of religious assembly, or the occasional accessory use of a private residence as a meeting place. (Resolution No. R-17-0040, May 30, 2017)

Commercial Composting Operation shall mean any premises that is maintained, used or operated, wholly or partially, for accepting, receiving or otherwise utilizing organic materials that originated on the premises or are derived off the premises for the purpose of creating composted material or compost on the premises. Commercial composting operation includes any profit or not for profit operation that collects or accepts organic materials from a premises other than the premises from where the composting occurs. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-14-0007, Jan. 28, 2014)

Composting shall mean the controlled aerobic, thermophilic, microbial degradation of organic material to a stabilized, humus-like material. Composting shall include vermicomposting and vermiculture. Composting shall not include land application of organic material that is worked into the soil. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-14-0007, Jan. 28, 2014)

Composted Material or Compost shall mean the solid material resulting from the composting process. It includes both the material produced from aerobic composting, vermicomposting, and vermiculture. (Resolution No. R-17-0040, May 30, 2017)

Compostable shall mean an organic material with the ability to be broken down using aerobic processes and eventually turned into a nutrient-rich material and is limited to solid materials and does not refer to liquids. (Resolution No. R-17-0040, May 30, 2017)

Commercial Wind Energy Conversion Systems/Turbines (CWECS) A commercial grade wind energy conversion system (WECS) of over 100 Kilowatt (KW) plate rated capacity and intended to be used primarily to provide off-site power. (Resolution No. R-11-0022, March 29, 2011)

Contractor Services shall mean a business which provides a service which is primarily performed off-site. Few customers visit the site. Common examples of contractor services include plumbing, heating and air conditioning, electrical, exterminator, lawn and garden and construction. Outdoor storage, machinery, trucks, and service vehicle fleets are common accessory uses. (Resolution No. R-18-0078, November 20, 2018)

2.005. D.

Digestate shall mean both solid and liquid substances that remain following anaerobic digestion of organic material in an anaerobic digestion facility. "Solid digestate" shall mean the solids resulting from anaerobic digestion, and "liquid digestate" shall mean the liquids resulting from anaerobic digestion. (Resolution No. R-17-0040, May 30, 2017)

District A section of sections of Lancaster County for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Domestic Shelters shall mean a temporary shelter for individuals affected by domestic violence. Such use shall be operated by a public or nonprofit entity and may provide temporary boarding, lodging, counseling and support services. (Resolution No. 5407, November 19, 1996)

Dwelling Any building or portion thereof which is designed and used for residential purposes. (Resolution No. R-18-0078, November 20, 2018)

Dwelling, Single Family A building having accommodations for and occupied exclusively by one (1) family.

Dwelling, Two-Family A building having accommodations for and occupied exclusively by two (2) families.

Dwelling, Multiple A building having accommodations for and occupied exclusively by more than two (2) families.

2.006. E.

Early Childhood Care Facility shall mean a building for the provision of services in lieu of parental supervision for four or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, child care home, child care center, before- and after-school child care program, or preschool or nursery school, but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or preschool or nursery school, or a preschool program conducted in a school approved pursuant to Nebraska State Statutes. (Resolution No. R-18-0078, November 20, 2018)

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Enclosed Animal Feeding Operation** (Enclosed AFO) shall mean an AFO that stables or confines the animals within totally enclosed buildings. Each enclosed building shall be roofed and have walls that extend from the floor to the ceiling. The floor may be of a type including, but not limited to, hard surfaced, earthen, or slatted. An Enclosed AFO may include accessory buildings necessary for an operation that are not totally enclosed. (Resolution No. R-20-0011, March 10, 2020)

Excavation shall mean the removal of clay, soil, limestone, sandstone, sand, or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling, or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit, or normal farming practices. (Resolution No. R-17-0040, May 30, 2017)

2.007. F.

Family One or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in a dwelling shall constitute a family. A family may include, in addition, not more than two (2) persons who are unrelated for the purpose of this title:

a. A person residing with a family for the purpose of adoption;
b. Not more than six (6) persons under 16 years of age, residing in a foster home licensed as such by the State of Nebraska;
c. Not more than four (4) persons 16 years of age or older residing with a family for the purpose of receiving foster care;
d. Any person who is living with a family at the direction of a court.

Farm An area which is used for the growing of the usual farm products such as vegetables, fruit trees, and grain and their storage on the area, as well as horses, cattle, sheep and swine. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the product; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.

Farmstead An area of twenty (20) acres or more in which is located at least one (1) dwelling unit and on which farm products of a value of one thousand dollars ($1,000.00) or more are raised each year.

Farm Winery Farm Winery shall mean any enterprise which produces and sells wines produced from grapes, other fruit or suitable agricultural products of which seventy-five (75) percent is grown in the State of Nebraska. (Resolution No. 5437, February 18, 1997)

Feedlot, Commercial, For special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, a **Commercial Feedlot** is a use where the principal business is the feeding of livestock or poultry for the purpose of sale for slaughter or butcher. Commercial Feedlot shall not include dairy herds or the keeping of livestock other than for slaughter or butcher. (Resolution No. R-17-0040, May 30, 2017) (Resolution No. R-20-0011, March 10, 2020)

Flood Plain shall mean those lands which are subject to a one percent or greater change of flooding in any given year. (See ARTICLE 11 for additional definitions.)

Floodprone Area Those lands subject to a one percent or greater change of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City of Lincoln, Lancaster County, or other government agency, or other acceptable source as approved by the County where this is the best available information. (Resolution R-09-0070, September 15, 2009)

Floor Area shall mean the total number of square feet of floor space within the outside of the exterior walls of a building, not including storage space in cellars or basements and not including space used for the parking of automobiles.

Food Waste shall mean any whole, partial, or residual, source-separated, fruits, vegetables, seeds, plate-scrapings, and excess servings from prepared foods for human consumption that have either gone uneaten, exceeded their use date, spoiled, or otherwise are unwanted or unneeded, and associated serving utensils, devices, and containers that have been deemed biodegradable and compostable through proven study. (Resolution No. R-17-0040, May 30, 2017)

Frontage shall mean the length of the property on one side of a street between two street intersections (crossing or terminating), measured along the property line at the street, or if the street is dead-ended, the length of the property abutting on one side between an intersecting street and the dead-end of the street.

2.008. G.

Garage, Private An accessory building designed or used for the storage by the occupants of the building to which it is accessory. (Resolution No. R-16-0076, November 29, 2016)

Garden Center shall mean one or more buildings used primarily for the retail sale of items useful in the culture, display or decoration of lawns, gardens or indoor plants; including books, appliances, and tools, but not including power tools or tractors. (Resolution No. R-18-0078, November 20, 2018)

Government Lot A lot which was created by the original government survey to distribute errors in measurements while subdividing a township into section. All such lots are located only in closing sections, and are recorded in the surveyor's records of Lancaster County, although specific reference to them as Government Lots may or may not have appeared in original or subsequent deeds. Copies of the surveyor's records of Lancaster County are available for inspection at the County-City Building in the Department of Building and Safety and the Planning Department, and also at the County Engineer's Office. (Resolution No. 3478, June 24, 1980; Resolution No. R-18-0078, November 20, 2018)

Grade shall mean:

A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (Resolution No. R-17-0040, May 30, 2017)

Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street and where no sidewalks exist the sidewalk grade shall be established by the County Engineer.

"**Ground Water Reservoir**" shall mean a disignated area of land under which a major aquifer is known to exist and which has been delineated by the Lower Platte South Natural Resources District (LPSNRD). (Resolution No. R-20-0011, March 10, 2020)

Group Home shall mean a facility in which more than two (2) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption reside while receiving therapy or counseling but not nursing care, for any of the purposes listed below. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

a. Adaption to living with, or rehabilitation from, the handicaps of physical disability;
b. Adaption to living with, or rehabilitation from, the handicaps of emotional or mental disorder, or mental retardation;
c. Rehabilitation from the effects of a drug or alcohol abuse;
d. Supervision while under a program of alternatives to imprisonment, including but not limited to pre-release and probationary programs.

2.009. H.

Health Care Facility, Non-Residential Non-residential health care facility shall mean a building or structure that generally includes an office environment, outpatient services and little to no permanent residential component but which may allow for a stay in the facility by patients receiving care for more than 24 hours. These facilities shall be licensed or approved by the state or an appropriate agency, if required. A hospital is an example of a non-residential health care facility.

Health care facility does not include doctors or dentists professional offices and private clinics. (Resolution No. R-17-0040, May 30, 2017)

Health Care Facility, Residential Residential health care facility shall mean a building or structure that is to be used in a residential nature, licensed or approved by the state or an appropriate agency, if required. Residential health care facility could include but would not be limited to the following types of facilities: Assisted Living, Nursing Care, Memory Care, Convalescent Home, Hospice Home, Group home for 16 or more people and Intermediate Care, and may include independent living units. (Resolution No. R-17-0040, May 30, 2017)

Heliport An existing or proposed heliport shall comply with the technical information and guidelines of the Federal Aviation Administration Advisory Circulars in effect at the time of application. (Resolution No. 5367, August 26, 1996)

Heritage Center One or more buildings and open space within which a historical significant era or activity is displayed, provided that, the retail of crafts or other works is complementary to such era of activity. (Resolution No. 4277, April 28, 1987)

Home Occupation shall mean any occupation or activity which: 1) is carried on within a dwelling unit or accessory building by a Family, as defined by this Resolution and others as allowed by this Resolution; and 2) is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in ARTICLE 13 and 15. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-09-0076, September 29, 2009)

Hotel A dwelling not consisting of dwelling units and occupied by more than twenty (20) persons all of whom may reach their living accommodations by passing through one central lobby.

Housing for the Elderly shall mean any dwelling in which each occupied dwelling unit is occupied by at least one (1) person of 60 years of age or more.

2.010. I.

Interior Section Any section of land in a township, except those sections lying along the west line or north line of a township. (Resolution No. 3478, June 24, 1980)

2.011. J.

2.012. K.

2.013. L.

Landscaping shall mean that an area is permanently devoted and maintained for the growing of trees, shrubbery, lawns and other plant materials; landscaping shall conform to all applicable standards adopted by the County Board.

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Large Animal Feeding Operation** (Large AFO) shall mean an AFO that stables or confines as many as or more than the number of animals specified in any of the following categories:

- 700 mature dairy cows, whether milked or dry;
- 1,000 veal calves;
- 1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;
- 2,500 swine each weighing 55 pounds or more;
- 10,000 swine each weighing less than 55 pounds;
- 500 horses;
- 10,000 sheep or lambs;
- 55,000 turkeys;
- 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
- 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;
- 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
- 5,000 ducks, if the animal feeding operation uses a liquid manure handling system; or
- 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system.

(Resolution No. R-20-0011, March 10, 2020)

Lodging House A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

Lot, Buildable Buildable lots shall mean:

a. A parcel of land occupied or intended for occupancy by a use permitted in this resolution, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this resolution, and fronting upon a street, as herein defined, except for lots recorded in the Register of Deeds Office prior to the adoption of this resolution, which need not front on a public street. A lot may front upon a private roadway or have other frontage requirements if specifically provided in this title.
b. A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County at the time of the adoption of this resolution, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot described by a deed recorded with the Register of Deeds for Lancaster County at the time of passage of this resolution; provided that if a lot has less width or area as required by this resolution, and if the ownership of this lot is or has been common with any contiguous land, the lot is not a buildable lot. A lot legally created under another jurisdiction and deemed buildable by that jurisdiction and subsequently converted to Lancaster County jurisdiction, shall be deemed buildable even though it may not meet the area, width or frontage or any combination thereof. (Resolution No. R-18-0078, November 20, 2018)

Lot, Corner A lot abutting upon two (2) or more streets at their intersection.

Lot, Depth of The average horizontal distance between the front and rear lot lines.

Lot, Double Frontage A lot having frontage on two (2) streets as distinguished from a corner lot.

Lot of Record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County on or before September 3, 1968, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot as described by a deed recorded with the Register of Deeds for Lancaster

County on or before September 3, 1968, provided that such lot is numbered and described by the County Surveyor and is not greater in area than one (1) acre.

Lot, Platted Platted lot shall mean a lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for Lancaster County.

2.014. M.

Market Garden shall mean a relatively small scale farming operation (twenty (20) to forty (40) acres in size) where the production of a diversity of fruits, vegetables, herbs and flowers is grown for sales primarily for direct human consumption rather than as feed for animals or for major processing before consumption. Market gardens are distinguished from other types of farming by the inclusion of accessory uses not typically found on farms.

These accessory uses may include restaurants, agricultural education and training centers, agricultural tourism or sales of agricultural products not grown on site. (Resolution No. R-12-0023, March 20, 2012)

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Medium Animal Feeding Operation** (Medium AFO) shall mean an AFO that confines or stables the type and number of animals in any of the following ranges:

- 200 to 699 mature dairy cows, whether milked or dry;
- 300 to 999 veal calves;
- 300 to 999 cattle other than mature dairy cows or veal calves. Cattle include but are not limited to heifers, steers, bulls, and cow/calf pairs;
- 750 to 2,499 swine each weighing 55 pounds or more;
- 3,000 to 9,999 swine each weighing less than 55 pounds;
- 150 to 499 horses;
- 3,000 to 9,999 sheep or lambs;
- 16,500 to 54,999 turkeys;
- 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
- 37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;
- 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
- 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or
- 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system.

(Resolution No. R-20-0011, March 10, 2020)

Mini-warehouse shall mean a storage facility containing individual compartments or lockers designed to serve multiple persons and small businesses. Storage bays shall not be interconnected by interior doors or other interior means providing access from one storage bay to another. (Resolution No. R-18-0078, November 20, 2018)

Mobile Home shall mean a dwelling, more than eight (8) feet wide and more than thirty two (32) feet long, and designed and built to be towed on its own chassis. (Resolution No. R-17-0040, May 30, 2017)

Mobile Home Court Any mobile home court, campsite, lot, parcel, or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for mobile homes and upon which mobile homes are parked and shall include all building used or intended for use as part of the equipment thereof whether a charge is made for the use of the mobile home court and its facilities or not. "Mobile home court" shall not include automobile or mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection and sale.

Motel A dwelling not consisting of dwelling units and occupied by more than twenty (20) persons, in which there is no central lobby to reach individual living accommodations.

2.015. N.

Nonconforming Use shall mean the use of any dwelling, building, structure, lot, land or premises, or part thereof, which was existing and lawful immediately prior to the effective date of this title and which does not conform with the provisions of this title and any amendments thereto.

Non-Green Feedstocks shall mean animal parts and by-products, mixed materials containing animal parts and by-products, dead animals, and municipal solid waste (MSW). Non-green feedstocks do not include biosolids or manures. (Resolution No. R-17-0040, May 30, 2017)

Nonstandard Use shall mean the category of non-conformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this title which fail to comply with the minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this title.

2.016. O.

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Open Animal Feeding Operation** (Open AFO) shall mean an AFO within pens, shed-type areas, open buildings, or other similarly concentrated areas, wherein animals are fully or partially exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas. (Resolution No. R-20-0011, March 10, 2020)

Organic Materials shall mean any biodegradable and compostable: lawn clippings and leaves, raw sewage or treated sewage sludge, animal or paunch manure, any other plant or food waste or a mixture of any of the above. Organic materials shall not include non-green feedstocks. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-14-0007, Jan. 28, 2014)

Outlot A parcel of real property with a separate and distinct outlot designation shown on a final plat recorded in the Office of the Register of Deeds for Lancaster County, Nebraska, and which is reserved for future building or occupancy after replatting and subdivision, or reserved for agricultural use, open space or common facilities. (Resolution No. R-13-0043, July 30, 2013)

2.017. P.

Paint Filter Test shall mean a test on waste conducted in compliance with EPA Method 9095B to determine if the waste contains free liquids. (Resolution No. R-17-0040, May 30, 2017)

Parking Space An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Place of Religious Assembly Any use of a building or premises by a religious organization, as defined in the Nebraska Administrative Code, for religious worship, religious services, and/or religious training (Title 350, Chapter 40-Property Tax Exemption Regulations, or as may be amended from time to time by the State of Nebraska). (Resolution No. R-17-0040, May 30, 2017)

Private School shall mean privately owned education and instruction facilities that meet the State of Nebraska requirements for elementary or secondary education. Private school shall not mean academies, early childhood care facilities, private colleges, or vocational schools. (Resolution No. R-17-0040, May 30, 2017)

Premises A tract of land consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

2.018. Q.

Quarter Section One quadrant of a section of land, established by running straight lines between opposite quarter-section corners, the point of intersection of such lines being the common corner of the four quadrants. (Resolution No. 3478, June 24, 1980)

2.019. R

Recreational Facilities shall mean facilities primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming, golf, outdoor shooting or archery ranges. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guests, nor shall it include arenas or stadia used primarily for spectators to watch athletic events. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018)

Row House See Townhouse.

2.020. S.

Service Station shall mean any building or premises which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washing, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray painting operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump island shall be located more than twelve (12) feet from the nearest property line.

Sexually Oriented Live Entertainment Establishment shall mean any commercial establishment that as a substantial or significant portion of its business, features or provides any of the following:

a. Persons who appear showing specified anatomical areas.
b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of specific anatomical areas or the conduct or simulation of specified sexual activities.

Sexually oriented live entertainment establishment shall not include any theater, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performance. (Resolution 00-129, October 13, 2000)

Sign shall mean any symbolic device capable of visual communication or attraction which is visible from off the premises upon which it is located. Signs shall include any announcement, words, written material, illustration, symbol, picture, insignia or structure which directs attention to a product, service, place, activity, person, institution, business or solicitation including any emblem, painting, banner, pennant or placard designed to advertise, identify, or convey information with the exception of merchandise window displays, national flags and sculpture. For the purpose of removal, sign shall also include all sign structures.

Single-family Airfield An airfield, the use of which is restricted to the owner or members of his family; however, the gross takeoff weight of the aircraft using the airfield may not exceed 12, 500 pounds and the facility must meet the rules and regulations of the Nebraska Department of Aeronautics. (Resolution No. 4369, April 26, 1988)

Except for special permit applications for Commercial Feedlots under Section 13.035(a) filed prior to March 10, 2020, **Small Animal Feeding Operation** (Small AFO) shall mean an AFO that is not a Medium or Large AFO. (Resolution No. R-20-0011, March 10, 2020)

Social Hall shall mean a building or premises available for rent on a daily basis to be used for social, educational, or civic gatherings, including, but not limited to, charitable fund raising events, wedding receptions, family reunions, educational seminars, or similar events. (Resolution No. R-17-0040, May 30, 2017)

Solar Screen shall mean a device attached to a building to provide shading for glazed areas thereof.

Specified Anatomical Areas shall mean:

a. Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.
b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state. (Resolution 00-129, October 13, 2000)

Specified Sexual Activities shall mean any of the following:

a. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
b. Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
c. Masturbation, actual or simulated.
d. Human genitals in a state of sexual stimulations, arousal or tumescence.
e. Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3) or (4) of this section. (Resolution 00-129, October 13, 2000)

Story That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is finished off for use.

Street, Highway or Road All property acquired or dedicated to the public and accepted by the appropriate governmental agency for highway, street or road purposes. Property that has been commonly used or dedicated to be used for highway, street or road purposes prior to the adoption of this resolution shall be considered a highway, street or road.

Street, Highway or Road Centerline A line midway between highway, street or road lines.

Street, Highway or Road Line A dividing line between a lot, tract or parcel of land and a contiguous highway, street or road. The location of a highway, street, or road line shall be as shown on the County Engineer's Sectional Plats.

Structure Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts, and pergolas, provided the foregoing shall not apply to gasoline pumps and gasoline pump islands in the "B" Business district which shall be located not less than twelve (12) feet from the nearest property line.

Structural Alterations Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

2.021. T.

Townhouse shall mean one of a group or row of not less than three (3) nor more than twelve (12) attached, single-family dwellings designed and built as a single structure facing upon a street, in which the individual townhouse may or may not be owned separately. The townhouse need not face upon a street if otherwise specifically provided in this title. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

2.022. U.

2.023. V.

Vermicomposting shall mean the controlled and managed process by which live worms convert organic materials into dark, fertile, granular excrement. (Resolution No. R-17-0040, May 30, 2017)

Vermiculture shall mean the raising of earth worms for the purpose of collecting castings for composting or enhancement of a growing medium. (Resolution No. R-17-0040, May 30, 2017)

2.024. W.

Wind Energy Conversion System is any device, such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy. (Resolution R-08-0090, October 15, 2008)

2.025. X.

2.026. Y.

Yard Line The yard line is a line on the lot running parallel to and the required distance from the nearest lot line.

Yard, Required Required yard shall mean the required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies or open porch as otherwise provided in this title.

Yard, Required Front The required front yard shall extend across the front of a lot between the side lot lines. There shall be a required front yard on each street side of a corner lot.

Yard, Required Rear The required rear yard shall extend across the rear of a lot between the side lot lines. On corner lots, the required rear yard may be to the rear of either street, provided that the minimum required rear yard shall be calculated on the longest average lot dimension. On interior lots, the required rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Required Side The required side yard shall extend between the front yard line and the rear yard line. There shall be only one required side yard on a corner lot.

2.027. Z

ARTICLE 3 DISTRICTS AND BOUNDARIES

Contents:

3.001

3.003.

3.005. Interpretation of District Boundaries.

3.007

3.009

3.011 Extraterritorial Jurisdictions

3.013. Except as hereinafter provided:

3.001

In order to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the location and use of buildings, structures, and land for trade, industry, residence, and size of the yards, courts, and other open spaces, the density of population, and/or other purposes, the unincorporated portions of the county are hereby divided into districts as follows:

"AG"	AGRICULTURAL DISTRICT
"AGR"	AGRICULTURAL RESIDENTIAL DISTRICT
"R"	RESIDENTIAL DISTRICT
"B"	BUSINESS DISTRICT
"I"	INDUSTRIAL DISTRICT
	FLOOD PLAIN DISTRICT

3.003.

The boundaries of the districts are shown upon the maps which are attached hereto and made a part of this resolution, which maps are designated as the Lancaster County Zoning district maps. Other maps referenced in Section 11.001 of this resolution are also made apart hereof for the purpose of designating the boundaries of a district. That part of the maps designating the different districts and their boundaries and that part of the legend designating the letter symbol for each district are a part of this resolution and have the same force and effect as if the district maps and that part of the legend referred to above were all fully set forth herein. Other notations and references are for information only. (Resolution No. 3666, January 26, 1982)

3.005. Interpretation of District Boundaries.

a. A district name or letter symbol shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter symbol extend throughout the whole area in the unincorporated portions of the county bounded by the district boundary lines within which such name or letter symbol is shown or indicated, except as otherwise provided by this section.

b. Where uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of this resolution, the following rules shall apply:

1. In cases where a boundary line is given a position within a street or alley or non-navigable stream, it shall be deemed to be in the center of the street, alley or stream, and if the actual location of such street, alley or stream varies slightly from the location as shown on the district map, then the actual location shall control.
2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical features, this distance shall control.
3. In cases where a boundary line is shown adjoining or coincidental with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of the designated mainline track.
4. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the maps accompanying and made a part of this resolution are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by resolution.
5. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps accompanying and made a part of this resolution shall be determined by the use of the scale contained on such maps.

3.007

All territory which may hereafter become a part of the unincorporated area of Lancaster County by the disincorporation of any village, town, or city, or for some other reason may fall within the zoning jurisdiction of Lancaster County, shall automatically be classified in the "AG" District until within a reasonable time following disincorporation, or acquisition of zoning jurisdiction, the territory shall be appropriately classified by resolution in accordance with Article 22.003 of this resolution.

3.009

Whenever any street, alley, county road, or other public way is vacated by official action of the board of County Commissioners, the zoning district adjoining each side of such street, alley, county road or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

3.011 Extraterritorial Jurisdictions

The districts referred to in ARTICLE 3 shall apply to all unincorporated areas of the entire County except all of the area laying between the Corporate limits of any city of the Primary Class in the County of Lancaster and three miles distance therefrom all areas laying between the corporate limits of a city of the first class and two miles distance therefrom, and all of the area laying between the corporate limits of a village or city of the second class and one mile distance therefrom unless otherwise adopted by Ordinance of those villages and cities. (Resolution No. R-13-0043, July 30, 2013)

3.013. Except as hereinafter provided:

a. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located;

b. No building shall be erected, converted, enlarged, reconstructed or structurally altered in conformity with the area and parking regulations of the district in which the building is located;

c. No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area and parking regulations of the district in which the building is located;

d. The minimum yards and other open spaces, including lot area per family, required by this resolution for each and every building at the time of passage of this resolution or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this resolution;

e. Every building hereafter erected or structurally altered shall be located on a buildable lot as herein defined and in no case shall there be more than one (1) main building on one (1) buildable lot except as otherwise provided herein in ARTICLE 15 and 17;

f. Nothing contained in these regulations shall prevent the use of any land for farming or agricultural purposes, nor shall any construction or occupancy permit be required for any accessory building located on a farmstead and used for the usual farming purposes except as provided in the flood plain regulations as outlined in ARTICLE 11. (Resolution No. R-17-0040, May 30, 2017)

g. All inhabited mobile homes shall be located in a mobile home court; in a campground in which a mobile home shall be used only for conducting the business of the campground and may also be used as a dwelling for the campground manager; in a private recreational area, or on a farmstead in which the inhabitants of the mobile home are substantially involved in the operation of the farm, except as permitted by Sections 4.005, 5.005 and 6.005, and ARTICLE 13 of this resolution. Only mobile homes permitted by this resolution and uninhabited mobile homes offered for sale by dealers and manufacturers shall be connected to utilities. Any vehicle, with or without motive power, designed for living quarters, must comply with the provisions of this resolution. No mobile home shall be used for any purpose other than a dwelling, except a mobile home may be used as a temporary office or shelter incidental to construction or development of the premises on which the mobile home is located during the construction or development. (Resolution No. 3777, January 18, 1983; Resolution No. 4213, August 5, 1986)

h. For purposes of paragraphs f and g above, the following shall be considered to determine the inhabitants' involvement in the operation of the farm: percentage of income from farm, percentage of time spent farming, members of the family farming, proprietary interest in real or personal farm property or farm produce, future interest in farm, and expenditures in the farming operation. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3668, February 2, 1982)

ARTICLE 4 "AG" AGRICULTURAL DISTRICT

This district is designated for agricultural use and is intended to encourage a vigorous agricultural industry throughout the county and to preserve and protect agricultural production by limiting urban sprawl as typified by urban or acreage development.

Contents:

4.001 Scope of Regulations

4.003 Permitted Uses.

4.005 Permitted Conditional Uses

4.007 Permitted Special Uses

4.011 Accessory Uses

4.013 Parking Regulations

4.015 Sign Regulations

4.016 AG Preservation

4.017 Height and Area Regulations

4.001 Scope of Regulations

The regulations set forth in this chapter or elsewhere in this resolution when referred to in the chapter, are the district regulations in the "AG" Agricultural District.

4.003 Permitted Uses.

a. Agriculture, except commercial feedlots;

b. Breeding, raising, management and sale of fur-bearing animals and the produce thereof;
c. Dog breeding establishments and kennels;
d. Stables, riding stables and riding academies;
e. Public uses: Including but not limited to public parks, playgrounds, golf courses and recreational uses; fire stations; schools; publicly owned or operated airports; and public utilities and utility distribution systems; excluding governmental landfill operations; (Approved Resolution No. 5367, August 26, 1996)
f. Single family dwellings;
g. Places of Religious Assembly;
h. Cable and fiber optic communication distribution systems; (Resolution No. R-01-21, April 4, 2001)
i. Wind energy conversion systems (WECS). (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-08-0090, October 15, 2008)

4.005 Permitted Conditional Uses

A building or premises may be used for the following purpose in the "AG" Agricultural District in conformance with the conditions prescribed herein:

a. Cemeteries, including mausoleums:
   1. Mausoleums shall be located at least two hundred (200) feet from every street and adjoining property line.
   2. Any cemetery established after the effective date of this title shall contain an area of twenty (20) acres or more.
b. Roadside stands for the temporary or seasonal sale of produce:
   1. Such roadside stands shall be permitted in a required yard, however, no roadside stand shall be permitted in a right-of-way, nor closer than thirty (30) feet to the edge of a traveled roadway.
   2. Such roadside stands shall not be operated for more than one hundred eighty (180) days in any one year. (Resolution No. R-18-0078, November 20, 2018)
c. Group homes:
   1. Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.
   2. The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half mile.
   3. Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
d. Wind energy conversion systems (WECS), over the district height, provided they meet the following conditions: (Resolution R-08-0008, February 24, 2009)
   1. The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The County Board may grant a reduction in the setback through appeal when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-08-0090, October 15, 2008)
   2. The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distance figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS. (Resolution No. R-11-0023, March 29, 2011)
   3. The WECS operation shall not cause interference to the radio and television reception on adjoining property.
   4. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS. (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)
e. Mobile Homes:
   1. The mobile home has:
      i. No less than an eight hundred (800) square foot floor area, excluding garages.

ii. No less than an eighteen (18) foot exterior width.

iii. A three (3) inch in twelve (12) inch pitched roof or steeper.

iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.

v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.

vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.

vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.

2. The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.
3. The towing bar and hitch, wheels and tires, and axles are removed.
4. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.
5. The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
6. The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983)

f. Family Airfield, under the following conditions;

1. The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.
2. A minimum effective length of the runway shall be 300 feet if paved and 500' if turfed.
3. The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.
4. The approach surface to each end of each paved runway or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.
5. The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.
6. The runway shall be set back 50' from all lot lines.
7. Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than ½ foot candle of illumination at the property line.
8. A "bubble" of clearance of 200' over and around all buildings shall be maintained.
9. Flight operations shall be prohibited from 10 PM to 5 AM.
10. Abutting property/families may use the same runway provided there are no more than four (4) properties, each of which has at least 150' of frontage on the runway. (Resolution No. 5367, August 26, 1996)

g. Domestic shelter:

1. Parking shall be one space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shifts.
2. The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area.
3. The distance between the proposed use of any existing domestic shelter measured from lot line shall not be less than one mile. (Resolution No. 5407, November 19, 1996)

h. Farm Winery:

1. No farm winery shall manufacture wine in excess of fifty thousand gallons per year.

2. A farm winery must produce a minimum of fifteen percent of product from fruit or other agricultural products harvested from the premises following five years business.
3. Wines produced at the farm winery may be sold on site at wholesale and retail and/or at off premise sites holding the appropriate license.
4. Wine samples and/or consumption on the licensed premises is permitted in reasonable amounts.
5. A farm winery may sell retail items as an accessory to wine sales through tasting or wine sales room. Retail space shall not exceed two thousand square feet.
6. A farm winery may only serve food prepared off site by a Health Department licensed establishment in association with sampling and/or consumption of wine. A farm winery may not act in the capacity of a retail food establishment. (Resolution No. 5437, February 18, 1997)
7. A farm winery shall produce a minimum of 500 gallons of wine on site per year on average over a consecutive 3-year period.
8. A farm winery shall only have a Class Y, YC or YK liquor license approved by the State of Nebraska.
9. The site for the farm winery may be on the same premises as the main residence of the owner or operator. (Resolution No. R-17-0040, May 30, 2017)

i. Temporary paving plants used for the paving of federal or state highways or county roads are allowed during the project construction period under the following conditions:
1. The plant shall be on premises abutting the specific construction project and have access to a paved road.

2. The plant shall be located no closer than 300 feet from an occupied dwelling or from any school, place of religious assembly, library, early childhood care facility, hospital, motel or park.

3. The operator shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.

4. Paving material prepared at the plant shall not be transported to any location other than the abutting project.

5. The plant shall be removed upon substantial completion of the construction project. (Resolution No. R-18-0078, November 20, 2018).

j. Agricultural Attraction is allowed in the AG zoning district under the following conditions:
1. The premises contains twenty (20) acres or more of land, and the majority of the premises is in agriculture use for the purpose of raising and harvesting crops.

2. The attraction has received an Amusement License from the Lancaster County Board. (Resolution No. R-18-0078, November 20, 2018).

k. Early childhood care facilities under the following conditions:
1. No more than a maximum of fifteen (15) children shall be present in the facility at any time;

2. Such facility shall be used as the permanent residence of the licensed child care provider;

3. If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.
(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.) (Resolution No. R-18-0078, November 20, 2018).

l. Any use that the Lancaster County Board of Commissioners has approved by granting an amusement license for such use. Said conditional use is permitted on a premises for no more than one event per calendar year, except for Places of Religious Assembly. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 05-0058, May 25, 2005; Resolution No. R-18-0078, November 20, 2018).

4.007 Permitted Special Uses

A building or premises may be used for the following purposes in the "AG" Agricultural District if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13:

a. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017);

b. Recreational facilities;
c. Dwellings for members of religious orders;
d. Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3958, August 21, 1984);
e. Campgrounds;
f. Veterinary facilities;
g. Excavation; (Resolution No. R-17-0040, May 30, 2017);
h. Sale barns;
i. Garden centers;
j. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
k. Except as provided in Section 17.031, place of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996);
l. Expansion of non-conforming use;
n. Historic Preservation;
n. Pet cemeteries; minimum area shall be five (5) acres;
o. Clubs; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981);
p. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981);
q. Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County; (Resolution No. 3501, July 29, 1980);
r. Mobile homes; (Resolution No. R-17-0040, May 30, 2017);
s. Heritage center; (Resolution No. 4277, April 28, 1987);
t. Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017l; Resolution No. 5367, August 26, 1996);
u. Storage of agricultural conservation construction equipment; (Resolution No. 5367, August 26, 1996);
v. u) Race track, drag strip or motor sport facility; (Resolution No. R-07-0061, July 24, 2007);
w. Expanded home occupations; (Resolution No. R-09-0076, September 29, 2009);
x. Commercial Wind Energy Conversion Systems/Turbines; (Resolution No. R-11-0022, March 29, 2011);
y. Market Garden; (Resolution No. R-12-0023, March 20, 2012);
z. Commercial Composting Operation (Resolution No. R-14-0007, Jan. 28, 2014);
a. Commercial feedlot, if the special permit application for a Commercial Fedlot under Section 13.035(a) is received prior to March 10, 2020 (Resolution No. R-20-0011, March 10, 2020); (Resolution No. R-17-0040, May 30, 2017)
b. Community Unit Plan; (Resolution No. R-17-0040, May 30, 2017);
c. Health Care Facilities Non-Residential; (Resolution No. R-17-0040, May 30, 2017);
d. Private Recreational Activities; (Resolution No. R-17-0040, May 30, 2017);
e. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
f. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and
g. Early Childhood Care Facilities; (Resolution No. R-18-0078, November 20, 2018).
h. Accessory Dwelling Unit. (Resolution No. R-18-0094, December 18, 2018).
i. Medium or Large Animal Feeding Operation. (Resolution No. R-20-0011, March 10, 2020)

4.011 Accessory Uses

Accessory uses permitted in the "AG" Agricultural District are accessory buildings and uses customarily incidental to any of the permitted uses in the district.

4.013 Parking Regulations

No parking is required except that one (1) space per 50 square feet of the largest meeting shall be provided at places of religious assembly and schools. (Resolution No. R-17-0040, May 30, 2017)

4.015 Sign Regulations

Signs within the "AG" Agricultural District shall be regulated in conformance with the provisions in ARTICLE 16.

4.016 AG Preservation

The Planning Director may approve AG Preservation lots and the general requirements of Section 4.017(a) are not required to be met under the following conditions:

In such event, the yard requirements of Section 4.017c(1) shall apply.

1. The overall density on one dwelling unit per twenty (20) acres shall be maintained. The subdivision shall have a minimum of twenty (20) acres and a maximum of eighty (80) acres with no more than 4 buildable parcels created. For purposes of determining minimum lot area, road right-of-way is included in the total area;

2. Buildable lots with onsite wastewater shall be equal to or greater than three (3) acres as provided by County Resolution 02-30. The Lincoln-Lancaster County Health Department may approve lots less than three (3) acres in size served by an onsite wastewater treatment system when an easement exists on adjacent land providing a minimum of three (3) acres (Resolution No. R-12-0058, July 24, 2012);

3. The remaining land shall be placed in an outlot that occupies a minimum of 75% of the total area of the subdivision. This outlot shall be non-buildable except that agricultural structures shall be allowed (Resolution No. R-12-0058, July 24, 2012);

4. Lots shall be accessed by a single shared driveway, which shall be within a public access and utility easement, sixty (60) feet in width, the purpose of which is to act as local road right-of-way in the event the property, or adjacent parcels, should further subdivide in the future. An exception may be made for subdivisions which have frontage on more than one road when the frontage meets the minimum requirement and when a safe access point can be approved by the County Engineer (Resolution No. R-12-0058, July 24, 2012);

5. The subdivider agrees to dedicate the full fifty (50) foot right-of-way on County section line and one-half section line roads abutting the subdivision (Resolution No. R-12-0058, July 24, 2012);

6. In the case of AG Preservation lots there shall be a setback equal to the front yard setback of the district measured from the lot line bordering the public access easement along the shared driveway and along any other public or private roadway. This is to accommodate a future conversion of the shared driveway to a public or private roadway (Resolution No. R-12-0058, July 24, 2012; Resolution No. R-18-0078, November 20, 2018).

4.017 Height and Area Regulations

The height and minimum lot requirements within the "AG" Agricultural District shall be as follows:

a. General requirements:

	Min. Lot Area	Avg. Lot Width	Min Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Max Height
All Permitted Uses	20 acres	550'	550'	50'*	60'	100'	35'

1. Required Yards:
   i. In no event need the sum of the distance from the centerline of the abutting road to the street line, and the required front yard exceed a total of 80'. The required front yard of any such property exceeding the 80' sum may be reduced accordingly; (Resolution No. R-12-0058, July 24, 2012; Resolution No. 3740, August 31, 1982);
   ii. There shall be a required front yard on each street side of a double frontage lot; (Resolution No. R-12-0058, July 24, 2012);
   iii. There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on the effective date of this title need not be reduced below thirty-five (35) feet except where necessary to provide a required side yard of not less than five (5) feet in place of one of the required front yards; (Resolution No. R-12-0058, July 24, 2012);

iv. Where a buildable lot on the effective date of this Resolution has an average width of 550 feet or less, the required side yard may be reduced to a width of not less than ten percent (10%) of the width of the lot, but in no instance shall it be less than fifteen (15) feet; (Resolution No. R-12-0058, July 24, 2012; Resolution No. 4130, December 3, 1985);

v. Where a buildable lot on the effective date of this Resolution has a depth of not more than three hundred (300) feet, there shall be a required rear yard having a depth of not less than fifty (50) feet or twenty percent (20%) of the depth of the lot, whichever is smaller; (Resolution No. R-12-0058, July 24, 2012);

vi. For lots of twenty (20) acres or more created prior to January 1, 2017 the minimum frontage requirement shall not apply. Lots without frontage shall be non-buildable unless they have a permanent access easement to a public street or private roadway; (Resolution No. R-17-0040, May 30, 2017; (Resolution No. R-18-0078, November 20, 2018);

vii. Any residence constructed within the required yard setbacks on a farmstead of twenty (20) acres or more prior to January 1, 2006 shall be considered non-standard as to yard requirements if it remains on 20 or more acres; (See also Resolution R-05-0155, December 6, 2005) (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018);

viii. Accessory buildings which are attached to or not located more than ten (10) feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings shall not be nearer than two (2) feet to the side or rear lot line; such accessory buildings located in the required rear yard shall not occupy more than thirty percent (30%) of the required rear yard. (Resolution No. 3740, August 31, 1983; Resolution No. R-12-0058, July 24, 2012; Resolution No. R-18-0078, November 20, 2018).

2. Minimum Lot Area

i. For purposes of determining minimum lot area, abutting County section line and one-half section line road right-of-way is included in the total area. (Resolution No. R-12-0058, July 24, 2012; Resolution No. R-00-16, February 22, 2000);

ii. In all interior sections of the minimum area for a buildable lot shall be one half (½) of the total acreage contained in that quadrant of the quarter (1/4) section in which said lot is located. (Resolution No. R-12-0058, July 24, 2012);

iii. In all closing sections except those which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be as follows: (Resolution No. R-12-0058, July 24, 2012);

1. For those lots located within a Government Lot, the minimum required area shall be one-half (½) of the total acreage contained in said Government Lot; (Resolution No. R-12-0058, July 24, 2012)

2. For those lots which are not located within a Government Lot, the minimum required area shall be one-half (½) of the total acreage contained in that quadrant of the quarter (1/4) section in which said lot is located. (Resolution No. R-12-0058, July 24, 2012; Resolution No. R-18-0078, November 20, 2018);

iv. In those closing sections which lie along the west line of Range 8 East, the minimum area for a buildable lot shall be twenty (20) acres, provided, however that the Board of Zoning Appeals, in conformance with the terms of ARTICLE 19, may hear and decide upon petitions to vary strict application of this requirement. (Resolution No. R-12-0058, July 24, 2012; Resolution No. 3478, June 24, 1980; Resolution No. R-18-0078, November 20, 2018).

b. Buildable Lots not meeting General Requirements

1. If a buildable lot has less area, width or frontage or any combination thereof, than herein required, on the effective date of this title, such lot may be used in the following manner:

i. If the area of a parcel is ten (10) acres or more, such parcel may be used for (Resolution No. R-18-0078, November 20, 2018(:

1. Agriculture, except commercial feedlots.

2. Breeding, raising, management and sale of fur-bearing animals and the produce thereof.

3. Dog breeding establishments and kennels.

4. Stables and riding academies.

5. Public uses including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools, and public utilities and utility distribution systems.

6. A single-family dwelling.
7. Places of Religious Assembly. (Resolution No. R-17-0040, May 30, 2017)

ii. If the area of such parcel is less than ten (10) acres, such parcel may be used for (Resolution No. R-18-0078, November 20, 2018:

1. Agriculture, except commercial feedlots.
2. Public uses including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools and public utilities and utility distribution systems.
3. A single family dwelling.
4. Places of Religious Assembly. (Resolution No. R-17-0040, May 30, 2017)

iii. Those lots which would qualify under (I) above and have been since reduced by government right-of-way acquisition, may utilize the uses permitted in (I) if the remaining lot is nine (9) acres or larger. (Resolution No. 4689, October 23, 1990)

2. If two or more abutting lots in common ownership exist on the effective date of this title, each of such lots may be used for a single-family dwelling provided that each lot shall contain a minimum area of two (2) acres and shall have an average lot width of one hundred fifty (150) feet. Abutting lots in common ownership may be combined to meet these minimum standards. If a lot has less width or depth, the required side and rear yards may be adjusted as provided in 1.iv and 1.v above. (Resolution No. 3740, August 31, 1983)

c. Exceptions to Minimum Lot Area - A lot or parcel of land of one (1) acre or more may be used for a single-family dwelling or public use including any public utilities and distribution systems, or for preservation or conservation of land having significant natural, scenic, historic or scientific value (Resolution No. 5172, November 1, 1994) provided that:

1. Such lot or parcel of land and structure shall be in conformance with the following maximum height and minimum lot requirements:

i. General requirements:

	Min. Lot Area	Avg. Lot Width	Min. Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Max Height
All Permitted Uses:	1 acre	150'	120'	50'*	15'	Lesser of 50' or 20% of depth	30'
* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard, need not exceed a total of 80'. The required front yard may be reduced, where necessary, to reach this total.							

ii. There shall be a required front yard on each street side of a double frontage lot.

iii. There shall be a required front yard on each street side of a corner lot; provided, however that the buildable width of a lot of record on November 2, 1953, need not be reduced below thirty-five (35) feet except where necessary to provide a required side yard of not less than five (5) feet in place of one of the required front yards.

iv. Accessory buildings which are attached to or not located more than ten (10) feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the rear yard, but such accessory building may not occupy more than thirty percent (30%) of the required rear yard and shall not be nearer than two (2) feet to the side or rear lot line. However, if the lot or parcel of land and structure does not meet the requirements of item (I) above, it shall be considered a non-standard use.

2. Such Single family dwelling:

i. Has existed on such land for more than five (5) years;

ii. Is, or has been used as the primary residence associated with a farm; and,

iii. Is in conformance with the other provisions of this resolution, the minimum housing code, and the minimum standards for water and sewage facilities and does not represent a hazard to the health and safety of occupants.

3. Such lot or parcel created for such public use shall not be used by itself, for any purpose other than public use or agriculture. (Resolution No. 4048, April 9, 1985)

4. Such a lot or parcel, created for preservation or conservation purposes;

i. Shall be evaluated, prior to action by the County Board, by the Lancaster County Ecological Advisory Committee or other appropriate committee to determine the property's natural, scenic, historic or scientific significance;

ii. Shall have an affected deed restriction or conservation easement attached to the deed, in perpetuity, assuring appropriate limitations on development of the property and permanent preservation of its natural, scenic, historic or scientific values. (Resolution No. 5172, November 1, 1994)

ARTICLE 5 "AGR" AGRICULTURAL RESIDENTIAL DISTRICT

This district is intended to provide for a vigorous agricultural industry combined with low-density, acreage residential development in selected areas, villages or existing rural non-farm activities within reasonable reach of fire protection, relatively close to paved roads, and in areas of the County where ownership of land is already in small parcels.

Contents:

5.001. Scope of Regulations

5.003. Permitted Uses

5.005. Permitted Conditional Uses

5.007. Permitted Special Uses

5.009. Accessory Uses

5.011. Parking Regulations

5.013. Sign Regulations

5.015. Height and Area Regulations

5.001. Scope of Regulations

The regulations set forth in this chapter, or elsewhere in this resolution when referred to in this chapter, are the district regulations in the "AGR" Agricultural Residential District.

5.003. Permitted Uses

A building or premises shall be permitted to be used for the following purposes in the "AGR" Agricultural Residential District:

a. Agriculture, except confined feeding facilities for livestock or poultry;

b. Stables, riding stables and riding academies; (Resolution No. R-17-0040, May 30, 2017);

c. Public Uses: including, but not limited to, public parks, playgrounds, golf courses and recreational uses, fire stations, schools, publicly owned or operated airports, heliports and public utility distribution systems;

d. Places of Religious Assembly; (Resolution No. R-17-0040, May 30, 2017);

e. Single-family dwellings more than 1,320' from property line of a publicly owned lake property of over thirty (30) acres in size; (Resolution No. 5428, January 22, 1997; Resolution No. R-18-0078, November 20, 2018);

f. Airports; (Resolution No. 5367, August 26, 1996);

g. Cable and fiber optic communication distribution systems; (Approved Resolution No. R-01-21, April 4, 2001); and

h. Wind energy conversion systems (WECS). (Resolution No. R-08-0090, October 15, 2008).

5.005. Permitted Conditional Uses

A building or premises may be used for the following purposes in the "AGR" Agricultural Residential District in conformance with the conditions prescribed herein:

a. Cemeteries, including mausoleums:

1. Mausoleums shall be located at least two hundred (200) feet from every street line and adjoining property line.
2. Any cemetery established after the effective date of this title shall contain an area of twenty (20) acres or more.

b. Pet cemeteries: Minimum area shall be five (5) acres;

c. Roadside stands for the temporary or seasonal sale of produce:

1. Such roadside stands shall be permitted in a required yard; however, no roadside stand shall be permitted in a right-of-way, nor closer than thirty (30) feet to the edge of a traveled roadway.
2. Such roadside stands shall not be operated for more than one hundred eighty (180) days in any one year.

d. Group homes:

1. Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.
2. The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half (½) mile.
3. Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

e. Wind energy conversions systems (WECS) over the district height, provided they meet the following conditions: (Resolution No. R-09-0008, February 24, 2009)

1. The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the setback distance through appeal when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-08-0090, October 15, 2008)
2. The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS. (Resolution No. R-11-0023, March 29, 2011)
3. The WECS operation shall not cause interference to the radio and television reception on adjoining property.
4. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then-current service regulations applicable to WECS. (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

f. Mobile homes:

1. The mobile home has:
   i. No less than an eight hundred (800) square foot floor area, excluding garages;
   ii. No less than an eighteen (18) foot exterior width;
   iii. A three (3) inch in twelve (12) inch pitched roof or steeper;
   iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry;
   v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock;
   vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes;
   vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.
2. The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.
3. The towing bar and hitch, wheels and tires, and axles are removed.
4. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.
5. The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
6. The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983)

g. Domestic Shelter:

1. Parking shall be one space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shifts.

2. The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area.
3. The distance between the proposed use of any existing domestic shelter measured from lot line to lot line shall not be less than one mile. (Resolution No. 5407, November 19, 1996)

h. Temporary paving plants used for the paving of federal or state highways or county roads during the project construction period under the following conditions:

1. The plant shall be on premises abutting the specific construction project and have access to a paved road.
2. The plant shall be located no closer than three hundred (300) feet from an occupied dwelling or from any school, place of religious assembly, library, early childhood care facility, hospital, motel or park.
3. The operator shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.
4. Paving material prepared at the plant shall not be transported to any location other than the abutting project.
5. The plant shall be removed upon substantial completion of the construction project.

i. Early childhood care facilities under the following conditions:

1. No more than a maximum of fifteen (15) children shall be present in the facility at any time.
2. Such facility shall be used as the permanent residence of the licensed child care provider.
3. If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.) (Resolution No. R-18-0078, November 20, 2018).

5.007. Permitted Special Uses

A building or premise may be used for the following purpose in the "AGR" Agricultural Residential District if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13:

a. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017);
b. Recreational facilities;
c. Dwellings for members of religious orders;
d. Broadcast towers;
e. Excavation; (Resolution No. R-17-0040, May 30, 2017);
f. Garden centers;
g. Except as provided in Section 17.031, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996);
h. Community unit plans shall be permitted in conformance with the provisions of ARTICLE 14;
i. Expansion of non-conforming use;
j. Historic preservation;
k. Mobile homes; (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018);
l. Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5367, August 26, 1996);
n. Family airfields; (Resolution No. 5367, August 26, 1996);
n. Dwellings within 1,320' of the property line of a publicly owned lake property of more than thirty (30) acres in size; (Resolution No. 5428, January 22, 1997);
o. Market Garden; (Resolution No. R-12-0023, March 20, 2012);
p. Clubs; (Resolution No. R-17-0040, May 30, 2017);

q. Pet Cemeteries; (Resolution No. R-17-0040, May 30, 2017);
r. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);
s. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and
t. Early Childhood Care Facilities. (Resolution No. R-18-0078, November 20, 2018).

5.009. Accessory Uses

Accessory uses permitted in the "AGR" Agricultural Residential District are accessory buildings and uses customarily incidental to any of the permitted uses in the district.

5.011. Parking Regulations

Whenever a structure is erected, converted or structurally altered for a dwelling, there shall be provided accessible parking space on the lot to accommodate one (1) automobile for each dwelling unit.

5.013. Sign Regulations

Signs within the "AGR" Agricultural Residential District shall be regulated in conformance with the provisions of ARTICLE 16.

5.015. Height and Area Regulations

The height and minimum lot requirements within the "AGR" Agricultural Residential District shall be as follows:

a. General requirements:

	Min. Lot Area	Avg. Lot Width	Min. Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Max. Height
All Permitted Uses:	3 acres	220'	175'	50'*	15'	Lesser of 50' or 20% of depth	30'
* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard, need not exceed a total of 80'. The required front yard may be reduced, where necessary, to reach this total. ** For lots abutting cul-de-sacs, this requirement may be met by providing a frontage of 175 feet measured at the required front yard setback line. (Resolution No. 4452, January 17, 1989; prior Resolution No. 3639, October 6, 1981)							

b. There shall be a required front yard on each street side of a double frontage lot;
c. There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on October 9, 1979, need not be reduced below thirty-five (35) feet except where necessary to provide a required side yard of not less than five (5) feet in place of one of the required front yards;
d. Where a lot of record on October 9, 1979, has a width of one hundred (100) feet or less, the required side yard may be reduced to a width of not less than ten percent (10%) of the width of the lot, but in no instance shall it be less than five (5) feet;
e. If a lot or tract of land has less area, width or frontage or any combination thereof, than herein required, and its boundary lines along their entire length abut lands under other ownership on October 9, 1979, and have not since been changed, such parcel may be used for: (Resolution No. R-17-0040, May 30, 2017)
   1. Agriculture, except confined feeding facilities for livestock or poultry;
   2. Public use including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools, and public utilities and utility distribution systems;
   3. Places of religious assembly; (Resolution No. R-17-0040, May 30, 2017)
   4. A single-family dwelling. (Resolution No. 3644, November 10, 1981)
f. Accessory buildings which are attached to or not located more than ten (10) feet from the main structure and shall comply with the front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than thirty percent (30%) of the required rear yard and shall not be nearer than two (2) feet to the side or rear lot line.

ARTICLE 6 "R" RESIDENTIAL DISTRICT

This district is intended to provide a small town residential area of relatively low residential density. This district provides for single-family, two-family and multiple residential uses plus support facilities.

Contents:

6.001. Scope of Regulations

6.003. Use Regulations

6.004 Permitted Conditional Regulations

6.005. Permitted Special Uses

6.007. Use Regulations

6.009. Parking Regulations

6.011. Height Regulations

6.013. Sign Regulations

6.015. Area Regulations.

6.001. Scope of Regulations

The regulations set forth in this Article or set forth elsewhere in this resolution when referred to in this Article, are the district regulations in the "R" Residential District.

6.003. Use Regulations

A building or premises shall be used only for the following purposes:

a. Farms and Farmsteads;
b. Single-family dwellings;
c. Two-family dwellings;
d. Multiple dwellings
e. Public parks and playgrounds;
f. Public libraries;
g. Public schools, elementary and high, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes;
h. Places of Religious Assembly; (Resolution No. R-17-0040, May 30, 2017);
i. Golf courses, except miniature courses and driving tees;
j. Accessory buildings and accessory uses, customarily incidental to the above uses (not involving the conduct of a business), including a private garage, home occupations, the use of a lot or portion thereof for a vegetable or flower garden and the keeping of small animals and fowl, but not on a commercial basis or on a scale reasonably objectionable to adjacent property owners. Accessory uses shall also include public building bulletin boards and temporary signs not exceeding ten (10) square feet in area, pertaining to the lease, hire or sale of a building or premises, and places of religious assembly bulletin boards not exceeding twenty (20) square feet in area;
k. Wind energy conversion systems (WECS); (Resolution R-08-0090, Approved October 15, 2008); and
l. Recreation facility. (Resolution No. R-17-0040, May 30, 2017).

6.004 Permitted Conditional Regulations

A building or premises may be used for the following purposes in the “R” Residential District in conformance with the conditions prescribed herein:

a) Group homes:

1) Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.

2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half (½) mile.
3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

b) Early childhood care facilities under the following conditions:

1) No more than a maximum of fifteen (15) children shall be present in the facility at any time.
2) Such facility shall be used as the permanent residence of the licensed child care provider.
3) If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department.

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.) (Resolution No. R-18-0078, November 20, 2018).

6.005. Permitted Special Uses

A building or premises may be used for the following purposes in the "R" Residential district if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13.

a. Expansion of non-conforming use;
b. Historical preservation;
c. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
d. Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be setback from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided; (Resolution No. R-17-0040, May 30, 2017).
e. Cemeteries;
f. Reserved; (Resolution No. R-17-0040, May 30, 2017).
g. Mobile home courts; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983).
h. Except as provided in Section 17.031, places of religious assembly steeples, towers, and ornamental spires which exceed the maximum district height; (Resolution No. 5408, November 19, 1996).
i. Community unit plans;
j. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017).
k. Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982).
l. A mobile home on an individual lot subject to the following conditions: (Resolution No. 3777, January 18, 1983)
   1. The lot meets all the height and area regulations of this district except the Planning Commission may increase the yard areas. (Resolution No. R-11-0023, March 29, 2011).
   2. The mobile home has:
      i. No less than an eight hundred (800) square foot floor area excluding garages.
      ii. No less than an eighteen (18) foot exterior width.
      iii. A three (3) inch in twelve (12) inch pitched roof or steeper.
      iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.
      v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
      vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.
      vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.
   3. The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.

4. The towing bar and hitch, wheels and tires, and axles are removed.
5. The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.
6. The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
7. The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983).

n. Dwellings for Members of Religious Orders; (Resolution No. R-17-0040, May 30, 2017);

n. Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017);

o. Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017);

p. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017); and

q. Early Childhood Care Facilities. (Resolution No. R-18-0078, November 20, 2018),

6.007. Use Regulations

An accessory building that is not a part of the main structure shall be located not less than sixty (60) feet from the front lot line.

6.009. Parking Regulations

Whenever a structure is erected, converted or structurally altered for a dwelling, there shall be provided accessible parking space on the lot to accommodate one (1) automobile for each dwelling unit. Any place of religious assembly that is on a new site shall provide off-street parking space upon the lot or within two hundred (200) feet thereof, which space is adequate to accommodate one (1) car for every fifty (50) square feet for which seating provided in the largest meeting hall of the places of religious assembly, exclusive of the seating capacity of other rooms. (Resolution No. R-17-0040, May 30, 2017)

6.011. Height Regulations

No building shall exceed two and one-half (2-1/2) stories nor shall it exceed thirty-five (35) feet in height except as provided in ARTICLE 15 and 17 hereof.

6.013. Sign Regulations

Signs within the "R" Residential District shall be regulated in conformance with the provisions of ARTICLE 16.

6.015. Area Regulations.

a. Front yard:
   1. There shall be a front yard having a depth of not less than thirty (30) feet except as provided in ARTICLE 17 hereof.
   2. Where lots have a double frontage, the required front yard shall be provided on both streets.
   3. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a buildable lot at the time of the passage of this resolution need not be reduced to less than thirty five (35) feet, except where necessary to provide a yard along the side street with a depth not less than five (5) feet. No accessory building shall project beyond the front yard line on either street and the front yard line shall be separately computed for accessory buildings except that the buildable width for accessory buildings shall not be reduced to less than twenty two (22) feet.

b. Side yard:
   1. Except as hereinafter provided in the following paragraph and in ARTICLE 17, there shall be a side yard on each side of a building, having a width of not less than ten (10) feet.

2. Wherever a buildable lot at the time of passage of this resolution has a width less than required in the district, the side yard on each side of a building may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than four (4) feet.

c. Rear yard: Except as hereinafter provided in ARTICLE 17, there shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the lot, whichever amount is smaller;

d. Intensity of use: Minimum buildable lot areas and buildable lot widths for dwellings shall be provided as follows:

1.

Single-family dwellings	9,000 square feet
Two-family dwellings	14,000 square feet
Multiple dwelling, provided other applicable adopted standards and resolutions are met, i.e., percolation tests for septic fields;	14,000 square feet
	5,000 square feet for each family over two

2. The minimum lot width shall be sixty (60) feet.
3. A buildable lot containing less area or width than herein required may be used for single family purposes, provided its boundary lines along their entire length touched lands under other ownership on the effective date of this resolution and have not since been changed.
4. Accessory buildings not a part of the main structure, if located not less than sixty (60) feet from the front lot line, may extend into the required side yard though not nearer than two (2) feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten (10) feet to the alley line. (Resolution No. 3657, December 22, 1981)

ARTICLE 7 "B" BUSINESS DISTRICT

This is a district providing for main street oriented commercial and light industrial uses for a small town, or surrounding rural area, and it is appropriate, for the non-interstate highway traveling public. It provides for those uses normally found in a small town business area, plus other uses, such as warehouses and a variety of light manufacturing uses.

Contents:

7.001. Scope of Regulations

7.003. Use Regulations

7.005. Permitted Special Uses

7.007. Parking Regulations

7.009. Height Regulations

7.011. Sign Regulations

7.013. Area Regulations

7.001. Scope of Regulations

The regulations set forth in this article, or set forth elsewhere in this resolution when referred to in this article, are the regulations for the "B" Business District.

7.003. Use Regulations

A building or premises shall be used only for the following purposes:

a. Any use permitted in the "R" Residential District;
b. Banks, stores, retail and personal service establishments; (Resolution No. R-18-0078, November 20, 2018);
c. Bowling alleys, dance halls or skating rinks;
d. Farm implements, sale and repair;
e. Farm stores or feed stores, including accessory storage of liquid or solid fertilizer;
f. Funeral homes or mortuaries;

g. Hotels, motels and lodging houses;
h. Hospitals or clinics for animals;
i. Laboratories: research, experimental or testing;
j. Offices and office buildings;
k. Garages, service stations and automobile repair shops or parking lots;
l. Theaters, drive-in theaters, assembly halls, restaurants and taverns;
n. Truck terminals;
n. Wholesale merchandising or storage warehouses;
o. General service and repair establishments; (Resolution No. R-18-0078, November 20, 2018);
p. Compounding of cosmetics, toiletries, drugs and pharmaceutical products;
q. Manufacture or assembly of boats, bolts, nuts, screws and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery and hardware products, sheet metal products, and vitreous enameled metal products;
r. Manufacture or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus;
s. Manufacture or storage of food products, including beverage blending or bottling, bakery products, candy manufacture, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals;
t. Manufacture of boxes, crates, furniture, baskets and other wood products of a similar nature;
u. Generally those light manufacturing uses similar to those listed in items 'p' through 't' above which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat or glare than that which is generally associated with light industries of the type specifically permitted; (Resolution No. R-18-0078, November 20, 2018);
v. Wind energy conversion systems (WECS); (Resolution R-08-0090, Approved October 15, 2008)
w. Recreational facility; (Resolution No. R-17-0040, May 30, 2017)
x. Clubs; (Resolution No. R-17-0040, May 30, 2017)
y. Social Hall; (Resolution No. R-17-0040, May 30, 2017);
z. Mini-warehouse; (Resolution No. R-18-0078, November 20, 2018);
a. Motor Vehicle Sales; (Resolution No. R-18-0078, November 20, 2018);
b. Early Childhood Care Facilities; (Resolution No. R-18-0078, November 20, 2018);
c. Contractor Services. (Resolution No. R-18-0078, November 20, 2018).

7.005. Permitted Special Uses

A building or premises may be used for the following purposes in the "B" Business District if a special permit for such use has been obtained in conformance with the requirements of ARTICLE 13.

a. Expansion of non-conforming use;
b. Historical preservation;
c. Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
d. Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided; (Resolution No. R-17-0040, May 30, 2017)
e. Except as provided in Section 17.031, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)
f. Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017)

g. Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017)
h. Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)
i. Personal Wireless Services Facility; (Resolution No. R-17-0040, May 30, 2017)
j. Floodplain Construction; (Resolution No. R-17-0040, May 30, 2017)
k. Off-premises Signs. (Resolution No. R-17-0040, May 30, 2017)

7.007. Parking Regulations

Accessory parking spaces shall be provided on the lot in the amount of one space for each two hundred (200) square feet of floor area in the building or buildings on the premises. Single-family residential units shall provide one parking space per dwelling unit. Multiple family dwelling units shall provide 1.5 parking spaces per dwelling unit.

7.009. Height Regulations

No building shall exceed four (4) stories nor shall it exceed fifty (50) feet in height, except as otherwise provided in Articles 15 and 17 hereof.

7.011. Sign Regulations

Signs within the "B" Business District shall be regulated in conformance with the provisions of ARTICLE 16.

7.013. Area Regulations

a. Front yard: The front yard regulations are the same as those in the "R" Residential District, except that on the side street side of a corner lot, the front yard need not exceed ten (10) feet in depth;
b. Side yard: The side yard regulations for dwelling are the same as those used in the "R" Residential District. Where a lot is used for any of the commercial or industrial purposes permitted in the district, a side yard is not required except on the side of a lot abutting on an "R" Residential District, in which case there shall be a side yard of not less than five (5) feet;
c. Rear yard: The rear yard regulations for dwellings are the same as in the "R" Residential District. In all other cases a rear yard is not required except where a lot abuts an "R" Residential District, in which case there shall be a rear yard of not less than twenty (20) feet in depth;
d. Intensity of use: When a buildable lot is improved with a single-family dwelling, two-family dwelling, or a multiple dwelling or when living facilities are erected above other uses, the intensity of use regulations are the same as those required in "R" Residential District. The minimum lot width for a commercial use shall be fifty (50) feet.

ARTICLE 8 RESERVED FOR FUTURE USE

ARTICLE 9 "I" INDUSTRIAL DISTRICT

This district is intended for light and heavy industrial use having a relatively high intensity of use and land coverage. A variety of the heavier industrial uses require locational approval prior to use.

Contents:

9.001. Scope of Regulations
9.003. Use Regulations
9.005. Parking Regulations
9.007. Height regulations
9.009. Sign Regulations
9.011. Area Regulations

9.001. Scope of Regulations

The regulations set forth in this article, or set forth elsewhere in this resolution when referred to in this article, are the regulations of the "I" Industrial District.

9.003. Use Regulations

Any building or premise may be used for any purpose not in conflict with any resolution of Lancaster County regulating nuisances or laws of the State of Nebraska, provided, however that no building shall be erected, converted, reconstructed or structurally altered for places of religious assembly, library, school, hospital or residential purposes, except for resident watchmen and caretakers employed on the premises and except for farmsteads; provided further that uses listed in Section 13.001 of ARTICLE 13 follow the procedure of that paragraph; and provided further that no building or occupancy permit shall be issued for manufacturing, compounding, processing, packaging or treatment of the following products or uses until and unless the location or expansion of such use shall be approved by the Planning Commission. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011)

a. Chemicals, Petroleum, Coal and Allied Products:
   1. Acids and derivatives;
   2. Acetylene;
   3. Ammonia;
   4. Carbide;
   5. Caustic soda;
   6. Cellulose and cellulose storage;
   7. Chlorine;
   8. Coke oven products (including fuel gas) and coke oven products storage;
   9. Creosote;
   10. Distillation, manufacture, or refining of coal, tar asphalt, wood and bones;
   11. Explosives (including ammunition and fireworks) and explosives storage;
   12. Fertilizer (organic);
   13. Glue, gelatin (animal);
   14. Hydrogen and Oxygen;
   15. Lamp black, carbon black and bone black;
   16. Nitrating of cotton or other materials;
   17. Nitrates (manufactured and natural) of an explosive nature, and storage;
   18. Petroleum, gasoline and lubricating oil refining and wholesale storage;
   19. Plastic materials and synthetic resins;
   20. Potash;
   21. Pyroxylin;
   22. Rendering and storage of dead animals, offal, garbage or waste products;
   23. Turpentine and resin;
   24. Wells: gas and oil;
   25. Fish oils and meal.

   The production, manufacture, distribution and commercial storage of toxic, radioactive, flammable or explosive materials, including chemicals, gases, fireworks and explosives;

b. Clay, Stone and Glass Products:
   1. Brick, firebrick, refractories and clay products (coal, fired);
   2. Cement, lime, gypsum or plaster of Paris;
   3. Minerals and earths; quarrying, extracting, grinding, crushing and processing;

c. Food and Beverage:
   1. Fat rendering;
   2. Fish curing, packing and storage;
   3. Slaughtering of animals;
   4. Starch manufacture;
d. Metals and Metal Products:
   1. Aluminum powder and paint manufacture;
   2. Blast furnace, cupolas;
   3. Blooming mill;
   4. Metal and metal ores: reduction, refining, smelting and alloying;
   5. Scrap metal reduction or smelting;
   6. Steel works and rolling mill (ferrous);
e. Wood and Paper Products:
   1. Match manufacture;
   2. Wood pulp and fiber: reduction and processing;
f. Unclassified Industries and Uses:
   1. Hair, hides, and raw fur: curing, tanning, dressing, dyeing and storage;
   2. Stockyard or livestock feed yard;
   3. Junk yards and auto wrecking yards;
   4. Wind energy conversion systems over the district height. (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

9.005. Parking Regulations

Accessory off-street parking spaces shall be provided as follows:

a. For permitted industrial uses or service establishments: one space for every two employees on the maximum working shift;
b. For office buildings: one space for each four hundred (400) square feet of floor area;
c. For restaurants and other commercial uses: one space for each two hundred (200) square feet of floor area.

9.007. Height regulations

No building shall exceed four (4) stories nor fifty (50) feet in height except as otherwise provided in Articles 15 and 17 hereof, and except that buildings may exceed four (4) stories or fifty (50) feet in height provided the building is set back one (1) foot from all required yard lines for each one (1) foot of additional height above fifty (50) feet.

9.009. Sign Regulations

Signs within the "I" Industrial District shall be regulated in conformance with the provisions of ARTICLE 16.

9.011. Area Regulations

a. Front yard: There shall be a front yard having a depth of not less than fifty (50) feet except as provided in ARTICLE 17;
b. Side yard: Except as hereinafter provided, there shall be a side yard on each side of a building having a width of not less than fifteen (15) feet;
c. Rear yard: Except as hereinafter provided, there shall be a rear yard of not less than thirty (30) feet;
d. Intensity of use: Every buildable lot or tract of land shall have an area of not less than ten thousand (10,000) square feet and an average width of not less than one hundred (100) feet.

ARTICLE 10 PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES

(Resolution No. RR-00-19, February 22, 2000)

Contents:

10.001. Purpose

10.002. Definitions

10.003. Permits Required

10.008. Location Preferences

10.009. Application Requirements

10.010. Standards for Evaluation

10.011. Design Criteria for Personal Wireless Service Facilities

10.012. General Requirements

10.013. Non-use; Abandonment

10.014. Zoning districts allowed

10.015. Permitted Special Use: Personal Wireless Services Facilities

10.001. Purpose

These regulations are adopted to protect the public health, safety and welfare, and to minimize visual impact, while furthering the development of enhanced telecommunications services in the County. These regulations are designed to comply with the Telecommunications Act of 1996 and any other applicable laws. The provisions of this Article are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting personal wireless services. This Article shall not be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.

10.002. Definitions

For the purpose of this Article, the following terms shall have the meaning ascribed to them below:

Abandonment, in the case of a co-located or non co-located facility, shall mean: (a) failure to start operations within 180 days of completion of the structure, or (b) to cease operation for a period of 180 or more consecutive days. In the event that factors beyond a provider's control postpone the start or cause the temporary cessation of operations of a co-located or non co-located facility, the time limitations specified herein shall be extended to such period of delay.

Administrative permit shall mean a process and recommendation by the Planning Director as described in this Article.

Antenna shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, including unlicensed wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for "cellular", "enhanced specialized mobile radio", "specialized mobile radio" and "personal communications services", telecommunications services, and its attendant base station.

Antenna support structure shall mean any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

Array shall mean a set of antennas for one carrier or service that are placed on a structure at a given height and spaced so as to avoid interference.

Camouflage describes a personal wireless service facility that is disguised, hidden, or integrated with an existing structure or a personal wireless service facility that is placed within an existing or proposed structure so as to be effectively hidden from view.

Co-location shall mean the location of antenna or an array of antennas on a personal wireless facility or antenna support structure by more than one personal wireless service provider.

Design shall mean the appearance of personal wireless service facilities, including such features as their materials, colors, texture, scale, and shape.

EIA shall mean the Electronics Industry Association.

Equipment enclosure shall mean a structure, shelter, cabinet, or vault used to house

and protect the electronic equipment necessary for processing wireless communication signals and associated equipment. Associated equipment may include air conditioning, backup power supplies and emergency generators.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Fall zone shall mean the area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris or collapsing material.

Governing authority shall mean the County Board of the County of Lancaster.

Height shall mean the vertical distance above grade to the highest point of the antenna support structure, including the lightning rod and antenna.

Modification shall mean the changing of any portion of a personal wireless service facility from its description in a previously approved permit. Examples include, but are not limited to, changes in design, height, number or location of antennas.

Mount shall mean the structure or surface upon which personal wireless service facilities are mounted. There are three types of mounts:

1. Building mounted – a personal wireless service facility affixed to the roof or side of a building;
2. Ground mounted – a personal wireless service facility fixed to the ground such as a tower; and
3. Structure mounted – a personal wireless service facility fixed to a structure other than a building, such as light standards, utility poles, and bridges.

Partial abandonment in the case of a facility shall mean to cease use of a portion of the antenna structure for 180 or more consecutive days.

Personal wireless service, personal wireless service facilities, personal wireless facilities, and facilities used in this Article shall be defined in the same manner as in Chapter 47, United States Code, Section 332 (c)(7)©, as they may be amended now or in the future and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

Provider shall mean every corporation, company, association, joint stock company, firm, partnership, limited liability company, other entity and individual which provides personal wireless service over personal wireless service facilities.

Screening shall mean materials which effectively hide personal wireless facilities from view, or landscaping in accordance with design standards recommended by the Planning Department.

Security barrier shall mean a wall, fence, or berm that has the purpose of sealing a personal wireless service facility from unauthorized entry or trespass.

Site shall mean a tract or parcel of land that contains personal wireless service facilities including any antenna, support structure, building, accessory buildings, and parking and may include other uses associated with and ancillary to personal wireless services.

Special permit shall mean a process and approval as currently described in ARTICLE 13 of the Lancaster County Zoning Regulations, or as otherwise set forth in County regulations.

Tower shall mean any structure that is designed, constructed or used for the primary purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term encompasses personal wireless service facilities including microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

Unlicensed wireless services shall mean commercial mobile services that operate on public frequencies and do not need a FCC license. (Resolution No. R-15-0005; January 13, 2015)

10.003. Permits Required

a. No person shall locate an antenna or tower or alter an existing personal wireless services facility for personal wireless services facility upon any lot or parcel except as provided in this Article.

b. Maintenance or repair of a personal wireless service facility and related equipment, excluding structural work or changes in height, dimensions, towers, or buildings, is excluded from the requirement to obtain an administrative or special permit. However, building permits may still be required.

c. Installation of personal wireless service facilities requires either an administrative permit issued by the Planning Director or review of a special permit by the Planning Commission and approval by the County Board; except co-location on existing wireless facilities previously authorized by either an administrative permit or special permit.

   Within 45 days of receiving a complete application, the Planning Director shall act on the request for an administrative permit, or shall refer the application to the Historic Preservation Commission, Nebraska Capitol Environs Commission as required by Chapter 27.56.090 of the Lincoln Municipal Code, and/or Planning Commission for public hearing.

   If a request for an administrative permit is not acted upon within 45 days, or recommends denial, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the Planning Director, convert the request for an administrative permit to an application for a special permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder, request a special permit for its proposed facility.

   1. Administrative Permit: In any zoning district, the Planning Director may issue an administrative permit approving an application to replace an existing tower or to locate a camouflaged facility or rooftop facility, if the application does not exceed the permitted height in the district or the height as allowed by special permit, and will have minimal adverse effect on the surrounding property, entryway corridors to the City, Capitol Environs District, Capitol View Corridors as described in Section 27.56.017 of the Lincoln Municipal Code, landmarks or landmark districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the National Register of Historic Places.
   2. Special Permit: All towers and additions to existing facilities not issued or eligible for an administrative permit and all requests for a special permit shall be reviewed and evaluated for issuance of a special permit, according to the procedure established in ARTICLE 13 of the Lancaster County Zoning Regulations.

Any decision to deny a special permit under this Article shall be made in writing and shall state the specific reasons for the denial. Any recommendation to deny, by the Planning Commission will be forwarded to the County Board for a hearing. Any denial by the County Board shall be deemed a final administrative decision, subject to judicial review and appeal. (Resolution No. R-15-0005; January 13, 2015)

10.008. Location Preferences

Personal wireless facilities shall be located and designed to minimize any significant adverse effect on the abutting property. Sites shall be placed in locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening. The locational preferences for siting new personal wireless service facilities are listed below:

a. Preferred Location Sites:

   1. Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.
   2. Privately owned sites with existing structures on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

3. Publicly owned sites in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.
4. Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

b. Limited Preference Sites, in order of priority:
1. Sites on other public property.
2. Sites on other commercially or industrially zoned property.
3. Screened antennas on multi-family residential structures exceeding thirty feet (30) in height.
4. Camouflaged structures with minimal impact on residential land uses.

c. Sensitive Location Sites. Sites located in areas with residential uses, environmentally sensitive areas, Capitol View Corridors, the Capitol Environs District, entryway corridors, downtown, landmarks or landmark districts, properties listed or eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas.

The applications for personal wireless facilities which are located at sensitive sites will be required to demonstrate a technical need to locate a personal wireless facility at a sensitive site and that other reasonable alternatives do not exist for the facility at a location which is not a sensitive site.

10.009. Application Requirements

a. Pre-Application Conference and Fees. Prior to the acceptance of an application by the County, applicants shall participate in a pre-application conference for the purposes of discussing application requirements, specifics of the site, plans for current and future facilities, and establishing the application fee. The purpose of establishing the application fee is to ensure the recovery of County costs and expenses associated with the review of the application including, but not limited to, actual costs of County staff time and resources as well as any outside consultation expenses which the County reasonably determines are necessary to adequately review and analyze the application; (Resolution R-06-0103; September 23, 2006)

b. Applications for either an administrative permit or a special permit for a personal wireless facility shall be filed with the Planning Director and shall include the following:
1. Provide copies of any environmental documents required by any federal agency.
2. Provide a description of the anticipated maintenance and monitoring program for the antennae and back up equipment, including frequency of maintenance services.
3. A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to design, unobtrusiveness, minimum height necessary to accommodate antenna, avoidance of artificial light and coloring provisions;
4. A description of the security barrier surrounding the base of the tower and accessory equipment. The description should include the method of fencing, finished color and, if applicable, the method of camouflage and illumination. Access shall be through a locked gate. The tower shall either have no climbing devices attached to the lower twenty feet of the tower or shall be fitted with anti-climbing devices.
5. A statement identifying which location preference, identified in Section 10.008, the proposed facility is meeting. If the proposed location is not a preferred site location, describe:
   i. Whether any preferred location sites are located within the service area of the proposed personal wireless facility;
   ii. What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;
   iii. What good faith efforts and measures were taken to secure each of these preferred location sites and why such efforts were unsuccessful;
   iv. Demonstrate why each such site was not technologically, legally or economically feasible;

v. How and why the proposed site is required to meet service demands for the geographic service area and citywide network; and

vi. The distance between the proposed facility and the nearest residential unit and residentially zoned properties.

6. A plot plan of the lot and the proposed uses drawn to an accurate scale and showing all pertinent information. The application material shall provide sufficient information, as determined by the Planning Director, to allow a complete review of the proposal. The application material shall also include sufficient detail to indicate compliance with design standards. Failure to provide adequate information may result in the rejection of the application.

10.010. Standards for Evaluation

a. The Planning Commission may recommend, by special permit, subject to approval of the governing authority, a personal wireless facility in any zoning district after review and consideration of all of the following:

1. Conformity with Comprehensive Plan.
2. Preference of site location in accordance with ARTICLE 10.008.
3. Compatibility with abutting property and surrounding land uses.
4. Adverse impacts such as the visual, environmental or noise impacts;
5. Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.
6. Scale of facility in relation to surrounding land uses.
7. Compatibility with surrounding uses.
8. Impact on views/vistas.
9. Impact on landmark structures/districts, historically significant structures/ districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.
10. Impact on natural resources, open spaces, recreational trails, and other recreational resources.
11. Color and finish.
12. Ability to co-locate.
13. Availability of suitable existing structures for antenna mounting.

b. An application to construct new facilities may be denied if the applicant has not shown by substantial evidence that it has made a good faith effort to mount the facilities on an existing structure and/or tower;

c. Locations in sensitive location sites shall be considered only if the applicant:

1. Provides evidence showing what good faith efforts and measures were taken to secure a preferred location site or limited preference site within one-half mile of the proposed facility; and
2. Demonstrates with engineering evidence why each such preferred location site or limited preference site was not technologically, legally or economically feasible.

d. Personal wireless facilities approved by special permit may be allowed to exceed the height of the district in which they are located.

10.011. Design Criteria for Personal Wireless Service Facilities

a. Equipment Structures used primarily for personal wireless service facilities: Ground level equipment, buildings, and the tower base shall be screened from public view. The standards for the equipment buildings are as follows:

1. The maximum floor area is 450 square feet and the maximum height is twelve feet. The Planning Commission may increase the maximum area to accommodate co-location.
2. Ground level buildings shall be screened from view by landscape plantings, fencing, or other appropriate means, as specified herein or in the Design Standards for Zoning.
3. Equipment buildings mounted on a roof shall have a color, and texture similar to the exterior building walls.
4. Equipment buildings which are located in residential zones shall be designed so as to conform in appearance with residential structures.

5. Equipment buildings, antenna, and related equipment shall occupy no more than twenty-five percent (25%) of the total roof area of a building, which may vary in the County's sole discretion if co-location and an adequate penthouse type structure are used.
6. All base equipment and structures shall be located no closer to the property line than the minimum setback for the zone in which it is located.

b. Security Fencing: A well-constructed fence not less than six feet in height from the finished grade shall be provided around each personal wireless service facility. Access to the tower shall be through a locked gate. Screening shall be in conformance with design standards.

c. Color\Finish\Lights: The tower shall have a galvanized finish. It shall not be painted in alternate bands of distinctive orange and white colors or equipped with lights unless specifically required for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not exceed the necessary minimum standards therefor. The color, finish and lighting of the facility shall be specified at the time of application review. No signals, lights, or signs shall be permitted on towers unless required by the FCC or the FAA. Options on lighting shall be indicated on the application.

d. Antenna Accommodations. In order to reduce the number of antenna support structures needed in the County in the future, any new proposed support structure shall be designed to accommodate antenna for at least one additional provider. Area shall be reserved for other providers' equipment near the base of the applicant's tower, unless co-location is shown to be infeasible. The site plan for towers in excess of 100 feet in height must propose space for two comparable providers, while the site plan for towers up to 100 feet in height must propose space for one comparable provider, unless co-location is shown to be infeasible.

e. Antenna Criteria: Antenna on or above a structure shall be subject to the following:

1. The proposal shall demonstrate that the antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris. All support structures shall be fitted with anti-climbing devices as required in Section 10.009(b)(3).
2. Antenna attached to the wall of an existing building shall be mounted in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is attached, unless adequately screened.
3. The antenna shall be architecturally compatible with the building and /or wall on which it is mounted, and designed and located so as to minimize any adverse aesthetic impact. The antenna shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
4. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than that allowed in the applicable zoning district.
5. If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color.
6. Roof mounted antenna and related base stations shall be completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
7. Rooftop mounts and related base stations shall be screened and integrated with the design of the building.
8. Antenna attached to the roof of a building, an existing tower, a water tank, or a similar structure must be either:
   i. Omnidirectional or whip antenna no more than seven inches in diameter; or
   ii. Panel antenna no more than two feet wide and eight feet long.
9. Antenna, antenna arrays, and support structures shall not extend more than the permitted height in the applicable zoning district. The antenna, antenna array, and their support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends with the structure on which they are mounted.

f. Free-standing roof-top antenna support structures: The roof-top structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation, and/or uses. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.

Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be

minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the County, in the County's sole discretion.

g. Fall Zone. Towers and other camouflaged support structures shall be set back a distance no less than half than the height of the structure. The County Board may grant a reduction in the required fall zone when it finds that such reduction will not adversely impact adjacent properties, and is consistent with the intent of this Article to promote the public health, safety and welfare. However in no instance shall the setback be less than that required by the underlying zoning district.

10.012. General Requirements

The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

a. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable County building codes and the applicable standards for towers that are published by the Electronic Industries Association ("EIA"), as amended from time to time. If, upon inspection, the County concludes that a tower fails to comply with such codes and standards, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring the tower into compliance with such standards. If the owner fails to bring its tower into compliance within thirty (30) days, the County may remove the tower at the owner's expense.

b. Structural Design. Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall comply with the requirements of this Article and shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices. The plans shall be submitted and reviewed at the time building permits are requested.

c. Required Parking. Parking shall be required as per ARTICLE 13 of the Zoning Regulations and the specific requirements of the zoning district of which the tower is located.

d. Tower Separation. An applicant will be required to demonstrate why it is necessary from a technical standpoint to have a tower within one-half (½) mile of a tower whether it is owned or utilized by applicant or another provider.

e. Surety and Indemnity Requirements.

1. Prior to issuance of a building permit, the applicant shall post a surety, approved by the County Attorney, with the County in the minimum amount necessary, as determined by the County to guarantee the future removal of the facilities. The surety may not be revoked or terminated during the life of the permit. The County may use the surety for any expenses it incurs in removing any of the provider’s facilities.

2. A provider shall at its sole cost and expense, indemnify and hold harmless the County, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from, or alleged to arise out of or resulting from the construction, operation, repair, maintenance or removal of the provider’s facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suits and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the County Attorney’s office and any employees of the County and any consultants retained by the County.

Safety Inspection Requirements. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety. (Resolution No. R-15-0005; January 13, 2015)

10.013. Non-use; Abandonment

Abandonment: No less than thirty (30) days prior to the date that a personal wireless service provider plans to abandon, partially abandon or discontinue operation of a facility, the provider must notify the County by certified U.S. mail of the proposed date of abandonment, partial abandonment or discontinuation of operation. In the event that a provider fails to give notice, the facility shall be considered abandoned upon the County's discovery of discontinuation of operation for more than 90 and 180 days, as the case may be, on all or part of such facility.

a. Upon such abandonment, the provider shall have sixty (60) days or such additional period of time determined in the reasonable discretion of the County within which to:
   1. Reactivate the use of the facility or transfer the facility to another provider who makes actual use of the facility; or
   2. Dismantle and remove facility. If the facility or portion thereof is not removed within the sixty (60) days time period or additional period of time allowed by the County, the County may remove such tower or portion thereof or antenna at the provider's expense. If there are two or more providers co-locating on a facility, then this provision shall not become effective until all providers cease using the facility or until a portion of the antenna support structure is no longer used.

   At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, County approval for the facility or a portion thereof shall automatically expire.

b. If ownership of a facility is transferred from one provider to another, the previous provider and the new provider shall be required to notify the County of the change of ownership within thirty days of the change of ownership or transfer of the facility. The new provider shall be required to make amendments to the application that is on file with the County, in order to provide current information. The new provider shall also provide a surety in accordance with section 10.012 (e)(1).

10.014. Zoning districts allowed

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district.

10.015. Permitted Special Use: Personal Wireless Services Facilities

Personal wireless services facilities may be allowed by administrative or special permit in any zoning district in conformance with the provisions of ARTICLE 10. (Resolution No. R-15-0005; January 13, 2015, Resolution R-00-19, February 22, 2000)

ARTICLE 11 FLOOD PLAIN DISTRICT

(Resolution No. 3665, January 26, 1982)

These regulations are intended to minimize the potential loss of life, health and property due to inundation by flood waters by restricting development on all lands in the flood plain or floodprone area, within the zoning jurisdiction of Lancaster County that are subject to a one percent (1%) or greater chance of flooding in any given year, as designated by the Federal Emergency Management Agency, and as approved by the County Board. (Resolution R-09-0070, September 15, 2009)

Contents:

11.001

11.003. Scope of Regulations

11.005

11.007

11.009. Permits Required

11.011. Application

11.013. Establishment of Zoning Districts

11.015. Standards Applicable to both FW and FF Districts

11.017. Additional Standards Applicable to FF Districts

11.019. Permitted Uses - FF Districts

11.021. Permitted Uses - FW Districts

11.023. Subdivisions

11.025. Variance

11.027. Miscellaneous Provisions.

11.029. Definitions

11.001

The Board of Commissioners of Lancaster County hereby adopts by reference the following documents, including subsequent amendments thereto, as the official documents to be used in applying the provisions of this article as they relate to the flood plain and the floodprone area:

a. FLOOD INSURANCE STUDY, (FIS) for Lancaster County, Nebraska, and Incorporated Areas, revised April 16, 2013, issued by the Federal Emergency Management Agency, and any revisions thereto. (Resolution R-13-0021, April 9, 2013; Resolution R-11-0002, January 4, 2011; Resolution R-01-76, August 21, 2001)

b. FLOOD INSURANCE RATE MAP (FIRM), for Lancaster County, Nebraska and Incorporated Areas, revised April 16, 2013, issued by the Federal Emergency Management Agency, and any revisions thereto. (Resolution R-13-0021, April 9, 2013; Resolution R-11-0002, January 4, 2011; Resolution R-01-76, August 21, 2001)

c. FLOODPRONE AREAS and hydrologic and hydraulic studies as approved by the County Board. (Resolution R-09-0070, September 15, 2009)

11.003. Scope of Regulations

The provisions of this article shall apply to all lands within the zoning jurisdiction of Lancaster County which are identified on the Flood Insurance Rate Map as Special Flood Hazard areas, zones A, AE, AO, A99 and Floodways. The provisions of this article shall also apply to floodprone areas as approved by Lancaster County where this is the best available information. In all areas subject to the provisions of this article, no development shall be permitted except upon a permit to development granted by the Board of Commissioners or its duly designated representative under such safeguards and restrictions as it may reasonably impose for the promotion and maintenance of the general welfare, safety and health of the inhabitants of Lancaster County as specifically set out hereinafter. No development located within the areas subject to the provisions of this article shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations. (Resolution R-09-0070, September 15, 2009; Resolution R-01-76, August 21, 2001)

11.005

The Department of Building and Safety of the City of Lincoln is hereby designated, authorized and directed to administer and enforce the provisions of this article. The Director of Building and Safety and staff shall be appointed to these additional responsibilities by this Resolution and said appointment shall continue during good behavior and satisfactory service and so long as the County shall contract with the City for such service.

11.007

The duties of the Department of Building and Safety pursuant to this article shall include, but are not necessarily limited to, the following:

a. Review all development permit applications to assure that the permit requirements of this resolution have been satisfied, and that sites are reasonably safe from flooding.

b. Review permit applications for proposed development to assure that all necessary permits have been obtained from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. (Resolution R-01-76, August 21, 2001)

c. Notify adjacent communities and the Nebraska Department of Natural Resources Commission Flood Plain Management Section prior to any alterations or relocations of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Obtain and require certification by a registered professional engineer or licensed land surveyor of the actual elevation in NAVD 88 of the lowest floor of all new or substantially improved structures. The certification of the lowest floor shall be submitted to the Director of Building and Safety at the point of construction when the lowest floor of

elevation may be established and prior to the erection of the walls of any building. Nothwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NGVD 1929 or NAVD 1988. (Resolution No. 4176, April 1, 1986) (Resolution No. R-00-18, February 22, 2000)

f. In cases in which floodproofing is utilized, obtain and require a certification from a registered professional engineer or architect that the floodproofed structure:

1. Is floodproofed to or above one foot above the regulatory flood level so that below that point the structure is watertight with walls substantially impermeable to the passage of water; (Resolution No. 3889, December 20, 1983)
2. Has structural components capable of resisting hydrostatic and hydronomic loads and effects of buoyancy.

g. If such data is not provided by the Federal Emergency Management Agency in its Flood Insurance Study, then obtain, review and reasonably utilize any base flood elevation and floodway data available from Federal, state or other sources as criteria for requiring that new construction, substantial improvements, and other development in the flood plain or floodprone area meet the standards of this article. (Resolution No. R-09-0070; September 15, 2009)

h. In Zone A (no base flood elevations determined), require that proposed developments (including proposals for manufactured home parks) greater than 5 acres include within such proposals base flood elevation data, except that this shall not apply where the use of the property is not being changed and where there are no physical changes on the site which have the potential to increase the flood hazard. (Resolution R-01-76, August 21, 2001)

11.009. Permits Required

No person, firm or corporation shall erect, construct, enlarge or substantially improve any building or structure, or undertake any development, including the placement of manufactured homes, in any area subject to the provisions of this article or cause the same to be done without first obtaining a separate development permit for such building or structure or other development from the Director of Building and Safety. (Resolution R-01-76, August 21, 2001)

11.011. Application

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:

a. Identify and describe the work to be covered by the permit for which application is made;

b. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;

c. Indicate the use or occupancy for which the proposed use is intended;

d. Be accompanied by plans and specifications for proposed construction;

e. Be accompanied by elevations in NAVD 1988 of the lowest floor (including basement), or in the case of floodproofed non-residential structures, the elevations to which they will be floodproofed. When utilizing NGVD 1929 based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the Director of Building and Safety. Notwithstanding the above, documents submitted before March 1, 2000, may be submitted in either NGVD 1929 or in NAVD 1988. (Resolution No. R-09-0070, September 15, 2009; 12/30/99 - Res. #R-1)

f. Be accompanied in all cases in which floodproofing is utilized, by the proper certification as required by Section 11.007 (f);

g. Be signed by the permittee or his authorized agent, who may be required to submit evidence to indicate such authority;

h. Give such other information as reasonably may be required by the Director of Building and Safety.

11.013. Establishment of Zoning Districts

The mapped flood plain areas within the jurisdiction of this article are hereby divided into the two following districts: A floodway overlay district (FW) and a floodway fringe overlay district (FF), as identified in the official Flood Insurance Study and as distinguished on the FIRM as zones A, AE, AH, AO, A99 and Floodways within Special Flood Hazard Areas. The mapped floodprone areas within the jurisdiction of this article area hereby divided into a floodway overlay district (FW) and a floodway fringe overlay district (FF) as identified on floodprone area maps approved by the County. Within

these districts all uses not meeting the standards of this article and those standards of the underlying zoning districts shall be prohibited. (Resolution R-09-0070, September 15, 2009; Resolution R-01-76, August 21, 2001)

11.015. Standards Applicable to both FW and FF Districts

No permit for development shall be granted for new construction, substantial improvement and other improvements, including the placement of mobile homes within the identified flood plain or floodprone area unless the following conditions are satisfied: (Resolution R-09-0070, September 15, 2009)

a. In those areas where a floodway has not been designated, no development or substantial improvement may be permitted within the flood plain or floodprone area unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonable anticipated developments or substantial improvements, will not increase the water surface elevation of the 100 year flood more than one foot at any location. The A zones shall be subject to all development provisions of this article.
   Until base flood elevations are determined by the Federal Emergency Management Agency, other flood elevation and floodway data currently available from a Federal, State or other source shall be utilized; (Resolution R-09-0070, September 15, 2009; Resolution R-01-76, August 21, 2001)

b. All new construction, subdivision proposals, substantial improvements, fabricated buildings, placements of mobile homes and other developments shall require:
   1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; (Resolution R-01-76, August 21, 2001)
   2. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate filtration of flood waters into the systems and discharges from the systems into the flood waters. On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding. (Resolution R-01-76, August 21, 2001)
   3. New development and substantial improvements to use construction materials and utility equipment that are resistant to flood damage and use construction methods and practices that will minimize flood damage, consistent with economic practicability;
   4. All utility and sanitary facilities including electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be elevated to or above one foot above the regulatory flood elevation or designed so as to prevent water from entering or accumulating within the components during conditions of flooding; (Resolution No. 3889, December 20, 1983)
   5. The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if not subject to major damage by floods and are firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning;

c. Filling, grading and excavation may be allowed in the designated flood plain or floodprone area under the following conditions: (Resolution R-09-0070, September 15, 2009)
   1. Roadway bridges and other drainage facilities may have their superstructure submerged or partially submerged or partially submerged below the base flood level, provided that the facility has been designed to resist the hydrostatic and hydrodynamic loads as well as the effects of buoyancy as certified by a registered professional engineer. (Resolution No. 4854, January 5, 1993)
   2. Fill shall be protected against erosion and sediment by such measures as rep-rap, vegetative cover, bulkheading or sedimentation basin as approved by the Director of Building and Safety;
   3. Any fill to be deposited in the flood plain or floodprone area must be shown by the applicant not to be a detriment to the general public as well as the surrounding land owners; (Resolution R-09-0070, September 15, 2009)
   4. Fill materials shall be of a selected type, preferably granular and free-graining and placed in compacted layers. Fill selection and placement shall recognize the effects of saturation from flood waters on slope stability, uniform and differential settlement, and scour potentials;
   5. Prior to placement of any fill or embankment materials, the area upon which fill is to be placed shall be cleared of debris, snags, stumps, brush, down timber, logs and other objects. All materials and debris from this clearing shall

be removed from the proposed fill and disposed at approved locations outside the flood plain or floodprone area; (Resolution R-09-0070, September 15, 2009)

6. Fill slopes for granular material shall be no steeper than one vertical to two horizontal unless substantiating data justifying steeper slopes are submitted to the Director of Building and Safety;
7. Excavation in the flood plain or floodprone area shall be done so that the land surface is maintained in such a manner that surface waters do not collect and pond unless specifically approved by the Director of Building and Safety. (Resolution R-09-0070, September 15, 2009; Resolution No. 3889, December 20, 1983)

11.017. Additional Standards Applicable to FF Districts

In addition to those standards set forth in Section 11.015, the following standards shall apply in all FF Districts;

a. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above one (1) foot above the regulatory flood elevation. Garages and storage buildings used exclusively for the storage of motor vehicles, and storage of other items readily removable in the event of a flood warning may have their lowest floor below flood elevation provided the building structure is capable of withstanding hydrostatic and hydrodynamic forces caused by the 100 year flood and further provided that no utilities are installed in the building except elevated or floodproofed electrical fixtures. If the building is converted to another use, it must be brought into full compliance with the requirements of this article governing such uses. (Resolution No. 4228, September 30, 1986; Prior Resolution No. 3889, December 20, 1983)

b. All new construction or substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated to or above one (1) foot above the regulatory flood elevation level, or, together with all attendant utility and sanitary facilities, be floodproofed to that level. (Resolution No. 3889, December 20, 1983)
For floodproofing a non-residential structure, a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with the adopted watertight performance standards. A record of such certificates which includes the specific elevation in NAVD 88 to which such structures are floodproofed shall be maintained by the Director of Building and Safety. Nothwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NGVD 1929 or NAVD 1988. (Resolution No. R-00-18, February 22, 2000)

c. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in any areas other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Resolution R-01-76, August 21, 2001)

d. Designated AO Zones within the floodplain have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO zones:
   1. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
   2. All new construction and substantial improvements of non-residential structures shall:
      a. Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
      b. Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in 27.55.040(d).
   3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Resolution R-01-76, August 21, 2001)

e. For new or expansion to existing manufactured home parks, or subdivisions, new manufactured homes not in a manufactured home park, or a subdivision and existing manufactured homes that have incurred "substantial damage" as a result of a flood, it is required that:
   1. Over-the-top ties be provided at each of the four corners of the manufactured home with two (2) additional ties per side at the intermediate locations, and manufactured homes less than fifty (50) feet long have one (1) additional tie per side;
   2. Frame ties be provided at each corner of the manufactured home with five (5) additional ties per side at intermediate points, and manufactured homes less than fifty (50) feet long have four (4) additional ties per side;
   3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds;
   4. Any additions to manufactured homes be similarly anchored;
   5. All manufactured homes to be placed or substantially improved on each individual lot in the proposed manufactured home parks or subdivisions shall be elevated on a permanent foundation such that their lowest floor is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with applicable county regulations to resist flotation, collapse, or lateral movements;
   6. Adequate surface drainage and easy access for a hauler is provided;
   7. In the instance of elevation on piers, lots are large enough to permit steps, pier foundations are placed on stable soil no more than ten (10) feet apart, and steel reinforcement is provided for piers more than six (6) feet above grade.

f. For recreational vehicles to be located in the floodway fringe district, it is required that:
   1. They shall be on the site for fewer than 180 consecutive days;
   2. They shall be fully licensed and ready for highway use (on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or
   3. Meet the requirements of manufactured homes. (Resolution No. 4641, June 5, 1990)

11.019. Permitted Uses - FF Districts

Subject to the standards contained in Sections 11.015 and 11.017 of this article and all other applicable sections of this resolution, any uses permitted in the underlying zoning district shall also be permitted in the FF District.

11.021. Permitted Uses - FW Districts

Encroachments into the floodway are prohibited, including fill, new construction, substantial improvements, and other development within the floodway unless certification by a qualified engineer demonstrating that the proposed use in the floodway shall not result in any increase in flood levels during occurrence of the base flood discharge. An exception to the above shall be permitted provided the applicant has acquired by land rights purchase, flowage easement or other legal arrangement the right to increase flood levels on all affected lands, and provided that before any permit is issued, the applicant submits a Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to the Director of Building and Safety. When such encroachment is completed, a FEMA approved Letter of Map Revision must also be provided by the applicant. Subject further to the standards contained in Sections 11.015 and 11.017 of this article, and the applicable provisions of the underlying zoning district, the following uses shall be permitted in the FW District: (Resolution R-01-76, August 21, 2001)

a. Agricultural uses such as general farming, pasture, nurseries and forestry;
b. Residential uses such as lawns, gardens, parking and play areas. New construction or placement of residential structures, including manufactured homes is however, prohibited in the FW District'
c. Non-residential uses such as loading areas, parking, airport landing strips;
d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

11.023. Subdivisions

The Board of Commissioners of Lancaster County shall review all applications for subdivisions in the established area of special flood hazard of the county and shall make findings of fact and assure that:

a. All such proposed developments are consistent with the need to minimize flood damage;
b. If such data is not already available to the County, subdivision proposals and other proposed new development include within such proposals regulatory flood elevation data in NAVD 1988; (12/30/99 - Res. #R-1)
c. Adequate drainage is provided so as to reduce exposure to flood hazards;
d. All public utilities and facilities are located so as to minimize or eliminate flood damage.

11.025. Variance

In the event that a request for a permit to develop is denied by the Department of Building and Safety, the applicant may petition the Board of Commissioners of Lancaster County for a variance. The procedure for such appeals and the criteria and conditions for the issuance of variances shall be governed by the provisions of ARTICLE 13 of this resolution, provided, however, that no variance from the provisions of this article shall be granted unless:

a. By reason of exceptional narrowness, shallowness, shape of topography, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any provision of this article would result in peculiar and exceptional hardship upon the owner of the property as an unreasonable deprivation of use as distinguished from the mere grant of privilege;
b. Either:
    1. The structure is to be erected on a lot of one-half (½) acre or less in size, and such lot is contiguous to and surrounded by lots with existing structures constructed below the regulatory flood level; or
    2. The structure is listed on the National Register of Historic Places or the State Inventory of Historic Places to be restored or reconstructed;
c. There is a clear and convincing showing of good and sufficient cause for such variance;
d. There is a determination that failure to grant the variance would result in exceptional hardship to the applicant;
e. There is a determination that the issuance of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, fraud or victimization of the public or conflict with existing Federal, state or local laws, ordinances or resolutions;
f. There is a determination that the applicant requesting the variance will meet the necessary standards of this resolution to afford relief;
g. The applicant provides a written and notarized acknowledgment of receipt of notification from the Department of Building and Safety that issuance of a variance to locate a structure at an elevation below the level one (1) foot above the 100-year flood level will result in increased actuarial rates for flood insurance coverage. (Resolution No. 3889, December 20, 1983)

11.027. Miscellaneous Provisions.

a. Where interpretation is needed as to the exact location of the boundaries of the floodway and floodway fringe districts as shown on the official zoning maps incorporated by Section 11.001(b) as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Director of Building and Safety or designee shall make the necessary interpretation. In such cases, the interpretation may be contested and resolved by the Board of Zoning Appeals pursuant to Section 19.007 (1) of this resolution. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall have the burden of proof on the question and shall be afforded a reasonable opportunity to present their case and to submit their own technical evidence if they so desire.
b. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be construed liberally in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by state law.
c. This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article will prevail. All other resolutions or parts of resolutions which are inconsistent with this article are hereby repealed to the extent of inconsistency only.

d. The regulations of this article are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations, revised on April 3, 2009, and any revisions thereto. The Board of Commissioners of Lancaster County may from time to time, pursuant to the provisions of Section 22.003 of this resolution, amend this article to reflect any and all changes in the National Insurance Act of 1968, as amended and regulations adopted thereto, as well as other applicable legislation. (Resolution R-11-0002, January 4, 2011; Resolution R-01-76, August 21, 2001)

e. If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected thereby.

f. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside floodway fringe district boundaries of land uses permitted within such districts will be free from flooding or flood damages. This article shall not create liability on the part of Lancaster County, the City of Lincoln, or any officer, employee or agent thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawful made thereunder.

11.029. Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this article its most reasonable application.

The following definitions shall apply to this article of the 1979 Zoning Resolution of Lancaster County and to no other articles of said Zoning Resolution:

Areas of special flood hazard (100-year flood plain) - The land within the county that is subject to a one percent (1%) or greater chance of flooding in any given year, as delineated on the official maps incorporated in Section 11.001(b). (Resolution R-01-76, August 21, 2001)

Base Flood - The flood having a one percent change of being equaled or exceeded in any given year. (Resolution R-01-76, August 21, 2001)

Basement - Any enclosed area having its floor below grade level on all sides. (Resolution No. 4920, September 29, 1992)

Development - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Existing manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

Expansion to an existing manufactured home park or subdivision - The preparation of additional sites by the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction streets, and either final site grading or the pouring of concrete pads).

Flood elevation determinations - A determination of the water surface elevations of the 100-year flood. The level of flooding that has a one percent (1%) change of occurrence in any given year;

Flood insurance rate map (FIRM) - The Flood Insurance Rate Map (FIRM), revised April 16, 2013, issued by FEMA and any revisions thereto. (Resolution R-13-0021, April 9, 2013; Resolution R-11-0002, January 4, 2011; Resolution R-01-76, August 21, 2001)

Flood insurance study - The official Flood Insurance Study (FIS) report, revised 16, 2013, published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM, as incorporated in Section 11.001(a). (Resolution R-13-0021, April 9, 2013; Resolution R-01-76, August 21, 2001)

Floodprone Area - Those lands subject to a one percent or greater chance of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City of Lincoln, Lancaster County or other government agency, or

other acceptable source as approved by the County where this is the best available information. (Resolution R-09-0070, September 15, 2009)

Floodproofing - Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Floodway (FW) - The channel of a river or other watercourse and the adjacent portion of the flood plain or floodprone area that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one (1) foot at any point, assuming equal conveyance reduction outside the channel from the two sides of the flood plain or floodprone area. (Resolution R-09-0070, September 15, 2009)

Floodway fringe (FF) - The area of the flood plain, outside of the floodway, that on the average is likely to be flooded once every 100 years, i.e., that has a one percent (1%) or greater chance of flood occurrence in any given year.

Historic Structure - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior, or by the Planning Director in consultation with the Nebraska State Historic Preservation Officer, as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior, or by the Planning Director in consultation with the Nebraska State Historic Preservation Officer, as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as a registered historic district. (Resolution R-01-76, August 21, 2001)

Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistance enclosure, usable solely for parking of vehicles or building access in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a "recreational vehicle".

Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NAVD 1988 - The North American Vertical Datum of 1988. (12/30/99 - Res. #R-1)

New construction - Structures for which the "start of construction" commenced on or after the effective date of this article.

New manufactured home park or subdivision - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this ordinance.

NGVD 1928 - The National Geodetic Vertical Datum of 1929. (12/30/99 - Res. #R-1)

Overlay district - A district which acts in conjunction with the underlying zoning district or districts.

Qualified engineer - A registered professional engineer who, by reason of this training and experience, is considered knowledgeable in hydrology and hydraulics and their application to the flood insurance study and has demonstrated competence to the satisfaction of the Director of Building and Safety.

Recreational vehicle - A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projects;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory flood elevation - Elevation is indicated in the official flood insurance study as the elevation of the 100-year flood;

Separate development permit - The permit needed for any applicant to build in the areas of special flood hazard.

Start of construction - Either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; not does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimension of the building.

Structure - A walled and roofed building, including a gas or liquid storage tank, that is principally above the ground, including but not limited to buildings, factories, sheds, cabins, manufactured homes and other similar buildings.

Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred.

Substantial improvement - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: 1) before the improvement is started, or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include any alterations to comply with the existing state or local health, sanitary, building or safety codes or regulations. (Resolution No. 4641, June 5, 1990)

Violation - The failure of a structure or other development to be fully compliant with the regulations of this chapter. (Resolution R-01-76, August 21, 2001)

ARTICLE 12 NONCONFORMING AND NONSTANDARD USED

Contents:

12.001. Continuation of Nonconforming Use

12.003. Use Becoming Nonconforming by Change in Law or Boundaries

12.005. Discontinuance of Nonconforming Use

12.007. Extension or Enlargement

12.009. Restoration after Damage

12.011. Sign Regulations

12.013. Open Storage

12.015. Effect On Use Which Is Illegal Under Prior Law

12.017. Continuation of Nonstandard Uses

12.019

12.001. Continuation of Nonconforming Use

Subject to the provision of this article, the lawful use of a building, dwelling, structure, lot, land or premises existing immediately prior to the effective date of this title may be continued although such use does not conform to the provisions hereof.

If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or of a more restrictive category. For the purpose of this article, each of the following categories of use shall be considered to be "more restrictive" than those it precedes:

a. Single and two-family residential;
b. Multiple-family residential;
c. Office buildings;
d. Retail sales and service;
e. General commercial;
f. Light industrial;
g. Heavy industrial;
h. Uses permitted only by special permit in the "I" Industrial District.

Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

Subject to the requirement of Sections 11.015 and 11.023 below, a nonconforming use not involving a building may be continued even though such use does not conform to the provisions hereof if no changes are made in regard to size or location of water lines, sewer lines or private roads.

12.003. Use Becoming Nonconforming by Change in Law or Boundaries

Whenever the use of a building or premises becomes a nonconforming use through a change in the zoning ordinance or district boundaries, such use may be continued and if no structural alterations are made, it may be changed to another nonconforming use of the same or more restrictive category, subject to the provisions of this chapter. Whenever a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive nonconforming use.

12.005. Discontinuance of Nonconforming Use

In the event that a nonconforming use of any building, dwelling, structure, lot, land or premises is discontinued or its normal operation stopped for a period of two years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

12.007. Extension or Enlargement

Any nonconforming building, dwelling, structure, lot, land or premises devoted to a use not permitted by this title in the district in which the building or premises is located shall not be enlarged, extended, converted, reconstructed or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located.

12.009. Restoration after Damage

When the use of a building is nonconforming as defined in this chapter and such building is damaged by a fire, explosion, act of God or the public enemy to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of ARTICLE 13.

12.011. Sign Regulations

Signs for nonconforming uses and nonconforming signs shall be regulated in conformance with the provision of ARTICLE 16.

12.013. Open Storage

Where land within the "AG", "AGR", "R" and "B" Districts contain no main buildings as distinguished from accessory buildings and fences, and where said land was used solely for nonconforming open storage including junk yards as defined in County Resolution No. 3316 immediately prior to the effective date of this title, use of such land for open storage shall be discontinued for two (2) years. Open storage shall not be deemed to include farm machinery stored on a farm or acreage.

Where land is used for a nonconforming or nonstandard use in conformance with the provisions of this article and where such land contains a main building or structure in addition to open storage shall be brought in conformance with the area, front yard, side yard, rear yard, height, unobstructed open space and parking requirements for the district in which it is located within the period of one year from the effective date of this title.

12.015. Effect On Use Which Is Illegal Under Prior Law

Nothing in this resolution shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect immediately prior to the effective date of this resolution.

12.017. Continuation of Nonstandard Uses

Nonstandard uses existing immediately prior to the effective date of this title may be continued, although such uses do not conform to the provisions thereof.

Nonstandard structures and buildings may be enlarged or extended, converted, reconstructed or structurally altered as follows:

a. Enlargements, extensions, conversions, reconstructions, or structural alterations may be made as required by law or resolution or ordered by the Director of Building and Safety to secure the safety of the structure;
b. Enlargements, extensions, conversions, reconstructions, or structural alterations of buildings or structures may otherwise be made if such changes comply with the minimum requirements as to front yard, side yard, rear yard and unobstructed open space for the district in which they are located.

12.019

All trailers shall comply with the requirements of this resolution within five (5) years after September 3, 1968.

ARTICLE 13 SPECIAL PERMIT

Contents:

13.001. Special Permit
13.002. Procedures
13.003. Appeal of Planning Commission Action.
13.004. Administrative Amendments
13.005. Enforcement and Revocation of Special Permits.
13.006. Reserved.
13.007. Reserved.
13.008. Academies, Private Schools, or Post-Secondary Education Facilities in the AG, AGR, R or B zoning districts.
13.009. Health Care Facilities, Non-Residential
13.010. Cemeteries
13.011. Reserved.
13.012. Airfields, Commercial Agriculture Airfields and Heliports
13.013. Mobile Home Courts
13.014. Campground
13.015. Private Recreational Activities
13.016. Riding Stables and Private Stables
13.017. Personal Wireless Services Facility
13.018. Broadcast Towers
13.019. Excavation

13.020. Clubs

13.021. Health Care Facilities, Residential

13.022. Industrial

13.023. Dwellings for Members of Religious Orders

13.024. Pet Cemeteries

13.025. Mobile Homes

13.026. Recreation Facilities

13.027. Veterinary Facilities

13.028. Sale Barns

13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals

13.030. Place of Religious Assembly Steeples, Towers and Ornamental Spires Exceeding the Height of the District

13.031. Community Unit Plans

13.032. Expanded Home Occupations

13.033. Garden Centers

13.034. Non-Commercial Distillation and Storage of Fuel

13.035. Commercial Feedlot

13.036. Market Garden

13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation

13.038. Flood Plain Construction

13.039. Expansion of Nonconforming and Nonstandard Uses

13.040. Heritage Center

13.041. Historic Preservation

13.042. Wind Energy Conversion Systems (WECS)

13.043. Storage of Agriculture Conservation Equipment and Materials.

13.044. Dwellings Withing 1,320 feet of a Publicly Owned Lake

13.045. Off-Premises Signs

13.046. Sexually Oriented Live Entertainment Establishment

13.047. Race Tracks, Drag Strips and Motor Sport Facilities in "AG" District;

13.048. Commercial Wind Energy Conversion System (CWECS)

13.049 Early Childhood Care Facilities

13.050 Accessory Dwelling Unit (ADU)

13.001. Special Permit

In addition to uses allowed under other districts, the Planning Commission may by special permit after public hearing, authorize any of the uses designated in this Article as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed. The Planning Commission may also permit an increase in the height of any such building and permit a lesser area than required aforesaid in this resolution, and may modify or waive or add conditions of approval to the listed conditions in this Article as deemed appropriate to maintain the health, safety and general welfare of the surrounding properties. The Planning Commission may also grant special permits for variances from the provisions of ARTICLE 11 of this resolution. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. R-09-0076, September 29, 2009; Resolution No. 3667, January 26, 1982)

13.002. Procedures

An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information shall be filed in writing with the Planning Department. Before the issuance of any special permit of any buildings or uses, the County Board shall refer the proposed application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of such proposed building or uses upon the character of the neighborhood, traffic conditions, public utility facilities, the Comprehensive Plan and other matters relating to the public health, safety and general welfare. Any action by the Planning Commission may be appealed to the County Board. An existing use of the type listed in this Chapter lawfully established on the effective date of this resolution shall be deemed to have received special permit as herein required and shall be provided with such a permit by the Building Inspector upon request and shall not be a nonconforming use; provided, however, that such an existing use shall require a special permit for enlargement, extension or relocation. Applications for Special Permits shall expire as provided in Section 22.019. (Resolution No. R-17-0040, May 30, 2017)

13.003. Appeal of Planning Commission Action.

a. Any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the County Board by filing notice of appeal with the Planning Department within fourteen (14) days following the action of the Planning Commission.
b. Upon receipt of the appeal by the County Board, the board shall hold a public hearing thereon within thirty (30) days from the date of appeal. Notice of the public hearing shall be given as provided in ARTICLE 22, Section 22.005 hereafter.
c. In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the County Board may, after public hearing, in conformity with the provisions of this Article, make such decisions as ought to be made. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-18-0078, November 20, 2018).

13.004. Administrative Amendments

After the special permit has been approved, including the specific plot plan under ARTICLE 13, the Planning Director is authorized to approve amendments to the special permit provided:

a. A request for amendment is filed with the Planning Director, together with all information pertinent to the proposed amendment;
b. Such amendment shall not violate any regulations set forth in this title;
c. Such amendment may provide for up to a 15 percent (15%) increase in total floor area and storage space originally permitted;
d. There is no increase in the number of dwelling units;
e. No reduction is made to the applicable setback or yard requirements;
f. No public land is accepted;
g. Such amendment shall not be contrary to the general purposes of this chapter; and
h. Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original special permit.

13.005. Enforcement and Revocation of Special Permits.

a. The Director of Building and Safety shall make a report to the County Board at anytime the Director of Building and Safety finds the following:
    1. Any of the terms, conditions, requirements of a special permit have not been complied with by the Permittee or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto.
b. The Planning Commission may, after a public hearing of which the permittee shall be notified, take any of the following actions:
    1. Revoke the special permit for failure to comply with any of the terms, conditions, and requirements of the special permit, or

2. Take such other action as it may deem necessary to obtain compliance with the special permit, or
3. Take such action that it deems necessary to preserve the public health, safety and general welfare. (Resolution No. R-09-0011; March 10, 2009).

13.006. Reserved.

13.007. Reserved.

13.008. Academies, Private Schools, or Post-Secondary Education Facilities.

Academies, private schools, or post-secondary education facilities may be allowed by special permit in the AG, AGR, R or B zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.009. Health Care Facilities, Non-Residential.

Non-residential health care facilities may be allowed by special permit in the AG, R and B zoning districts provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.010. Cemeteries

Cemeteries may be allowed by special permit in the R and I zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.011. Reserved.

13.012. Airfields, Commercial Agriculture Airfields and Heliports

Airfields, commercial agriculture airfields and heliports may be allowed by special permit in "AG" and "AGR" zoning districts and Family Airfields in the "AGR" zoning district as provided in Section 4.007 and 5.007 may be allowed under the following conditions (Resolution No. R-18-0078, November 20, 2018):

a. The application shall be accompanied by the following information:
   1. A plot plan showing the location, orientation and the general size of runways, taxiways, aprons, clear zones, approach zones and proposed accessory structures and uses including fuel storage, as well as dimensions to property lines and section lines, roadways, railroads and above ground structures including poles, towers, wires and appurtenances thereto;
   2. The planned type and use of aircraft for which the facility is intended;
      i. The estimated number of aircraft for which the facility is intended;
      ii. The estimated frequency of flights and hours of operation;
      iii. Diagram of the flight pattern to be used in and out of the landing area;
      iv. Drainage and grading plan of the site;
      v. Length, width, surface and lighting facilities of the airfield;
      vi. Location and height of any obstructions that could obstruct or penetrate the normal 20:1 approach slopes to the runway threshold or end;
      vii. The distance and difference in elevation between the end of the runway and any public roadways, railroads and all utility transmission and distribution facilities and towers that are located in the approach and clear zones;
b. The site shall be located in such a manner so as not to compromise the safety of or create excessive noise for the existing schools, hospitals, theaters and nursing homes. However, nothing in this provision shall deny essential air

service to hospitals and nursing homes, if needed, provided that landing and takeoff facilities for emergency aircraft are provided in accordance with applicable State and Federal regulations;

c. The operation shall not result in air pollution and noise generation exceeding appropriate local, State and Federal standards;

d. No structures shall be located within approach and clear zones if such structures encroach upon the airspace required for the safe operation of aircraft for which the airfield is intended;

e. No use of the airfield permitted nor the immediately adjacent property shall create electrical interference with aerial navigational signals or radio communication or aircraft overflying the airfield, result in glare in the eyes of pilots using or overflying the airfield, or otherwise in any way endanger or interfere with landing, takeoff, or maneuvering of aircraft using or flying in the vicinity of the airfield;

f. Measures may be required to mitigate adverse impacts associated with the flight operations. Uses within the approach zone may be required to be under the control of the applicant through restrictive easements or ownership of the property;

g. Lighting devices such as flood lights and spot lights shall be so designed or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground. This provision shall not prohibit the installation of runway and taxiway lighting systems designed for the safe operation of aircraft or other safety enhancements such as visual approach slope indicator (VASI) or precision approach path indicator (PAPI) lighting systems;

h. No permit shall be granted for an airfield that would conflict with the traffic patterns, approach zones or reserved air space of an existing airport or airfield;

i. The design of an airfield shall meet the applicable State and Federal regulations and the following requirements:

1. The effective runway length for a paved runway shall be at least 1,400 feet plus 25% of the elevation of the site measured in North American Vertical Datum (NAVD 88). The effective length for a turfed runway or landing area shall be 1,800 feet, plus the 25% correction of the elevation. Nothwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NAVD 1988 or in elevations measured in relation to mean sea level.

2. The approach surface to each end of each turfed runway extends outward from the runway, and shall be unobstructed along a 20:1 vertical slope for a horizontal distance of 1,000 feet. The width of the approach slope is to be 250 feet at the beginning and widens out to a width of 450 feet at a distance of 1,000 feet from the beginning of the approach slope. The approach slope shall begin at a point 200 feet outward from the runway threshold, or at the turfed runway threshold (normally at the end of the turfed runway), or at a marked displaced threshold.

3. The runway (the paved surface) shall be 40 feet or more in width, and the turfed runway shall be 100 feet or more in width. There shall be a primary surface (unobstructed area) 250 feet in width, 125 feet on each side of the runway or the turfed runway centerline. The primary surface shall extend the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.

4. The aircraft parking apron area, all buildings, structures, fences, and vehicle parking areas shall be located outside the primary surface and clear the 7:1 lateral slopes along the surface.

5. All farm crops (except hay) are considered as structures. The height of such structures shall be considered the height of the crops when fully grown, regardless of the crops actual height at any specific time.

6. Roads and railroads are considered to be structures or obstructions 15 feet and 23 feet high respectively above their traveled surface when determining obstructions. An interstate highway shall be cleared by 17 feet above the closest edge of a paved surface.

7. The effective length of a paved runway or turfed runway is determined as the total distance between thresholds, plus the length of the shortest overrun area, when both thresholds are displaced.

8. The threshold of a turfed runway is considered to be that point on the runway end, properly marked, from which a clear 20:1 approach slope is available. The threshold of a paved runway is 200 feet inside the threshold of the turfed runway.

9. The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.

j. The design of a family airfield shall meet the following;

1. The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.
2. The minimum effective length of a paved runway shall be 300 feet. The turfed-runway shall be 200 feet longer than the paved runway (100 feet on each end). The turfed runway is required, but the paved runway is optional.
3. The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.
4. The approach surface to each end of each paved or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.
5. The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.
6. The runway shall be set back 50' from all lot lines.
7. Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than ½ footcandle of illumination as measured at the property line.
8. A "bubble" of clearance of 200' over and around all buildings shall be maintained.
9. Flight operations shall be prohibited from 10 PM to 5 AM.
10. Abutting property/families may use the same runway provided there are no more than four (4) properties, each of which has at least 150' of frontage on the runway.

k. An airfield in a residential air park may be allowed under the provisions of the community unit plan as provided in ARTICLE 14 of this zoning resolution. (Resolution No. 5367, August 26, 1996; Resolution No. R-18-0078, November 20, 2018).

13.013. Mobile Home Courts

Mobile home courts may be allowed by special permit in the R zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983; Resolution No. R-18-0078, November 20, 2018).

13.014. Campground

Campground may be allowed by special permit in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.015. Private Recreational Activities

Private recreational activities including cabins and mobile homes not used as a residency may be allowed by special permit in the AG zoning district. (Resolution No. R-18-0078, November 20, 2018).

13.016. Riding Stables and Private Stables

Riding stables and private stables may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.017. Personal Wireless Services Facility

Personal wireless services facility may be allowed by administrative or special permit in any zoning district in conformance with the provisions of ARTICLE 10. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.018. Broadcast Towers

Broadcast towers may be allowed by special permit in the AG, AGR, R, B and I zoning districts. The proposed broadcast tower shall be reviewed under the guidelines established in ARTICLE 10 Personal Wireless Telecommunications. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.019. Excavation

Excavation may be allowed by special permit in the AG and AGR zoning districts under the following conditions. The special permit may include and permit stone milling to be conducted as an accessory use to the excavation operation. For purposes of this section, excavation shall mean the removal of clay, soil, limestone, sandstone, sand or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit or normal farming practices. Stone milling shall include the crushing, cutting, grinding or otherwise processing of minerals when associated with an excavation operation. Not all of the operations will apply to pre-existing, long term excavation sites. (Resolution No. R-14-0072, November 18, 2014; Resolution No. R-18-0078, November 20, 2018);

a. An application for a special permit for excavation or stone milling shall be accompanied by the following information:
   1. A legal description of the proposed site;
   2. A site plan drawn to scale that includes but is not limited to identifying proposed vehicle and equipment storage areas and entrance and exit locations to the operation;
   3. A map showing the site location and the location of private access roads, existing or proposed, and public roads and highways adjacent to the site which will be affected by the operation;
   4. A grading map showing existing contours, proposed excavation contours, proposed final grade contours, and excavation volumes;
   5. A full and adequate description of all phases of the contemplated operation and the specific listing of the type of machinery and equipment which will be or might be used to carry on the operation;
   6. A groundwater report from a groundwater hydrologist in cases where proposed soil mining operations are: (I) within 1000 feet of any off-site private well, (ii) within 2000 feet of a community well, or (iii) designed to result in an excavated area that does not drain to a lower area (i.e. a “hole”); the report should demonstrate that the operation and ultimate grading will not negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells will be installed to provide early warning of any such impact. Where a pond or lake is proposed, the groundwater report shall also demonstrate that adequate water will be supplied via runoff and/or wells to maintain the pond or lake as a functioning and attractive year-round water feature.

b. Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with State and Federal standards and County land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.

c. No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the County. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the County.

d. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase of operation.

e. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control Program Regulations, and the Lincoln/Lancaster County Health Department may additionally require dust control on unpaved perimeter roads.

f. Safety screening may be required at the outer boundary of the site; visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or

at major entryways/corridors into a city, town, or village, or at the discretion of the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)

g. Operating hours shall be limited to daylight hours, Monday through Saturday.

h. A sign shall be posted and maintained at the entrance to the site. The sign shall be:

1. Clearly visible from the adjacent road;
2. At least 32 square feet in area;
3. Lettering shall be at least two inches in height, black on a white background;
4. The sign shall list:
   i. The approved Special Permit Number;
   ii. The name, contact phone, and email address for the land owner;
   iii. The name, contact phone, and email address for the operator/ contractor;
   iv. The Building and Safety Department contact number.

i. The County or City Engineer may require installation of traffic signs to warn motorists of excavation operations and truck traffic. (Resolution No. R-14-0072, November 18, 2014)

j. The applicant will take appropriate measures, such as street sweeping or "rumble bars" as specified by the County Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.

k. Permittee shall not begin operations until it has received a certificate of operation from the Director of Building and Safety.

1. The Permittee shall comply with all terms, conditions and requirements of the special permit that are required to be completed before beginning operations. Upon completion of all such terms, conditions and requirement of the special permit, the applicant shall advise the Director of Building and Safety that the applicant has met all such conditions and shall apply to the Director of Building and Safety for a certificate of operation. (Resolution No. R-18-0078, November 20, 2018).
2. The certificate of operation shall not be issued until the Director of Building and Safety has inspected the premises covered by the special permit, reviewed documentation and evidence of completion of the conditions which shall be provided by the applicant, and has found that all terms, conditions and requirements of the special permit, that are to be completed before beginning operations, have been complied with.
3. Any amendment to a special permit approved subsequent to the issuance of a certificate of operation for such special permit shall require application by the permittee for a new certificate of operation which shall not be issued until the Director of Building and Safety has ascertained that any terms, conditions and requirements of the amendment to the special permit have been complied with.

l. Operations shall commence within one year of approval of the special permit or the special permit will terminate and be considered null and void.

n. Prior to commencing operations, the Permittee shall provide the County with a penal bond in the amount of $525.00 per acre intended to be disturbed to assure compliance with the final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A private engineer must certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.

n. Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety and general welfare of the public.

o. A special permit may be approved for up to a three year period of time by the Planning Commission. Such period of time shall commence upon the date the special permit is approved by the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)

p. Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit.

q. Permittee shall be subject to an annual site inspection by the Director of Building and Safety or assigns. Such inspection shall be paid for by the applicant. Building and Safety shall:

1. Inspect the site to determine whether terms, special conditions and requirements imposed by the Planning Commission in the approval of the special permit have been met and complied with; and
2. Review all complaints from public and other departments/agencies. (Resolution No. R-11-0023, March 29, 2011)

r. The Planning Commission may modify or adjust any of the above conditions or impose additional conditions to preserve the public health, safety, and general welfare or to allow the applicant use of the property, while at the same time, protecting the surrounding property. (Resolution No. R-09-0011, March 10, 2009)

13.020. Clubs

Clubs may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018)

13.021. Health Care Facilities, Residential

Health Care Facilities, Residential may be allowed by special permit in the AG, R and B zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018)

13.022. Industrial

Industrial may be allowed by special permit on uses upon which the Planning Commission is required to pass under ARTICLE 9 only in the "I" Industrial District. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. R-18-0078, November 20, 2018)

13.023. Dwellings for Members of Religious Orders

Dwellings for members of religious orders may be allowed by special permit in the AG, AGR and R zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018)

13.024. Pet Cemeteries

Pet cemeteries may be allowed by special permit in the AG and AGR zoning districts, provided they contain a minimum of five (5) acres. (Resolution No. R-18-0078, November 20, 2018).

13.025. Mobile Homes

Mobile homes may be allowed by special permit in the AG, AGR and R zoning districts under one of the following: (Resolution No. R-18-0078, November 20, 2018):

a. To be used for residential occupancy when utilized in conjunction with construction of a residence and not to exceed three (3) years in duration in the AG zoning district.

b. To be used for temporary residence renewed annually for the use of a person either giving or receiving care due to health reasons in the AG zoning district.

c. When a mobile home on an individual lot does not conform to the condition required for mobile homes in the “AG”, “AGR” and “R” zoning districts, under one of the following conditions:
   1. The lot meets all the height and area regulations of this district except the Planning Commission may increase the yard areas; (Resolution No. R-11-0023, March 29, 2011);
   2. The mobile home is securely and permanently attached to a permanent foundation complying with the building codes; and
   3. The towing bar and hitch, wheels and tires, and axles are removed. (Resolution No. R-17-0040, May 30, 2017).

13.026. Recreation Facilities

Recreation facilities may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017).

13.027. Veterinary Facilities

Veterinary facilities may be allowed by special permit in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.028. Sale Barns

Sale barns may be allowed by special permit in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals

Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals may be allowed by special permit in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.030Places of Religious Assembly Steeples, Towers, and Ornamental Spires

Except as provided in Section 17.031, place of religious assembly steeples, towers, and ornamental spires which exceed the maximum district height may be allowed by special permit in the AG, AGR, R, B and I zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996; Resolution No. R-18-0078, November 20, 2018).

13.031. Community Unit Plans

Community unit plans may be allowed by special permit in the AG, AGR and R zoning districts in conformance with the provisions of ARTICLE 14. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.032. Expanded Home Occupations

Expanded home occupation may be allowed by special permit in the AG zoning district under the following conditions:

a. On-site sales shall be limited primarily to products grown, manufactured, processed, treated or assembled on the premise;
b. Except for a Family as defined by this Resolution, no more than two (2) persons participate in the home occupation on the premises. For purposes of Section 13.032, participation shall exclude deliveries;
c. The lot area shall be ten (10) acres or larger;
d. Driveways and parking areas shall be provided with an all-weather (gravel or rock) surface to minimize dust and mud;
e. No more than 50% of the floor area of the residence may be used for said business when the home occupation is located within the residence;
f. The total floor area for all buildings used for said business shall not be more than 10,000 square feet;
g. Outside area used for work area, storage or other business activity (of vehicles, equipment, or materials used in the business) and parking shall not exceed 15,000 square feet;
h. All outside business related activity shall be located at least 200 feet from all premise property lines and shall be visually screened from public streets and adjacent property lines. Said visual screening shall be approved as part of the special permit;
i. Dust control of nearby unpaved roads to mitigate the impact of traffic approaching and leaving the premise may be required;
j. Building permits will be obtained as required for all new construction and remodeling of existing buildings under this permit;
k. Only one vehicle/truck over 2.5 tons (gross weight) is permitted on the site. No more than four (4) business vehicles shall be parked or stored outside on the site at any one time;
l. There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than twenty (20) square feet in area, which name plate designates the home occupation carried on within;

n. A site plan for this special permit shall be approved and followed. The Planning Commission/County Board may establish additional conditions such as hours of business operation, maximum daily non-resident trips to and from the business, as deemed appropriate for compatibility, health, safety and welfare relative to this use and activity. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-09-0076, September 29, 2009; Resolution No. R-18-0078, November 20, 2018)

13.033. Garden Centers

Garden centers may be allowed by special permit in the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.034. non-commercial distillation and storage of fuel and fuel products

Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County may be allowed by special permit in the AG zoning district provided that stills be set up in compliance with the requirements of National Fire Protection Association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid. (Resolution No. 3501, July 29, 1980; Resolution No. R-17-0040, Resolution No. R-18-0078, November 20, 2018).

13.035. Commercial Feedlot

a. Commercial Feedlot

Commercial feedlot facilities for livestock and poultry may be allowed by special permit in the AG zoning district if the special permit application for the Commercial Feedlot under this Section is received prior to March 10, 2020. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls.

b. Medium or Large Animal Feeding Operation (Medium or Large AFO)

A Medium or Large AFO, except for special permit application for a Commercial Feedlot under Section 13.035(a), may be allowed by special permit in the AG District under the following conditions:

1. A site plan showing the location and distance from each area and building used as part of the Medium or Large AFO to the premises' lot lines shall be included with the application. The site plan also shall indicate any floodplain and/or floodway on the site. A topography map shall be submitted with the application.
2. A Construction and Operating Permit approved by the Nebraska Department of Environment and Energy shall be submitted with the application.
3. A water well permit issued by the applicable Nebraska Natural Resources District NRD), or water well design documentation showing a water well permit isn't required by the applicable NRD, shall be submitted with the application.

If the water well is located within the Lower Platte South Natural Resources District's (LPSNRD) boundaries, a water well permit and any results from tests completed as a part of the water well permitting process shall be submitted with the application for each of the following wells:

a. A water well that is located in a Ground Water Reservoir and is designed, constructed, or modified to either:
   i. Pump more than fifty (50) gallons per minute and less than one thousand (1000) gallons per minute and pump less than two hundred fifty (250) acre-feet of water per year; or
   ii. Pump one thousand (1000) gallons per minute or more, or pump two hundred fifty (250) acre-feet or more of water per year.
b. A water well that is not located in a Ground Water Reservoir and is designed, constructed, or modified to either:
   i. Pump more than twenty (20) gallons per minute and less than two hundred fifty (250) gallons per minute and use less than twenty five (25) acre-feet of water per year; or
   ii. Pump two hundred fifty (250) gallons per minute or more, or pump twenty five (25) acre-fett or more of water per year.

If the water well is located within the Nemaha Natural Resources District's (NNRD) boundaries, a water well permit and any results from tests completed as a part of the water well permitting process shall be submitted with the application for each of the following wells:

c. A water well that is designed, constructed, or modified to pump more than fifty (50) gallons per minute.

d. A water well that is designed, constructed, or modified to pump fifty {50) gallons per minute or less if such water well is commingled, combined, clustered, or joined with any other water well(s) or other water source serving a single purpose, other than a water source used to water an AFO.

4. A road maintenance agreement between the County and the permittee, approved by the Lancaster County Engineer and the County Attorney, shall be included as a condition of the special permit if requested by the Lancaster County Engineer.

5. A completed Lancaster County Animal Feeding Operation Siting Assessment Matrix and any necessary documentation to verify the accuracy of the completed matrix shall be submitted with the application. The County may request additional documentation.

6. The Medium or Large AFO shall be setback, at a minimum, from the nearest wall of a dwelling that is not associated with the Medium or Large AFO and from any area designated as Residential-Low Density in the Future Land Use Plan of the Lincoln/ Lancaster County Comprehensive Plan as follows:

Medium or Large Open AFO	5,280 feet (1mile)
Large Enclosed AFO	3,960 feet (0.75 miles)
Medium Enclosed AFO	2,640 feet (0.50 miles)

However, the setback from an Open or Enclosed AFO shall be, at a minimum, to the lot line of any designated National or local landmark, place of worship, cemetery, school, residential or non-residential health care facility, public park (not including trails), public recreational facility, or a special permitted early childhood care facility shall be as follows:

Large AFO	7,920 feet (1.5 miles)
Medium AFO	5,280 feet (1mile)

7. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing or reusing the Medium or Large AFO upon discontinuance, decommissioning or abandonment. For a Medium AFO, the requirement for the applicant to obtain, and to maintain at all times prior to discontinuance, decommissioning or abandonment, a bond or equivalent enforceable resource, acceptable to the Planning Director, to guarantee removal or reuse upon discontinuance, decommissioning or abandonment shall be included as a condition of the special permit if required by the Planning Commission, and if appealed, the County Board. For a Large AFO, the requirement for the applicant to obtain, and to maintain at all times prior to discontinuance, decommissioning or abandonment, a bond or equivalent enforceable resource, acceptable to the Planning Director, to guarantee removal or reuse upon discontinuance, decommissioning or abandonment shall be included as a condition of the special permit.

   For purposes of this Section, discontinuance, decommissioning or abandonment shall mean the facility has not stabled or confined and fed or maintained animals for at least forty-five (45) days in a twelve (12) month period.

8. A buffer consisting of two (2) rows of trees shall be supplied around the perimeter of the application area or the lot on which the Medium or Large AFO is located at the rate of one (1) deciduous tree and three (3) evergreen trees every onehundred (100) lineal feet. The trees shall have a mature height of at least fifteen (15) feet. (Resolution No. R-20-0011, March 10, 2020)

13.036. Market Garden

Market Gardens may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

a. Market garden shall have one or more of the following accessory uses associated with the market garden: restaurants, agricultural education and training centers, agricultural tourism, or sales of agricultural products not grown on site. The accessory uses must be located on the same premises as the market garden, and the products of the market garden must be a major feature of the use that is accessory to it;

b. The total area for the market garden and its accessory uses must be at least twenty (20) acres but no more than forty (40) acres. Areas used for grazing or growing of crops for the feeding of animals on site may be excluded from the total area for the market garden;

c. The combined total area of all market garden accessory uses shall not exceed ten percent of the total area for the market garden. A single family dwelling located on the same premises as the market garden shall not be considered an accessory use to the market garden and shall not be counted toward the combined maximum total area of all the market garden's accessory uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor area of all accessory uses, their setbacks and intended use;

d. The Planning Commission may limit the maximum square footage of buildings associated with the market garden accessory use;

e. Direct access to a paved road may be required by the Planning Commission based upon the anticipated traffic generated by the use. The applicant shall include an estimate of all traffic generated based on the accessory uses on site in order to address the impact on the adjacent streets;

f. Parking shall be provided at a ratio of one space per 200 square feet of the floor area devoted to retail and service use. When the accessory use includes festivals, special events, or other large gatherings, an overflow parking area may be required with three stalls for every acre included within the special permit area. Parking may be provided on unpaved areas, except for ADA accessible stalls. (Resolution No. R-12-0023, March 20, 2012; Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation

Commercial composting operation and/or commercial anaerobic digestion operation may be allowed by special permit in the AG zoning district under the following conditions:

a. The applicant shall provide information regarding the nature of the activities related to the permit and include a detailed listing of the types and quantities of materials to be processed;

b. Non-green feedstocks or organic materials which cannot pass a Paint Filter Test shall not be accepted without written approval of the Lincoln-Lancaster County Health Department;

c. The applicant shall provide information regarding the location and dimensions of any buildings on the premises, including any building to be used, in whole or in part, in permitted activity;

d. The area in which the waste is handled, stored or disposed of, must be located at least 750 feet from any dwelling not associated with the facility;

e. The applicant shall provide information on the type and number of vehicles visiting the site per day and the route that these vehicles will take;

f. Visual screening through setbacks, berming and other techniques may be required where the area and/or facility is adjacent to a residence, park, school, roadway, trail or other land use, at the discretion of the Planning Commission;

g. This special permit is final action at the Lancaster County Board of Commissioners. (Resolution No. R-14-0007; Resolution No. R-17-0040, May 30, 2017; Jan. 28, 2014; Resolution No. R-18-0078, November 20, 2018).

13.038. Flood Plain Construction

Certain construction may be allowed by special permit within the flood plain in conformance with Section 11.025 in all zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.039. Expansion of Nonconforming and Nonstandard Uses

Expansion of nonconforming uses and nonstandard uses may be allowed by special permit in all zoning districts except the "I" Industrial District to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitutes a nonconforming use. In all zoning districts, a special permit may be granted to authorize (1) the expansion or enlargement of a premises occupied by any nonstandard building, structure or use; and/or (2) the issuance of a building permit to permit the enlargement, extension, or reconstruction of any building or structure located upon a premises the use of which constitutes a nonstandard use. In consideration of applications for such special permits, the following criteria shall be given specific consideration:

a. Effects on adjacent property, traffic, utility service needs;

b. Density of land use zoning for the subject property and adjacent property;

c. The degree of hardship upon the applicant which would be caused by failure to grant such a permit. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.040. Heritage Center

Heritage center may be allowed by special permit in the AG District, by the Planning Commission to allow a heritage center subject to the following conditions:

a. More than one main building may be located on a lot in conformance with the district regulations;

b. More than one main building may be located on a parcel of thirty (30) acres or more and buildings shall not cover more than five percent (5%) of the lot area;

c. Mechanical rides shall be prohibited except for sightseeing vehicles;

d. Parking: One space for every 200 square feet of floor area for permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre contained within the special permit;

e. The application shall address the guidelines of the County change of zone policy and include provisions for minimizing impacts on County or community services. (Resolution No. 4277, April 28, 1987; Resolution No. R-11-0023; March 29, 2011; Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.041. Historic Preservation

Historic Preservation may be allowed by special permit in any zoning district, to allow the preservation of an historic structure or site and the reuse thereof. Such historic preservation shall be limited to structures or sites identified and approved as landmarks by resolution of the County Board in accordance with Article 24 of this zoning code. A special permit for historic preservation may approve any use in any zoning district in the historic structure or site after review and consideration of the following:

a. A review shall be made in order to balance the significance of the historic structure or site against the proposed use variance from uses otherwise permitted in the district;

b. The extent of exterior change to the structure or site shall be reviewed;

c. The impact on the surrounding area shall be considered;

d. The compatibility of the proposed use to the structure or site shall be reviewed;

e. The manner in which the public shall be able to relate to or utilize the structure of site in the future shall be considered;

f. A plan of the existing and proposed grounds surrounding structure or site, including outdoor furniture and plant material, shall be submitted;

g. A parking layout shall be submitted;

h. Details shall be provided for all proposed modification of the structure or site, both interior and exterior;

i. Details of how the preservation of the structure or site is to be accomplished will be submitted;

j. The Historic Preservation Commission shall review the proposal for reuse of the structure and/or for adjustments to the applicable height and area regulations, including information regarding the above criteria, and for compliance with the guidelines developed for that landmark. The Preservation Commission shall make its recommendation to the Planning Commission prior to the public hearing required under Section 13.002.

k. The Planning Commission shall review the proposal for reuse of the structure and/or for adjustments to the applicable height and area regulations, including information regarding teh above criteria, and for conformance with the Comprehensive Plan.

l. The County Board may approve any use in any zoning district in the historic structure or site.

n. The owner of the structure or site shall file a written agreement with the County accepting all the terms and conditions of the special permit;

n. The type of signage proposed for the structure or site shall be reviewed and approved. (Resolution No. R-18-0078, November 20, 2018).

13.042. Wind Energy Conversion Systems (WECS)

Wind energy conversion systems may be allowed by special permit in the R, B and I Zoning Districts, to allow wind energy conversion systems (WECS) over the district height. A special permit may be granted by the Planning Commission subject to the following conditions:

a. The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare;

b. The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS;

c. The WECS operation shall not cause interference to the radio and television reception on adjoining property;

d. The applicant shall provide access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site;

e. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations application to WECS. (Resolution No. 3744A, October 5, 1982; Resolution R-08-0090, Approved October 15, 2008; Resolution No. R-11-0023; March 29, 2011;Resolution No. R-18-0078, November 20, 2018).

13.043. Storage of Agriculture Conservation Equipment and Materials.

Storage of agriculture conservation construction equipment and materials may be allowed by special permit in the "AG" Zoning District under the following conditions:

a. Such use shall comply with the height and area regulations of the "AG" District; except that the Planning Commission may reduce the minimum lot area to ten (10) acres;

b. Such use shall be permitted for a time period which shall be determined by the Planning Commission. The permittee may request administrative amendments for an extension of time;

c. The permittee shall maintain an exemption application for earth moving equipment for agriculture and soil conservation purposes; Form 410 as authorized by 77-202.46 R.S. or as may be amended;

d. The exemption application shall be filed with the County Assessor's Office and the exempt uses of the total equipment shall not be less than 75%. (Resolution No. 4656, June 26, 1990; Resolution No. R-11-0023, March 29, 2011)

13.044. Dwellings Withing 1,320 feet of a Publicly Owned Lake

Dwellings within 1,320 feet of the property line of a publicly owned lake property of thirty (30) acres or more may be allowed by special permit in the AGR district under the following conditions:

a. The Planning Commission may amend the conditions of the special permit upon a showing that exceptional and unusual circumstances exist in connection with the specific parcel of land;

b. All dwellings, occupied buildings and livestock feed lots shall be located a minimum of 600 feet (200 yards) from the property line of the public lake property to protect from noise and gunfire. Adjustment for other factors such as roads, lot size, abutting uses and private agreements should be considered in applying this;

c. Sewer systems shall be designed so no effluent will reach the lake;

d. Well information shall be provided that shows there is adequate quantity and quality of water on the site and the development will not adversely affect adjacent property wells;

e. Unless already in permanent vegetation, a buffer of native grasses and forbs shall be planted within 200' abutting the public property line. Overall use of native plants and "xeroscaping" is encouraged;

f. Any disturbance of surface soils shall use the best management practices to prevent any sediment from moving off site, in accordance with a sediment plan shall be approved by the Lower Platte South Natural Resources District based on the Sediment and Erosion Manual;

g. Exterior lighting shall meet the Lincoln Design Standards for Outdoor Recreational Lighting sections on illumination levels beyond the property line (I.B) and Glare control (III) shielded to prevent trespass of light off the property;

h. Vehicular access points shall be designed so as not to conflict with other entrances and to recognize the additional traffic as well as the character of that traffic on the road. Access to paved roads is required if possible;

i. The boundary between the private and public ownership shall be posted as "private property". The signs shall be at least eleven by fourteen inches and shall be spaced no more than 1,320 feet apart and at all property corners and field entrances;

j. The public agencies of the adjacent lake property shall have the opportunity to review the special permit application as well as the Nebraska Game and Parks Commission, Natural Resources District, Corps. of Engineers and Department of Environmental Quality;

k. All chimneys shall be equipped with spark arresters;

l. No antenna or any other structure over 35' in height shall be permitted unless approved by this permit;

n. The applicant shall acknowledge and advise future purchasers of the full utilization of all legal uses and activities that would normally occur on the public lake property abutting the application. Protective covenants shall be filed on the property containing this information;

n. Density/number of dwelling units permitted in the parcel (a range is suggested of no less than five (5) nor more than ten (10) acres per dwelling unit);

o. The developer shall enter into a written agreement with the County on the conditions of the special permit. (Resolution No. 5428, January 22, 1997; Resolution No. R-11-0023, March 29, 2011; Resolution No. R-18-0078, November 20, 2018).

13.045. Off-Premises Signs

Off-premise signs which do not meet the siting limitations of ARTICLE 16.07 b)2)3) and 4) may be allowed by special permit in B and I zoning districts upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community. (Resolution R-00-10, January 26, 2000; Resolution No. R-17-0040, May 30, 2017)

13.046. Sexually Oriented Live Entertainment Establishment

Sexually oriented live entertainment establishment must meet all applicable federal, state and local regulations and may by special permit be located in the “I” Industrial zone district under the following conditions:

a. It meets minimum separation distance of one thousand five hundred (1,500) feet between such uses.

b. It meets minimum separation distance of one thousand (1,000) feet between such use and from place of religious assembly, public elementary and high schools or private schools having a curriculum equivalent to public elementary or high schools, residential uses, early childhood care facility, public park, hospital, public library, public museum, amusement park, recreation area or playground that primarily serves persons younger than eighteen (18) years old, correctional facility, residential facility licensed by the State of Nebraska in which people reside while receiving therapy, counseling or rehabilitation for physical, emotional or mental disease or disability.

c. All distancing requirements shall be measured using door to door measurement of distance.

Before making a final decision on the issuance of the above building use, the Planning Commission will hold a public hearing to consider the effect of the proposed use “upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety, and general welfare”. (Resolution 00-129, October 13, 2000; Resolution No. R-11-0023, March 29, 2011; Resolution No. R-17-0040, May 30, 2017; Resolution No. R-18-0078, November 20, 2018).

13.047. Race Tracks, Drag Strips and Motor Sport Facilities in "AG" District;

Race tracks, drag strips, and motor sport facilities may be allowed by special permit in the AG zoning district in conformance with the following conditions:

a. The application shall be accompanied by the following information:

1. A plot plan drawn to an accurate scale showing the layout of the entire site including the track, seating area, restrooms, parking lot, concession stands, lighting facilities, and other pertinent information.
2. Proposed water and sewer systems.
3. Drainage and grading plan.
4. Description of the racing facility, including the type, number and average speed of motorized vehicles and time and frequency of operations.
5. Landscaping and screening plan.
6. Proposed measures to mitigate potential adverse environmental impacts, such as air quality, hazardous liquids and glare.
7. Anticipated peak event attendance and parking needs.
8. Days and hours of operation.
9. Description, type, and frequency of other anticipated events or uses incidental to the racing facility described above.
10. Entrances, exits and traffic flow.
11. A professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. The professional sound assessment may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If the professional sound assessment predicts or identifies NPL levels that exceed the regulatory limits established in Section 13.016(d), a sound mitigation strategies plan shall be proposed by the applicant. Such sound mitigation strategies plan shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The sound mitigation strategies plan shall be submitted to the Health Department for review and recommendation for approval or denial of the sound mitigation strategies plan. The Health Department shall take action to recommend approval or denial of the plan within thirty (30) days of receipt.

b. The site shall contain at least seventy (70) acres in the AG district.

c. The proposed water, sewer and drainage facilities shall be reviewed and approved by the Lincoln Lancaster County Health Department.

d. The operation of a race track, drag strip or motor sports facility shall not create an A-weighted Noise Pollution Level (NPL) sound level (dBA) which exceeds the current conditional NPL on the nearest receiving properties with occupied residences in existence on the date of approval of the special permit by more than 10 dB between the hours of 10:00 a.m. and 6:00 p.m., nor more than 6 dB between the hours of 6:00 p.m. and 10:00 p.m. In addition, the NPL level shall not exceed 81 dB, no matter what the baseline NPL level. The current condition NPL noise levels shall be established by conducting noise monitoring at the closest residence(s) in outside areas that will likely be actively used for the enjoyment of their property.

1. Noise samples shall be acquired continuously for one hour using a one second sampling rate.
2. The sound level meter shall be set to the “A” weighting and “fast” mode.
3. The sound level meter shall be calibrated to an approved standard before and after each measurement period.
4. The current condition NPL shall be established by measuring both during what is believed to represent the peak noise conditions and during evening hours.
5. Noise measurements shall be made with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1983 as amended by S1.4A-1985, or the latest approved revision thereof), or its successor body, using a Type I or Type II meter.
6. Noise monitoring shall be conducted by the Health Department.
7. Noise measurements for enforcement purposes shall be conducted using the same protocol as provided in subsection (d)(1), (2), (3), (5) and (6) above. The formula for calculating the NPL shall be: $NPL = (L50 + L10 - L90) + [(L10 - L90)^2 / 60]$
8. Before a special use permit is issued for a race track, drag strip or motor sports facility, a professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. This may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If this sound assessment predicts or identifies NPL levels and exceed the regulatory limits established herein, sound mitigation

strategies shall be proposed by the applicant. Such sound mitigation strategies shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The noise mitigation plan shall be submitted to the Health Department for review and recommendation for approval or denial. The Health Department shall take no action to recommend approval or denial of the plan within thirty (30) days of receipt.

9. Prior to operation, the race track, drag strip or motor sports facility shall install an approved continuous noise monitoring device at a location to be determined by the Health Department. Data collected from this monitor shall be made available to the Health Department. The Health Department shall be provided access to the race track, drag strip or motor sports facility at any reasonable time to inspect, investigate complaints or conduct noise monitoring.

e. The site shall not be located in areas for residential use, rural use/low density residential, schools, parks and open space, and the major ecological and environmental protection areas in accordance with the Comprehensive Plan.

f. The boundary of the property legally described in the application shall be located at least one half (½) mile away from existing cemeteries, hospitals and places of religious assembly and residential areas, rural use/acreage areas, schools and parks and open space as designated by the Comprehensive Plan.

g. The site shall be readily accessible from a major street or paved road with adequate access for law enforcement and emergency vehicles.

h. The site shall be located within reasonable reach of existing fire protection facilities or fire protection may be provided on-site, and shall be approved by the fire protection district. A report thereon shall be obtained from the fire protection district or authority in which the site is located.

i. The events shall not operate between the hours of 10:00 p.m. to 10:00 a.m.

j. The operation of a race track, drag strip or motor sports facility may exceed the noise sound level set forth in Section 13.016(d) for a certain number of events each calendar year upon approval by the Planning Commission. At the time of application for the special permit, the applicant shall request the number of events it proposes to exceed the noise level set forth in Section 13.016(d) each calendar year. In the event the applicant wishes to amend the number of event exceptions in any given year, the applicant must request an amendment to the special permit. The Planning Commission shall act on such request after holding a public hearing. (Resolution No. R-11-0023, March 29, 2011)

The County Board may amend any of the above conditions of the special permit, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, and the general welfare. (Resolution No. R-07-0061; July 24, 2007; Resolution No. R-18-0078, November 20, 2018).

13.048. Commercial Wind Energy Conversion System (CWECS)

A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

a. In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.

b. Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.

c. Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine (s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.

d. Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow

flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

e. Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.

f. No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review and approval by the Lincoln-Lancaster County Planning Department. (Resolution No. R-19-0022, March 19, 2019).

g. Setbacks to the turbine base:

1. For the purposes of this section, “turbine height” shall be equal to hub height plus the rotor radius.
2. For a non-participating lot, the setback shall be 2 times the turbine height measured to the property line, or 5 times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum 1,000 feet to the property line. (Resolution No. R-19-0022, March 19, 2019).
3. For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
4. The setback to any public right-of-way or private roadway shall be no less than the turbine height.
5. Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

h. The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than three (3) acres of land outside of the CWECS setbacks and the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.

i. Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use. For nonparticipating properties:

1. From the hours of 7 am to 10 pm:
   i. Forty (40) dBA maximum 10 minute Leq or;
   ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.
2. From the hours of 10 pm to 7 am:
   i. Thirty-seven (37) dBA maximum 10 minute Leq or;
   ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

For participating properties:

1. Fifty (50) dBA maximum 10 minutes Leq for all hours of the day and night. (Resolution No. R-18-0095, November 20, 2018)

j. Each application shall include a professional pre-construction noise study which includes all property within at least one mile of a tower support base and must be able to demonstrate compliance with the noise standards in paragraph (i). The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. (Resolution No. R-19-0022, March 19, 2019).

k. Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

l. Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.

n. Post-construction noise level measurements shall be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department within one year of completion of construction to determine if the permittee is in compliance with this title and the terms of its special permit. Noise level measurements shall be taken by third party professional acousticians or engineering firms specializing in noise measurements and in accordance with procedures as approved by the Lincoln-Lancaster County Health Department and shall be performed at the expense of the holder of the Special Permit. Any report, information or documentation produced in accordance with such study or measurements shall be provided to the Lincoln-Lancaster County Health Department and shall be a public document subject to Nebraska's public records laws. (Resolution No. R-19-0022, March 19, 2019).

n. All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring in addition to that required under the paragraph above shall be required to determine whether a violation has occurred. If the Lancaster County Board of Commissioners determines that such noise monitoring shall be required, it shall be done at the expense of the holder of the Special Permit in accordance with procedures and by third party professional acousticians or engineering firms specializing in noise measurement approved by the Lincoln-Lancaster County Health Department. The results of such monitoring shall be provided directly from the party or parties conducting the monitoring to the Lincoln-Lancaster County Health Department for review and reporting to the Lancaster Board of Commissioners. (Resolution No. R-11-0022, March 29, 2011; Resolution No. R-15-0061, November 24, 2015; Resolution No. R-18-0078, November 20, 2018; Resolution No. R-19-0022, March 19, 2019).

13.049 Early Childhood Care Facilities

Early Childhood Care Facilities may be allowed by special permit in the AG, AGR and R zoning districts under the following conditions:

a) The application shall be accompanied by the following information:

1) The number of children and number of staff members on the largest shift;
2) A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility.
3) If the proposed facility is for twenty-one (21) or more children and is located in a residential district, the application must also include a conversion plan.

b) Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements. (Resolution No. R-18-0078, November 20, 2018).

13.050 Accessory Dwelling Unite (ADU)

One accessory dwelling unit per lot may be allowed by special permit in the AG zoning district under the following conditions:

1. The lot area shall be 20 acres or larger. For purposes of determining minimum lot area, abutting County section line and one-half section line road right-of-way is included in the total area.
2. The total square footage of the ADU shall not exceed the lesser of 1,000 square feet or 40% of the square footage of the principal dwelling, excluding the garages, carports, and space used for mechanical equipment, such as heating, utilities and water heater or pumps. Any other unfinished space in a basement is included in the square footage to allow it to be furnished in the future. The calculation for the principal dwelling shall be based on the floor area as of the date the special permit is filed.
3. No more than two (2) bedrooms are allowed in the ADU. Bedroom shall mean any room or space used or intended t be used for sleeping purposes.
4. The owner of the lot is required to live on the property in either the principal dwelling or the ADU. The owner of the lot shall file with the Register of Deeds, a deed restriction agreement on the property stating that the accessory dwelling cannot be sold separately from the principal dwelling. The deed restriction agreement must be to the

satisfaction of the County Attorney. The deed restriction agreement shall be filed prior to any building permit for the ADU.

5. The ADU must share the same access point to the public or private street as the principal dwelling.
6. The ADU must meet the same setback requirements as the principal dwelling of the district. The height of the ADU must meet the height limit of the district for a dwelling, but be no higher than the principal dwelling.
7. A detached ADU shall be located a distance no greater than 200 feet from the principal dwelling and must not be closer to the street right-of-way than the principal dwelling.
8. The ADU must share utilities with the principal dwelling unless the owner can demonstrate a practical problem with sharing due to the topography or other unique site considerations.

The Planning Commission and if appealed, the County Board, may amend any of the above conditions, with the exception of Conditions 4 and 5, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, and the general welfare. (Resolution No. R-18-0094, December 18, 2018).

ARTICLE 14 COMMUNITY UNIT PLAN

Contents:

14.001. General Purpose

14.003. General Requirement

14.005. Procedures

14.009. Requirements after Approval

14.011. Community Unit Plan Amendments

14.013. Form of Community Unit Plan

14.001. General Purpose

The purpose of this chapter is to permit and to encourage the creative design of new living areas, as distinguished from subdivisions of standard lot sizes and standard street systems, and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety and general welfare of existing and future residents of surrounding neighborhoods.

14.003. General Requirement

The owner or owners of any tract of land in the "R" Zoning District which is one acre or more in area, including and up to the center line of existing public rights-of-way abutting the tract of land, or in the "AG" Zoning District which is seventy-five (75) acres or more, or in the "AGR" Zoning District which is ten (10) acres or more in area, may submit to the Planning Commission a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development; provided, however, that the Planning Commission shall apply the standards contained in this chapter in consideration of all applications for community unit plans. The plan may propose a modification of height and area of regulations of the district in which the community unit plan is located. In the AG District for lots five (5) acres or less the height and area regulations of the AGR District shall apply unless modified by the Community Unit Plan. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-17-0040, May 30, 2017;)

a. Community unit plans in the “AG” and “AGR” zoning district shall provide access to each residential lot from a private or public roadway; except in unique circumstances, no direct access for any residential lot to a County section line, or half section line, roadway is allowed. (Resolution No. R-12-0058, July 24, 2012)
b. In the “AG” zoning district, a minimum of fifty percent (50%) of the total area in the subdivision must be preserved as an unbuildable outlot to be used as open space or for agricultural uses. (Resolution No. R-12-0058, July 24, 2012)
c. A dwelling unit bonus of up to twenty five percent (25%) may be granted under the following circumstances: (Resolution No. R-12-0058, July 24, 2012)
    1. A community unit plan in the “AGR” zoning district where at least twenty percent (20%) of the land is preserved as an unbuildable outlot, and community sanitary sewer facilities are proposed, or; (Resolution No. R-12-0058, July 24, 2012)

2. A community unit plan in the "AG" zoning district where at least seventy percent (70%) of the land is preserved as an unbuildable outlot or; (Resolution No. R-12-0058, July 24, 2012)
3. A community unit plan in the "AG" zoning district where at least fifty percent (50%) of the land is preserved as an unbuildable outlot, and that outlot includes: (Resolution No. R-12-0058, July 24, 2012)
   i. Green space, environmental resources or agricultural stream corridor areas as designated in the Future Land Use Maps of the Lincoln City - Lancaster County Comprehensive Plan which are permanently protected, or; (Resolution No. R-12-0058, July 24, 2012)
   ii. Areas which can be shown to be environmentally sensitive and in need of preservation, whether or not they are shown in the Plan, when the applicant shows a means for permanently protecting those areas. (Resolution No. R-12-0058, July 24, 2012)

For purposes of calculating dwelling unit bonuses in community unit plans, any final dwelling unit calculation which is greater than or equal to fifty hundredths (0.50) shall be rounded up to the next whole number. (Resolution No. R-12-0058, July 24, 2012)

14.005. Procedures

An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information and development of a community unit plan under this article shall be filed in writing with the Planning Department. Upon the filing of an application, the Planning Department shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of the proposed use upon character of the neighborhood, the Comprehensive Plan, traffic conditions, public utility facilities and other matters relating to the public health, safety and general welfare. (Resolution R-07-0016, March 13, 2007; Resolution No. R-11-0023, March 29, 2011)

a. That the land surrounding the tracts for the proposed community unit plan will not be adversely affected;
b. That the proposed community unit plan is consistent with the intent and purpose of this title to promote the public health, safety and general welfare;
c. That the buildings and land in the proposed community unit plan shall be used only for single-family dwellings, two-family dwellings, townhouses or multiple family dwellings and accessory uses and any other uses permitted in the zoning district in which the land is located;
d. That the average lot area per family within the proposed community unit plan will not be less than the lot area per family required in the zoning district or districts in which the tracts of the proposed community unit plan is located, except as otherwise provided in this chapter.

The Planning Commission shall approve or deny the application and require that certain conditions be fulfilled by the applicant in conjunction with the approval of the community unit plan applied for. Any action by the Planning Commission may be appealed to the County Board by filing a notice of appeal with the Planning Department within fourteen (14) days following the action of the Planning Commission. (Resolution No. R-11-0023, March 29, 2011; (Resolution No. R-18-0078, November 20, 2018)

14.009. Requirements after Approval

Upon approval of the community unit plan, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproduceable final plot plan with all required amendments and revisions. Thereafter, building permits and certificates of occupancy shall be issued only upon strict compliance with the community unit plan as approved or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the zoning district or districts in which the community unit plan is located. (Resolution No. R-11-0023, March 29, 2011)

14.011. Community Unit Plan Amendments

After the Planning Commission has approved a community unit plan, including the specific plot plan, the Planning Director is authorized to approve amendments in the community unit plan, provided that: (Resolution No. R-11-0023, March 29, 2011)

a. A request for amendment is filed with the Planning Director, and if appropriate, accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;
b. There is no increase in the number of dwelling units;
c. No public land will be accepted as a result of the amendment;
d. The amendment shall not be contrary to the general purposes of this chapter as set forth in Section 14.001.

14.013. Form of Community Unit Plan

A plot plan shall be accurately, clearly and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the following information:

a. A surveyor's certificate certifying the accuracy of the boundary survey shown thereon and a certificate for showing the Planning Commission's approval or disapproval, and a certificate for the County Clerk to show the approval or disapproval by the Planning Commission, including the date and resolution number; (Resolution No. R-11-0023, March 29, 2011)
b. Date prepared, north point, scale of plot plan and location of section lines and section corners;
c. Contour lines at intervals not to exceed five (5) feet based on County data. Spot elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;
d. Locations, name, tangent lengths, center line radius of each curve and its interior angle and width of all proposed and existing streets, highways, private roadways and other public ways within and adjacent to the development;
e. Locations and widths of all existing and proposed easements for drainage, sewers and other public utilities and if appropriate, access easements;
f. Location, width and direction of flow of all watercourses in and adjacent to the community unit plan, including the limits of the flood plain and floodway as defined in ARTICLE 11;
g. The location and size of all existing and proposed sanitary and storm sewers, culverts, water mains, fire hydrants and existing power lines and other underground structures or cables within the tract of land and adjacent streets;
h. All lot lines, building setback lines for all lots, dimensions of all lot lines and building envelope lines. Chord distance shall be shown for lot lines abutting curvilinear streets;
i. Lot numbers shall begin with the number (1) and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;
j. Proposed areas for parks and playgrounds. Any parcels other than streets which are to be dedicated or reserved for public use shall be clearly shown and said parcels shall be designated as outlots and assigned an alphabetical designation;
k. The location of all proposed and existing sidewalks, walkways and other pedestrian ways;
l. Location, height and uses of proposed and existing buildings with an indication as to whether an existing building is to be removed or to remain;
n. A certified accurate boundary survey showing sufficient linear, angular and curve data to determine the bearing and length of all boundary lines of the community unit plan. Where the tract of land abuts on an existing plat, the distances, angles and bearing of any common lines be shown and any differences in measurement, noted. The total calculated acres within the boundaries of the community unit plan shall be shown;
n. The following data shall be shown on each sheet of the community unit plan:
    1. The name of the community unit plan;
    2. The name, address and telephone number of the person or company responsible for preparation of the community unit plan;
    3. North arrow, scale, date;
    4. Sheet number and the total number of sheets comprising the community unit plan;
o. Accompanying the community unit plan, the following information shall be submitted to the Planning Department with the number of copies requested by the Planning Director:
    1. Name, address and telephone number of developer;

2. Certified record owner or owners and their addresses;
3. Legal description of the proposed community unit plan, including the number of acres;
4. Statement of present zoning and proposed use or uses of the property;
5. Profiles along the center line of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades including the length of vertical curves between changes in grade with the profiles for stub streets ending at the boundary of the community unit plan to be extended three hundred (300) feet beyond the limits of the community unit plan into subdivided and unsubdivided land;
6. The proposed method of providing sanitary sewer service to the area:
   i. If a public or community sewage system is established, the size and location of all proposed sanitary sewers the proposed manhole locations, any necessary extension to the existing public system or to the proposed community sewage treatment facility, and the location of the proposed community sewage treatment facility;
   ii. If the use of individual sewage disposal systems is permitted pursuant to Resolution No. 2382 and amendment thereto of Lancaster County, plans for the proposed disposal system and its location on each lot must be shown. If a septic tank system is proposed, soil and percolation data and plans which show the location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system shall be shown.
7. The proposed method of providing an adequate potable water supply:
   i. If a public or community water system or rural water district is proposed, the location and size of all water mains, hydrants, and necessary extensions of the system within or beyond the limits of the subdivision to connect to the existing water mains or to the community well.
   ii. If a community water system other than a rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test well within the immediate vicinity of the proposed water supply well.
   iii. If an individual water well system for each lot is proposed, the applicant shall provide information on the expected quantity and quality of the water in the proposed development for Lincoln-Lancaster County Health Department (LLCHD) review. The information shall include geological and hydrological data obtained from public records on wells located within a reasonable distance from the proposed development as well data obtained from a test well or test wells located withing the proposed development. The LLCHD may waive the test well requirement within the proposed development if satisfactory geological and hydrological information has been provided surrounding the proposed development. Information shall include: well logs; an inventory of wells on contiguous land; a map or maps showing precise locations of the wells ; estimates of the demand for water by the proposed subdivision; an evaluation of the adequacy of the quantity and quality of water of the proposed community well or individual wells. The LLCHD may require additional water quality tests based on potential contamination known to be in the area. Acceptable quality shall mean water that may contain impurities or contaminants that can be treated, removed, or reduced to safe levels that meets the US EPA National Primary Drinking Water Regulations Maximum Contaminant Levels. The LLCHD shall make a recommendation to the Planning Commission or County Board based on this information. This recommendation shall not be construed to guarantee the quantity or quality of water to individual lots in the proposed subdivision. (Resolution No. R-18-0078, November 20, 2018)
8. A drainage study prepared in accordance with any approved Storm Sewer Design Standards of the County on file with the County Clerk. The following items must be included in the drainage study:
   i. A map showing the drainage area and resulting runoff from any land lying outside the limits of the community unit plan which discharges storm water runoff into or through the community unit plan;
   ii. A map showing all internal drainage areas and resulting runoff;
   iii. Proposals as to how the computed quantities of runoff will be handled;
   iv. A copy of the drainage computations.
9. A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, building and lots which includes the location and identifies, by common name, all existing trees within the area of the community unit plan. Single trees which are three (3) inches in caliper or larger measured five (5) feet above the ground must be shown. However if the five (5) or more trees are located so that each end is within approximately ten (10) feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated

procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

10. A vicinity sketch showing the general location of the community unit plan in relation to existing streets, section lines and county limits;
11. Site grading plan showing existing and proposed contour lines with intervals at no greater distance than five (5) feet, and if necessary, spot elevations showing complete proposed grading of the community unit plan. Also, cross-sections may be required showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the flood plain as defined in ARTICLE 11. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the County Board of the location of the proposed new borrow area and obtain approval thereof from the County Board;
12. All deviations from the provisions of this article shall be fully set forth and reasons given for said deviations;
13. In the event that said real property is located within a flood plain, the developer shall comply with all requirements pertaining to flood plains contained in the Lancaster County Zoning Regulations and applicable state statutes. (Resolution No. R-18-0078, November 20, 2018)

p. A Computer-Aided Design (CAD) file representing only the preliminary plat boundary survey and street centerlines shall be submitted that complies with the CAD File Submittal Standards maintained by the Lancaster County Engineer.

ARTICLE 15 ADDITIONAL USE REGULATIONS

Contents:

15.001. Home Occupations

15.003. Dwellings for Non-Related Persons

15.005. Subdivision Promotion Activity

15.007. Outlots, Permitted Use

15.001. Home Occupations

A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

a. There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than two (2) square feet in area, which name plate designates the home occupation carried on within, in letters not to exceed two (2) inches in height and attached to the building wherein the home occupation is conducted;

b. There is no commodity sold upon the premises except that which is grown, manufactured, processed or treated on the premises in connection with such occupation or activity or which is sold in relation and incidental to such occupation or activity;

c. Except for a Family, no more than one (1) person may participate in the home occupation on the premises; For purposes of Section 15.001, participation shall exclude deliveries;

d. Any activities carried on outdoors in the "R" Residential District in connection with the home occupation is screened from view of a public street or adjacent property and there is no outdoor storage of any equipment, machinery, parts, or other articles of any nature used in connection with such home occupation;

e. There are no materials or equipment used which will cause noise, vibration, or odors, electrical interference, smoke or particulate matter is excess of the ordinary and usual conditions in the general area;

f. No more than twenty (20) percent of the total floor area of all buildings on the premises is utilized in conducting such home occupation.

(Resolution No. R-09-0076, September 29, 2009; Resolution No. R-17-0040, May 30, 2017)

15.003. Dwellings for Non-Related Persons

Dwellings for four (4) to six (6) persons not immediately related by blood, marriage, adoption and living as a single housekeeping unit on lots one (1) acre or more in area shall be permitted, provided that one (1) offstreet parking space is supplied for each person in the housekeeping unit.

15.005. Subdivision Promotion Activity

In areas of new construction or lot development, a subdivision promotion activity may be established in a residential zoning district for the purpose of selling lots of homes in the area under the following conditions:

a. The purpose of the subdivision promotion activity shall be to promote the sale of lots or homes in the subdivision or area in which the subdivision promotion activity is located or where similar homes are being constructed;
b. Any office or similar premises used in connection with the subdivision promotion activity shall be located within a subdivision display home and no exterior reconstruction or any permanent alteration of the said display home shall be permitted in establishing said office;
c. There shall be no sign on the premises other than those permitted in ARTICLE 16;
d. The subdivision promotion activity may continue for a period of one (1) year from the issuance of the first occupancy permit to each builder, contractor, or subdivider within a subdivision or lot development area. At the expiration of one (1) year, a permit shall be obtained from the Codes Administration Division to allow continuation of the subdivision promotion activity. This permit may be granted after an evaluation of the location or proposed location of the subdivision promotion activity by the Department of Building and Safety with consideration given to the type of development in the immediate area of the promotion activity and the effect of the promotion activity on the adjacent area;
e. Subdivision display homes which do not contain any subdivision promotion activities, including offices or continuing sales activities or continuing displays shall not be governed by these provisions.

15.007. Outlots, Permitted Use

An outlot reserved for future building or occupancy after replatting and subdivision may be used for agricultural uses, open space or common facilities in all zoning districts until such replatting and subdivision occurs. Accessory buildings are not permitted on outlots reserved for future building or occupancy after replatting and subdivision.

An outlot reserved for agricultural uses, open space or common facilities may be used for such designated use. Buildings that are accessory to the use of an outlot reserved for agricultural uses, open space or common facilities shall be permitted in all zoning districts. (Resolution No. R-13-0043, July 30, 2013)

ARTICLE 16 SIGNS

Contents:

16.001. Scope of Regulations

16.003. General Provisions

16.005. Permitted Signs

16.007 Off-Premises Signs

16.001. Scope of Regulations

The sign regulations for this title are as set forth in this article. Any additional conditions imposed by state statutes, the State of Nebraska or Federal government and other applicable ordinances or regulations also apply. In the event of any conflict, the most restrictive ordinance, regulations, or other requirement shall apply.

16.003. General Provisions

No sign or part thereof shall be erected or maintained in any zoning district except in conformance with the provisions of this article.

a. No sign shall be erected or maintained in a required yard, encroach upon or overhang any adjacent property, or any other land or public right-of-way.

b. No sign shall exceed the maximum height permitted for buildings in the zoning district in which it is located.

c. Every sign shall be permanently attached to the ground, or to a building or structure which is permanently attached to the ground, except for mobile signs.

d. The area of a double-faced sign or two-sided sign or three-sided V-type sign not exceeding an angle of sixty degrees is calculated on one face of the sign only. A four-sided sign is to be calculated as two signs, and a triangular, three-sided sign is to be calculated on its largest face.

e. No sign shall be erected, placed or maintained that violates the site obstruction regulations of the County Engineer. Location of signs within sight distance limitations of street intersections or entrance or exits from private property shall be in accordance with and may be modified by regulations established by the County Engineer.

f. No sign or part thereof shall be erected in those zoning districts which are adjacent to or within the area of the interstate and federal-aid primary road systems in contravention of the advertising controls of the State of Nebraska. (Resolution No. R-00-10, January 26, 2000)

16.005. Permitted Signs

The specific regulations for signs and their supporting structures in the various zoning districts are as set out in this section. In the event of any conflict with other applicable ordinances and regulations, the most restrictive governing provision shall apply.

a. "AG" Agricultural and "AGR" Agricultural Residential District:

1. On-premise signs, including home occupations, bulletin boards and signs not exceeding sixty (60) square feet in area appertaining to the lease, hire, or sale of a building or premises or to any material that is mined, manufactured, grown or treated within the district shall be allowed, provided, however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed or stored;

2. In addition, the following signs shall be allowed:

   i. Traffic and official signs;

   ii. Signs pertaining to the sale or lease of property or to activities conducted on the property, provided that these not exceed sixty (60) square feet in area;

   iii. Signs with an area no greater than one (1) square foot for each ten (10) lineal feel of highway frontage and provided, however, that

      1. No sign may be permitted that interferes with, imitates, or resembles any official traffic sign, signal or device;

      2. No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights or any animated or moving parts; and

      3. No sign may be permitted to be erected upon or maintained or painted upon trees or rocks;

b. "R" Residential District: On-premise signs including public building bulletin boards and temporary signs not exceeding ten (10) square feet in area, pertaining to the lease, hire or sale of a building or premises, and places of religious assembly bulletin boards not exceeding twenty (20) square feet in area shall be allowed. Home occupation signing shall be allowed provided there is used no sign other than a non-lighted, non-animated and non-reflecting nameplate not more than two (2) square feet in area, which nameplate designates the home occupation carried on within in letters not to exceed two (2) inches in height and which nameplate must be clearly visible at the entrance to the premises where said home occupation is carried on and must be attached to the building wherein the home occupation is conducted;

c. “B” Business District: On premise signs and advertising structures related to the activity conducted on the premises but with sign area not to exceed one hundred (100) square feet and not to exceed the height of the district shall be allowed and not spaced closer than one hundred (100) feet. Off-premise signs limited to three hundred (300) square feet in area, and not exceeding the height of the district subject to the provisions of 16.007. (Resolution R-00-10, January 26, 2000; Resolution No. 4055, April 23, 1985)

d. “I” Industrial District: On-premise and off-premise signs, not exceeding the height of the district, shall be allowed, subject to the provisions of 16.007.

(Resolution No. R-17-0040, May 30, 2017)

16.007 Off-Premises Signs

a. Administrative Permits. Off-premises signs are permitted in the B and I zoning districts by administrative permit issued by the Director of Building and Safety. The administrative permits shall automatically expire ten years from their date of issuance. The permitted may make application for renewal of the administrative permit.

1. Applications for administrative permits shall include:
   i. The legal description of the land upon which an off-premises sign is to be located.
   ii. A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the off-premises sign shall be located to locate the off-premises sign thereon.
   iii. The area of the proposed off-premises sign.
   iv. The description and location of a nonconforming off-premises sign or signs encompassing equal or greater sign area to be removed or previously removed following the effective date of this Resolution and not replaced. For the purpose of this section, a nonconforming off-premises sign shall mean any off-premises sign which was lawfully installed on the effective date of this ordinance and for which an administrative permit has not been issued.
2. The administrative permit shall be issued under the following conditions:
   i. The off-premises sign shall be subject to the provisions of this section, notwithstanding any other applicable regulation of the zoning district in which the off-premises sign is located.
   ii. The nonconforming off-premises sign or signs identified in the application for removal shall be removed prior to application for the permit or within 30 days of the date of the issuance of the permit.
   iii. The off-premises sign shall be removed within 30 days following the expiration of the permit.

b. Siting Limitations.

1. The minimum distance between an off-premises sign and an existing off-premises sign or nonconforming off-premises sign shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the existing off-premises sign or nonconforming off-premises sign is located.
2. The minimum distance between an off-premises sign and a public elementary or public high school, private school having a curriculum equivalent to a public elementary or public high school, college or university, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, university, park, or cemetery is located.
3. Off-premises signs shall be located a minimum of 150 feet measured in all directions from all residential zoning districts.
4. No off-premises signs shall be located within 600 feet measured in all directions from a sensitivity zone. For the purpose of this section, a sensitivity zone shall mean an historic district, historic landmark, bike trails, and Capitol environs.

c. Lighting. Illumination of off-premises signs shall not be allowed from midnight to 5:00 a.m. If off-premises signs are illuminated, it shall be in accordance with design standards. The lighting shall be controlled by an automatic timing device and the lighting shall be provided by down lighting methods.

d. Abandoned Signs. In addition to all other applicable regulations, off-premises sign structures and existing nonconforming off-premises sign structures which contain no sign copy on all faces for a continuous period of six months shall be considered an abandoned sign and shall be removed. This removal shall take place within ten days of the date of the abandonment.

e. Removal of Existing Nonconforming Off-Premises Signs. For each new off-premises sign of a given sign area to be erected within the zoning jurisdiction of the County in conformance with this section, an existing nonconforming off-premises sign or signs encompassing equal or greater sign area shall be removed, unless no existing nonconforming off premise sign exists.

f. Notwithstanding (e) above, upon request of the applicant, the County Board may, after report and recommendation of the Planning Commission, grant the applicant a bonus of one additional off-premises sign of equal square footage to the nonconforming off-premises sign to be removed upon a finding that the nonconforming off-premises sign to be

removed is located is in an area of special aesthetic value to the community and that removal of the nonconforming off-premises sign in question is a special desire of the community. (Resolution R-00-10, January 26, 2000)

ARTICLE 17 ADDITIONAL HEIGHT AND AREA REGULATIONS

The district regulations hereinafter set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this resolution.

Contents:

17.001

17.003

17.005.

17.007

17.009

17.011

17.013

17.015

17.017

17.019

17.021

17.023

17.025

17.027

17.029 Enlargement and Alteration of Lots.

17.030

17.031 Buildings, Places of Religious Assembly, Height of

17.001

Public, semi-public, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and places of religious assembly may be erected to a height not exceeding seventy five (75) feet, if the building is setback from each yard at least one (1) foot for each two (2) feet of additional building height above the height limit otherwise provided in the district which the building is located. (Resolution No. R-17-0040, May 30, 2017)

17.003

Barns, chimneys, place of religious assembly steeples, cooling towers, elevator bulkheads, fire towers, grain elevators, and storage structures, monuments, ornamental towers, silos, spires, stacks, stage towers of scenery lofts, tanks, water towers, WECS over the district height authorized by conditional use or special permit, wireless towers, or necessary mechanical appurtenances are exempt from the height regulations as contained herein. (Resolution No. 3744A, October 5, 1982; Resolution R-08-0090, Approved October 15, 2008; Resolution No. R-17-0040, May 30, 2017)

17.005.

a. Accessory buildings may be built in a required rear yard, except as otherwise provided in this resolution, but such accessory buildings shall not occupy more than thirty (30) percent of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line except, that when a garage is entered from an alley, it shall not be located closer than ten (10) feet to the main building. The garage shall be regarded as part of the main building for the purpose of determining side and rear yards and the distance back from the front property line. (Resolution No. 3740, August 31, 1982)

b. Maximum and expanded maximum cumulative allowable area for all accessory buildings are as set out in Table 1 below. The applicable maximum cumulative allowable area may be increased up to the expanded maximum allowable area as provided in Table 1 Notes 1-4 below:

Table 1
Maximum and Expanded Maximum* Cumulative Allowable Area for Accessory Buildings on Single Family or Two Family Residential Lots or Tracts

*** Expanded Maximum applies only in accordance with the applicable Note # below (e.g. 1)**

		Lot or Tract Size				
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre	1 acre or more	
R Accessory Building sq. ft.	Maximum	1,000	1,500	2,000	2,000	
	Expanded Maximum	1,500[1]	3,000[2]	3,000[2]	5,000[3]	
		less than 1 acre	1 acre to less than 2 acres	2 acres to less than 4 acres	4 acres to less than 10 acres	10 acres or more
AGR Accessory Building sq. ft.	Maximum	2,000	2,000	2,000	2,000	2,000
	Expanded Maximum	3,000[2]	6,000[4]	8,000[4]	20,000[4]	No maximum[4]
AG Accessory Building sq.ft.	Maximum	2,000	2,000	2,000	2,000	No maximum
	Expanded Maximum	3,000[2]	6,000[4]	8,000[4]	20,000[4]	

Notes:

1. In the R zoning districts, for lots or tracts less than 7,500 square feet in size, the maximum cumulative square footage of all accessory buildings may be increased up to the above expanded maximum square feet provided:
   i. Total square footage for all accessory buildings does not exceed the total square footage, excluding basement, of the main building; and
   ii. The total square footage for all accessory buildings does not exceed a cumulative total of 400 square feet in the side, rear and front yard setbacks.
2. In the R zoning districts for lots or tracts 7,500 square feet to less than 1 acres in size and in AG and AGR zoning districts for lots or tracts less than 1 acre in size, the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:
   i. The total square footage for all accessory buildings shall not exceed the total square footage, excluding basement, of the main building;
   ii. The total square footage for all accessory buildings does not exceed a cumulative 250 square feet in the side, rear and front yard setbacks; and
   iii. Any individual accessory building over 250 square feet in area must be located outside of the side, rear and front yard setbacks.
3. In the R zoning districts, for lots or tracts of 1 acre or larger in size , the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided;
   i. The total square footage for all accessory buildings does not exceed a cumulative total of 250 square feet in the side, rear and front yard setbacks; and
   ii. Any individual accessory building over 250 square feet in area must be located outside of the side, rear and front yard setbacks.
4. In the AG zoning district for lots and tracts 1 acre to less than 10 acres and in the AGR zoning district for lots or tracts 1 acre or greater, the maximum cumulative square footage for all accessory buildings may be increased to the above expanded maximum square feet, provided that the total square footage of all accessory buildings does not exceed a cumulative total of 2,000 square feet in the side and rear setbacks.

(Resolution No. R-16-0076, November 30, 2016; Resolution No. R-17-0040, May 30, 2017)

17.007

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes. (Resolution No. 99-1385, July 27, 1999)

17.009

Every part of a required yard shall be open to the sky, unobstructed by any structure, except as hereto for permitted or by any vehicle or motor vehicle except:

a. Fences;

b. Accessory buildings in a rear yard;

c. Projection of sills, belt courses, cornices and ornamental features, which are not to exceed twelve (12) inches;

d. Parking of a motor vehicle and vehicles in the rear yard and that part of the side yard to the rear of the front yard, provided that such use of such motor vehicle or vehicles shall be accessory to the main use of the premises.

17.011

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

17.013

Open-lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Superintendent of the Codes Administration for a distance of not more than three and one-half (3 ½) feet where the same are so placed as not to obstruct light and ventilation.

17.015

An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a front yard for a distance not to exceed four (4) feet.

17.017

Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project into a required yard, provided these projections be distant at least two (2) feet from the adjacent side lot line.

17.019

For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one (1) building occupying lot.

17.021

a. Temporary buildings and uses that are used in conjunction with construction work only may be permitted in any district during the period of construction, but such temporary buildings shall be removed upon completion of the construction work.
b. Temporary paving plants used for the paving of federal or state highways or county roads are permitted in any zoning district during the project construction period under the following conditions:
   1. The paving plant shall be located on property abutting the specific project and having access to a paved road.
   2. Authorization of a temporary paving plant does not allow for the hauling of paving product to any other location than the abutting property.
   3. The boundaries of the property used for the paving plant shall be located no closer than three hundred (300) feet from an occupied dwelling or from any school, place of religious assembly, library, early childhood care facility, hospital, motel, park, farmstead or livestock facility.
   4. The operator of the paving plant shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.
   5. The paving plant shall be removed upon substantial completion of the construction project. (Resolution No. R-17-0040, May 30, 2017)

17.023

Where a lot or tract is used for farming or for a commercial or industrial purpose, more than one (1) main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

17.025

No side yards are required where dwelling units are erected above commercial and industrial structures.

17.027

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

a. Where forty (40) percent or more of the frontage on the same side of a street between two intersecting streets is developed with two (2) or more buildings that have (with a variation of five [5] feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line;

b. Where forty (40) percent or more of the frontage on the side of a street between two intersecting streets is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:

   1. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent building on each side; or

   2. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

17.029 Enlargement and Alteration of Lots.

a. Any lot or premises which does not meet the area, width or frontage requirements or any combination thereof, of the districts in which it is situated may be enlarged without affecting the purposes for which it may be used; provided that such enlargement does not result in the creation of an additional lot which does not conform to the applicable area, width or frontage requirements of this code. (Resolution No. 3568, March 10, 1981)

b. In the "AG" or "AGR" zoning districts, two (2) or more adjoining lots, all of which do not meet the area width or frontage requirements, or any combination thereof, of the district in which they are situated, may alter their common lot lines without affecting the purposes for which they may be used, provided:

   1. That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county and city regulations; and

   2. That such alteration meets all requirements of the County Land Subdivision Resolution. (Resolution 3678, March 2, 1982)

   3. That the newly created lots in the AG or AGR zoning districts shall have a required front yard, side yard and rear yard that conforms to Section 4.017(c) or Section 5.015(c) and (d) respectively; except that in the AG zoning district, the required side yard shall not be less than 10% of the lot width or fifteen (15) feet, whichever is greater. (Resolution R-07-0027, May 8, 2007; Resolution No. R-18-0078, November 20, 2018)

c. In those instances where a governmental agency acquires land for the purposes of road right-of-way from lots which were:

   1. Legally existing on the effective date of this title; or

   2. Lawfully created after the effective date of this section. (Resolution No. 5009, July 6, 1993)

The acquisition of said right-of-way shall not affect the status of said lot as a buildable lot with respect to minimum lot area, width or frontage requirements of this title provided thereafter:

1. That all new construction, enlargements, extensions or conversions of any buildings, structures, or uses including open land uses shall comply with all applicable provisions of this title, unless adjusted by the Board of Zoning Appeals pursuant to ARTICLE 19.

2. That those lots located in "AG" or "AGR" districts, contain a minimum of one (1) acre and have an average lot width of one hundred fifty (150) feet.

3. That those lots located in the "R" Residential districts contain a lot area of four thousand (4,000) square feet and an average lot width of forty (40) feet. (Resolution No. 4658, July 10, 1990)

17.030

Those airfield and airports not included in ARTICLE 18, shall have the responsibility for meeting proper clearances over utility lines, poles, towers and structures which are presently located in the path of an airfield runway.

17.031 Buildings, Places of Religious Assembly, Height of

In all districts where places of religious assembly are allowed, the main place of religious assembly building including place of religious assembly steeples, towers and ornamental spires, used for the conduct of worship or religious services, may exceed the district height limit by the addition of one foot for each foot that such building is set back from all required yards. (Resolution No. 5408, November 19, 1996; Resolution No. R-17-0040, May 30, 2017;)

ARTICLE 18 SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS

Contents:

18.001. Lincoln Airport Areas

18.002. Definitions

18.003. Zone Descriptions.

18.004. Airport Hazard Area; Boundaries

18.005. Height Restrictions

18.006. Permit Required; Procedure.

18.006.A. Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory Structure.

18.007. Airport Hazards.

18.008. Non-conforming Structures.

18.009. Marking of Non-conforming Structures.

18.010. Administrative Agency.

18.011. Zoning Board of Adjustment.

18.012. Notice.

18.013. Use Limitations.

18.001. Lincoln Airport Areas

Control of the height of structures in the vicinity of the Lincoln Airport shall be controlled by this ARTICLE 18 to the extent that the Airport Hazard Area extends into the County of Lancaster zoning jurisdiction.

18.002. Definitions

As used in this Article unless the context otherwise requires: Airport means the Lincoln Airport located in Sections 4, 5, 6, 7, 8, 9, 17 and 18, Township 10 North and Sections 31 and 32, Township 11 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska.

Airport hazard means any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone.

Airport hazard area means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Article, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Building Official means the Director of the Department of Building and Safety of the City of Lincoln, Nebraska, or his or her authorized representative.

Existing runway means a runway that has been constructed or is under construction.

Instrument runway means an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan.

Lessee means any person, other than the owner, in possession of land.

Nonconforming use means any structure or use of land which does not conform to a requirement of this Article or an amendment thereto, as of the effective date of this Article.

Person means any individual, firm, association, corporation, or body politic and includes any receiver, assignee, or similar representative thereof.

Proposed runway means a runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway means a defined area at the Airport that is prepared for the landing and takeoff of aircraft along its length. For purposes of this ARTICLE 18, only paved Instrument Runways as defined herein shall be included within the term "runway".

Shaded Area shall mean those hatched mark areas on the Lincoln Airport Zoning Map representing areas within 4 miles from the end of a runway having elevations that are 75 feet or more above the elevation on the nearest runway end. (Resolution No. R-17-044, June 6, 2017)

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Tree means any object of natural growth.

18.003. Zone Descriptions.

a. Approach zone means a zone that extends from the end of each operation zone and is centered along the extended runway centerline. For an existing or proposed runway, an approach zone's dimensions are as follows:
   1. An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is one thousand feet wide at the end of the zone nearest the runway and expands uniformly to sixteen thousand eight hundred forty feet wide at the farthest end of the zone; and
   2. The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one foot vertically for every fifty feet horizontally, except that the height limit shall not exceed one hundred fifty feet above the nearest existing or proposed runway end elevation within three miles of the end of the operation zone at that runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every fifty feet horizontally and continues to the ten-mile limit.
b. Operation zone means a zone that is longitudinally centered on each existing or proposed runway. For existing and proposed runways, an operation zone's dimensions are as follows:
   1. The operation zone:
      i. Extends two hundred feet beyond the ends of each runway; and
      ii. Is one thousand feet wide, with five hundred feet on either side of the runway centerline; and
   2. The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher.
c. Transition zone means a zone that extends outward at a right angle to the runway centerline and the extended runway centerline and upward at a rate of one foot vertically for every seven feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty feet above the highest elevation on the existing or proposed runway.
d. The turning zones comprise all portions of the zoned area not contained in the approach zones, operation zones, and transition zones. The turning zone's outer limit is the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

18.004. Airport Hazard Area; Boundaries

All of the area encompassed within the approach zones, operation zones, turning zones, and transition zones as defined in Section 18.003, to the extent that such area is located within the zoning jurisdiction of the County of Lancaster, is

hereby declared an Airport Hazard Area. The boundaries of the Airport Hazard Area, approach zones, operation zones, turning zones and transition zones are delineated and shown on the Lincoln Airport Zoning Map.

18.005. Height Restrictions

Except as otherwise specifically permitted in this ARTICLE 18, no structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired, or established and no tree shall be suffered or allowed within the Airport Hazard Area that exceeds the following height restrictions:

a. In the approach zones, the height of the planes forming the approach zones;
b. In the turning zones, to a height in excess of 150 feet above the elevation at the closest runway end, as shown on the Lincoln Airport Zoning Map;
c. In the transition zones, the height of the planes forming the transition slopes;
d. In the operation zone and in the existing or proposed runways, the height of the existing or proposed finished grade of said runways. All grades of said runways are hereby established by and referenced to the plans of the Airport on file in the office of the County Clerk, which plans are made a part of this Article by reference.

18.006. Permit Required; Procedure.

a. Except as provided in Section 18.006a, it shall be unlawful to erect, construct, reconstruct, repair, or establish any structure or appurtenances thereto of any kind or character within the boundary of the Airport Hazard Area of the Airport without first obtaining a height permit from the Building Official. A height permit shall not be issued for any structure or appurtenances thereto that exceeds the height restrictions set forth in Section 18.005.
b. Application for a height permit as required under the provisions of this Article shall be made upon a form which is available in the office of the Building Official. The application shall indicate the location, ground elevation with reference to the elevation at the closest point on a runway, and the height of the proposed structure. Said elevation shall be certified by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.
c. An application for a height permit may include all of the area and proposed structures within a plat or additional that is residentially zoned, and, if the requirements of this Article as to height restrictions are met, a blanket height permit may be issued for all of such area and structures. A notation shall be included upon the plat, community unit plan or other appropriate document of approval, reflecting the fact that the area is the subject of a blanket height permit. (Resolution No. R-17-044, June 6, 2017)
d. d) Upon completion of, and prior to operating or occupying, any structure requiring a height permit, including each structure covered by a blanket height permit, the applicant, owner of the structure, or agent there, shall submit to the Building Official a survey, certified by a registered professional surveyor verifying the actual height and location of the structure. Such information shall be recorded and maintained by the Building Official. (Resolution No. R-17-044, June 6, 2017)
e. A permit fee shall be required in accordance with ARTICLE 23 of these regulations, and all fees received shall be paid to the County Treasurer for deposit in the County general fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than $100.00.
f. No post-construction certification shall be required for single family or two family dwelling meeting all of the following criteria:
   i. It is located within the Shaded Area;
   ii. It is located within a zoning district, community unit plan or planned unit development where the maximum permitted height is 35 feet or less; and
   iii. The area in which the structure is located has an elevation, as shown on the height permit of not more than 100 feet above the elevation on the nearest existing or proposed runway end.

As required by ARTICLE 20 of this Resolution, the Building Official will confirm that each such single family or two family dwelling complies with applicable height restrictions of the underlying zoning district before issuing a Certificate of Occupancy or a Certificate of Completion. (Resolution No. R-17-044, June 6, 2017)

18.006.A. Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory Structure.

a. No height permit shall be required for construction of any proposed structure that will be no higher than seventy-five feet above the elevation of the ground at the location of the proposed construction:

   i. Within the turning zoning, or that part of the approach zones located more than seven thousand seven hundred feet from the end of the runway, except for construction in the Shaded Area; or

   ii. Within any portion of the Shaded Area for which:

      1. A grading plan has been filed with the Building Official or Planning Department, and a copy sent to the Airport Engineer, certified as to elevation by a registered professional surveyor, establishing that all of such area presently has or will have, upon completion of the grading, an elevation that is lower than 75 feet above the nearest existing or proposed runway end; and

      2. A certification from a registered professional surveyor has been received, certifying that the grading has been completed and that the area has an elevation that is lower than 75 feet above the nearest existing or proposed runway end. Upon receipt of said certification, following completing of the grading, a notation shall be included by the Planning Director upon the plat, community unit plan, or other appropriate document of approval, reflecting the fact that the subject area meets the requirements of this subsection.

b. The Planning Director shall amend the Lincoln Airport Zoning Map to remove from the Shaded Area any portion thereof that has met all the requirements of subsection (a)(ii) above. Notice of the Planning Director's administrative amendment to the Lincoln Airport Zoning Map shall be posted on the Planning Department's webpage and included in a written report to the County Clerk.

c. No height permit shall be required for any proposed accessory structure when the proposed accessory structure or any attachment thereto does not exceed the elevation of the main structure.

(Resolution No. R-17-044, June 6, 2017)

18.007. Airport Hazards.

a. The Building Official shall examine or cause to be examined any structures or trees, reported to him as an airport hazard within the airport hazard area, and if such is found to be an airport hazard as defined in Section 18-002, and is not otherwise approved or authorized by this Article, it shall be the duty of the Building Official to give the owner of the property where such airport hazard exists written notice thereof, and to take such measures as are necessary and authorized by law to eliminate or alleviate said airport hazard. For the purpose of aiding the Building Official to determine whether the existence of any such reported structures or trees constitute an airport hazard, the Building Official may in each case request a written report from the State Department of Aeronautics under the provisions of Neb. Rev. Stat. § 3-108 and § 3-113 to advise whether or not an airport hazard, as defined in this Article, exists.

b. Notwithstanding any other provisions of this Title, no use may be made of land within any zone established by this Article in such a manner as to create electrical interference with radio communication between the airport and aircraft, make it difficult for fliers to distinguish between airport lights and others, result in glare in the eyes of fliers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, take-off, or maneuvering of aircraft.

18.008. Non-conforming Structures.

a. Within the Airport hazard area as hereinbefore defined, and except as provided in subsection b) with respect to electric facilities, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, above ground wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be replaced, substantially reconstructed, altered, replanted or allowed to grow, as the case may be, without first receiving a permit authorizing such replacement, reconstruction, alteration, growth, or replanting. No permit shall be issued if such replacement, reconstruction, alteration, growth, or replanting will result in an increase in height or a greater hazard to air navigation than the condition that existed when these regulations were adopted. For nonconforming structures other than electric facilities as defined in subsection (b), no permit shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy, or for repairs that do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming

structure is not increased over its preexisting height. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the zone regulated.

b. An electric supplier owning or operating a nonconforming electric facility may repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of such electric facility that exceeds its preexisting height shall require a permit that shall be granted only upon a showing that the excess height will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed. For purposes of this section, an "electric facility" means an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. Rev. Stat. § 70-1001.01 (2014 Cum. Supp.) for the transmission or distribution of electrical power to the electric supplier's customers.

18.009. Marking of Non-conforming Structures.

Whenever the Building and Safety Department shall determine that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the zoned area hereinbefore described at such height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport or airfield, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the said official, and shall within a reasonable time permit the marking thereof by suitable lighting or other signals designated by the said agency and based on the recommendations of lighting officials or the Nebraska Department of Aeronautics.

18.010. Administrative Agency.

The Building and Safety Department of the City of Lincoln, shall administer and enforce these regulations and shall be the administrative agency provided for in Neb. Rev. Stat. § 3-319 (2014 Cum. Supp.), and shall have all the powers and perform all the duties of the administrative agency provided for by the Airport Zoning Act, until otherwise ordered by the Lancaster County Board.

18.011. Zoning Board of Adjustment.

The County Board of Zoning Appeals as contained in ARTICLE 19 of these regulations, shall be the Board of Adjustments with respect to these regulations, to have and exercise the powers conferred by Neb. Rev. Stat. § 3-320 (2014 Cum. Supp.), and such other powers and duties as are conferred and imposed by law. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Article or to effect any variation in these regulations.

18.012. Notice.

Public notice shall be provided in the affected area when it is to be established. (Resolution No. 5367, August 26, 1996)

18.013. Use Limitations.

Publicly owned airports or publicly owned airfields that are developed or permitted to be developed in the "AG" and "AGR" Districts shall require the aircraft or vehicles utilizing such airport or airfield to clear the property line between the airport or airfield and the immediately adjacent property by a height of fifty (50) vertical feet during takeoff and landing operations. The City-County Planning Commission and the City Building and Safety Department shall recognize this clearance requirement and respect same in any land use and/or proposed changes in use or zoning of adjacent or nearby property. (Resolution No. R-16-0015, March 8, 2016)

ARTICLE 19 BOARD OF ZONING APPEALS

Contents:

19.001

19.003

19.005.
19.007
19.009
19.011

19.001

A Board of Zoning Appeals is hereby created. Such Board shall consist of five (5) members, all of whom shall be residents and electors of the Lancaster County. They shall be appointed by the County Board.

Upon the passage of this resolution, one member shall be appointed for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years and one member for a term of five years; and upon expiration of said terms, appointments shall be made for a term of five years. Vacancies shall be filled by appointment for the unexpired term only. Members of the Board shall serve without compensation, but may be allowed their reasonable expenses, in an amount to be fixed by the County Board. A member of the Board may be removed by the affirmative vote of two (2) members of the County Board after being given a written statement of the charges against the member and a hearing, which shall be a public hearing if the member so requests. (Resolution No. 3545, November 18, 1980; Resolution No. R-18-0078, November 20, 2018).

19.003

The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

a. Appellate Jurisdiction. The Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this resolution.
b. Original Jurisdiction.
   1. Powers Relative to Variances. The Board of Zoning Appeals is authorized, upon petitions for variances, to vary the strict application of the height, area, parking or density requirements to the extent necessary to permit the owners a reasonable use of their land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.
   2. Powers Relative to Exceptions. The Board of Zoning Appeals is authorized, upon petition, to make the following exceptions:
      i. To permit the reconstruction of a non-conforming building which has been destroyed by fire or act of God, where the Board shall find some compelling public necessity requiring the continuance of the non-conforming use;
      ii. To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the Board deems reasonably necessary for the public convenience or welfare. Such uses lawfully existing on the effective date of this resolution shall be deemed to have received such a permit, and shall be provided with such a permit by the Building Inspector upon request and shall not be non-conforming uses; provided, however, that a permit shall be required for enlargement, extension or relocation of any of these existing uses;
      iii. To interpret the provisions of this resolution where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this resolution. (Resolution No. R-13-0033, June 11, 2013; Resolution No. 3781, February 2, 1983)

19.005.

a. Appeals to the Board of Zoning Appeals. Any aggrieved person or any office, department or bureau of Lancaster County adversely affected by any final written order, decision, or determination made by an administrative official in the enforcement of this title, may appeal from such final order, decision, or determination to the Board of Zoning Appeals. Such appeal shall be taken by filing with the Planning Department, a notice of appeal specifying the grounds therefore. Only those grounds listed in said notice shall be considered by the Board of Zoning Appeals. The notice of appeal shall be filed within sixty (60) days from the date of such final order, decision, or determination.

b. Petitions to the Board of Zoning Appeals. The owner of any property may file a petition requesting the Board of Zoning Appeals to grant a variance or an exception to the Zoning Resolution under its jurisdiction without prior application to an administrative official charged with enforcement of this title. The petition shall be submitted by the owner of the property directly to the Planning Department. It shall be solely the responsibility of the property owner seeking the variance to set forth any and all requested variances in his or her petition. Only those variances requested in said petition may be considered by the Board.

c. Hearing and Notice of Hearing. Upon receipt of an appeal or petition pursuant to a) or b) above, the Planning Department shall schedule such appeal or petition upon the Board of Zoning Appeals' calendar within forty-five (45) days from the date the notice of appeal or petition was filed with the Department. For those hearings where the Board is exercising its appellate jurisdiction, notice shall be (i) posted conspicuously at the property for at least eight consecutive days immediately prior to the meeting of the Board, (ii) published in a newspaper of general circulation at least five (5) days prior to the meeting of the Board, and (iii) mailed to appellant, appellant's attorney, and to the Director of the Department whose decision is before the Board on appeal at least eight (8) days prior to the meeting. In all other matters brought before the Board, notice of the date, time and place of such hearing shall be given as provided in ARTICLE 22 hereafter.

d. If, due to the absence of one or more of the members of the Board, any motion, resolution or other proposition put to a vote shall fail to receive three or more votes either for or against, said motion, resolution or proposition shall be deemed to have received neither approval nor disapproval and shall without further order of the Board of Zoning Appeals be continued from regular meeting to regular meeting and voted on once at each such meeting until such time as it shall receive three votes either for or against.

e. Formal rules of evidence shall not be followed at hearings before the Board of Zoning Appeals, but the chairman may exercise discretion to exclude evidence where said evidence is cumulative with other evidence in the record or where said evidence is immaterial to the decision before the Board of Zoning Appeals in the matter before it.

f. In all matters where the Board of Zoning Appeals exercises its appellate jurisdiction as described in ARTICLE 19, Section 19.003b)(1), the order or decision of the administrative official being appealed shall be presumed to be correct unless the preponderance of the evidence introduced before the Board of Zoning Appeals supports a contrary determination or finding. (Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

19.007

The members of the Board of Zoning Appeals shall meet at least once each year or as may be required after a one month notice, at such time and place as they may fix by resolution. They shall select one of their number as chairperson, who shall serve one (1) year and until a successor has been selected. Special meetings may be called at any time by the chairperson. Any regularly scheduled meeting of the Board may be cancelled by the chairman for lack of business items for the Board to consider. A majority of the Board shall constitute a quorum for the transaction of business and three (3) affirmative votes shall be required for final action on any matter acted upon by the Board. The Board shall cause a proper record to be kept of its proceedings. (Resolution No. R-13-0033, June 11, 2013)

19.009

In exercising its appellate jurisdiction, such Board may, in conformity with the provisions of this resolution, reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such decisions as ought to be made. In considering all petitions for variances or exceptions under this resolution, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the District Map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, and welfare of Lancaster County. In making a determination, the board may request information and recommendations from any department of Lancaster County. Every decision of the Board of Zoning Appeals shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. In the event that the proposed variance or exception is denied by the Board of Zoning Appeals, no new request shall be made for the same or substantially similar variance or exception within one year of said denial thereof, Every decision of the Board of Zoning Appeals, accompanied by the written findings of fact, shall be transmitted to the County Clerk by the Board within one week after such actions have been taken. Any decision granting an appeal or a petition for a variance or

an exception shall be by resolution of the Board, a certified copy of which shall be filed with the Register of Deeds by the petitioner at the expense of the petitioner within sixty (60) days after such approval, or such approval shall be null and void. Decisions of the Board of Zoning Appeals shall be final unless appealed to the County Board pursuant to Section 19.011. (Resolution No. R-18-0078, November 20, 2018; Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

19.011

a. Any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Board of Zoning Appeals to the County Board by filing notice of appeal with the County Clerk within fourteen (14) days following the action of the Board of Zoning Appeals.
b. Upon receipt of the appeal by the County Board, the board shall hold a public hearing thereon within thirty (30) days from the date of appeal. Notice of the public hearing shall be given as provided in ARTICLE 22 hereafter.
c. In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the County Board may, after public hearing, in conformity with the provision of this title, make such decision as ought to be made. (Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

ARTICLE 20 OCCUPANCY PERMITS AND CERTIFICATE OF COMPLIANCE

Contents:

20.001. Required for Changed or New Occupancy.
20.003. Required for Building Permit
20.005. Required for Non-Conforming Use
20.007. Record of Certificate of Occupancy Be Kept
20.009. Special Permits; Certificate of Compliance

20.001. Required for Changed or New Occupancy.

Subsequent to the effective date of this resolution, no change in the use or occupancy of land, nor any change of use, occupancy, or occupancy classification under the Building Code of any existing building be used or occupied, except as hereinafter specifically provided, until a certificate of occupancy has been issued by the County Building Official. Every certificate of occupancy shall state that the new use occupancy or occupancy classification complies:

a. With the provision of this resolution or with the terms, conditions and requirements of the special permit authorizing such building or use as the case may be and
b. With the provisions of the Building Code. Such certificate shall include, where applicable:
   1. The building permit number;
   2. The address and legal description;
   3. The name of the owner;
   4. A description of the building or portion thereof, or of the premises or portion thereof for which the certificate is issued;
   5. The name of the building official issuing the same.

20.003. Required for Building Permit

No permit for the erection, alteration, conversion, enlargement or reconstruction of any building or use of land shall be issued before the application has been submitted, reviewed and a finding made that the proposed uses will meet the requirements of the zoning regulation for certificate of occupancy and no building or premises shall be used or occupied until such certificate is issued.

20.005. Required for Non-Conforming Use

A certificate of occupancy shall be required of all lawful non-conforming uses of land or building created by adoption of or amendment to this resolution. Application for such certificate of occupancy for non-conforming uses shall be filed with

the Director of Building and Safety by the owner or lessee of the land or building occupied by such non-conforming use within two (2) years from the effective date of this resolution or from the date that such non-conforming use is created. It shall be the duty of the Director of Building and Safety to issue a certificate of occupancy for a lawful non-conforming use, but failure to apply for such a certificate of occupancy for non-conforming use, or failure of the Director of Building and Safety to issue such certificate of occupancy for non-conforming use, may be considered evidence that such non-conforming use did not lawfully exist at the effective date of this resolution or any amendment thereto creating such a non-conforming use.

20.007. Record of Certificate of Occupancy Be Kept

A record of all certificates of occupancy shall be kept on file in the office of the Director of Building and Safety and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy.

20.009. Special Permits; Certificate of Compliance

Upon completion of construction of any improvements as authorized or required by the County Board for any buildings or uses for which a special permit, including community unit plan and mobile home courts was granted, the permittee may apply for inspection and partial certification and upon completion of construction of all such improvements, the permittee shall apply to the Director of Building and Safety for a certificate of compliance, which certificate shall not be issued until the Director of Building and Safety has inspected the premises covered by the special permit and has found that all terms, conditions and requirements of the special permit have been complied with.

If the Director of Building and Safety finds at any time that the terms, conditions and requirements of a special permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto, the Director of Building and Safety shall report this fact to the County Board, which may after a hearing of which the permittee shall be notified, revoke such special permit for failure to comply with such terms, conditions and requirements, or take such other action as it may deem necessary to obtain compliance.

Any amendment to a special permit approved subsequent to the issuance of a certificate of compliance for such special permit shall require application by the permittee for a new certificate of compliance which shall not be issued until the Director of Building and Safety has ascertained that any terms, conditions and requirements of the amendment to the special permit have been complied with.

For purposes of this section, the term "special permit" shall include authorizations under Articles 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 16.

ARTICLE 21 PLOT PLAN

Contents:

21.001. Plot Plan to Accompany Application for Building Permit

21.001. Plot Plan to Accompany Application for Building Permit

Each application for a building permit shall be accompanied by a plot plan showing the actual dimensions of each lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this title. A record of applications and plot plans shall be kept in the office of the Director of Building and Safety.

ARTICLE 22 GENERAL PROVISIONS, LEGISLATIVE PROVISIONS, PENALTY

Contents:

22.001. Interpretation, Purpose and Conflict

22.003. Amendments

22.005. Notice of Hearing

22.007. Enforcement

22.009. Violation and Penalty

22.011. Validity

22.013. Conflicting Resolutions Repealed

22.015. Purpose of Catch Words

22.017. Effective Date

22.019. Expiration of Applications

22.001. Interpretation, Purpose and Conflict

In interpreting and applying the provisions of this resolution, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this resolution to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this resolution imposes a greater restriction, this resolution shall control.

22.003. Amendments

The County Board may from time to time on its own motion or on petition, amend, supplement, change, modify or repeal by resolution the boundaries of districts of regulations, or restrictions herein established.

a. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the Lincoln-Lancaster County Planning Commission for its recommendations and report. The Planning Commission's report shall contain the findings of the Commission regarding the effect of the proposed amendment, supplement, change, modification or repeal upon adjacent property and upon the comprehensive zoning plan of Lancaster County.
b. After the recommendations and report of the Commission has been filed, the County Board shall, before enacting any proposed amendment, supplement, change, modification or repeal, hold a public hearing in relation thereto, giving notice of the time and place of such hearing. In the event the proposed amendment or change is denied by the County Board, no new request shall be made for the same of a substantially similar amendment or change within one (1) year of said denial thereof.
c. In case of:
    1. A protest against such proposed amendment, supplement, change, modification or repeal, signed by the owners of twenty percent (20%) or more either of the area:
        i. Of the lots included in such proposed change, or
        ii. Of those immediately adjacent in the rear thereof extending one hundred feet (100') therefrom, or
        iii. To those directly opposite thereto extending one hundred feet (100') from the street frontage of such opposite lots; and
    2. Such amendment shall not become effective except by the favorable vote of two-thirds majority of the County Board.
d. The applicant may withdraw a request for an amendment at any time before notice of the public hearing before the County Board is given by publication in a daily newspaper having a general circulation in the City of Lincoln and Lancaster County. After such notice of public hearing has been given, the application may only be withdrawn with the approval of the County Board. (Resolution No. R-13-0043, July 30, 2013; Resolution No. 4842, February 11, 1992; Resolution R-07-0016, March 13, 2007)

22.005. Notice of Hearing

Hearing required under articles 13, 19 and 22 of this resolution shall not be held until further notice thereof has been given in compliance with the following provisions:

a. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be of a size and type approved by the County Board. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least eight (8) consecutive days before the date of such hearing.

It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such posted notice prior to such hearing. (Resolution No. 5375, September 19, 1996)

b. At least five (5) days before the date of the hearing, the Planning Director, on behalf of the County Board, shall have published one time in a daily newspaper having a general circulation in the City of Lincoln and Lancaster, a notice of the time, place and subject of such hearing. Notice of the time and place of such hearing shall also be given in writing to the Chair of the municipal, county or joint planning commission, which has jurisdiction over land within three 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 miles of the property affected by such action. (Resolution No. R-13-0043, July 30, 2013; Resolution No. 5337, June 11, 1996)

c. It shall not be necessary to give further notice of adjourned or continued meetings.

d. When a proposed amendment will affect the zoning or use of specific property, a notice describing the Planning Commission's public hearing shall be mailed at least ten (10) days prior to the Planning Commission's public hearing to the owner or owners of the affected property and to the following:

1. AG District: to all owners of property within one (1) mile of the boundaries of said tract or,
2. All other districts: to all owners of property within one-half (1/2) mile of the boundaries of said tract.
3. AG District: to all owners of property within one (1) mile of the boundaries of the affected property or, (Resolution No. R-20-0011, March 10, 2020)
4. All other districts: to all owners of property within one-half (1/2) mile of the boundaries of the affected property. (Resolution No. R-20-0011, March 10, 2020)

Except that for special permit applications for Animal Feeding Operation a received on or after March 10, 2020, notice for Section 13.035(b) shall be mailed at least thirty (30) days prior to the Planning Commission's public hearing to all property owners within one (1) mile of the boundaries of the application area. (Resolution No. R-20-0011, March 10, 2020);

Such notice is not mandatory or required as a condition precedent to any such hearing. (Resolution No. 4431, November 15, 1988; Resolution R-07-0016, March 13, 2007)

22.007. Enforcement

It shall be the duty of the Director of the Building and Safety Department to enforce this resolution.

22.009. Violation and Penalty

If any person shall violate any provisions of this resolution, such person shall be punished upon conviction as provided by the Statutes of the State of Nebraska.

22.011. Validity

Each section and each subdivision of a section is hereby declared to be independent of every other section or subdivision of a section, so far as inducement for passage of this resolution is concerned, and the invalidity of any section or subdivision of a section of this resolution shall not invalidate any other section or subdivision of a section thereof.

22.013. Conflicting Resolutions Repealed

All zoning resolutions and parts of zoning resolutions heretofore adopted are hereby repealed.

22.015. Purpose of Catch Words

The catch words appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index, and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this resolution.

22.017. Effective Date

This resolution shall be in full force and effect upon its due passage and publication, as required by law.

22.019. Expiration of Applications

All existing applications which have been placed on pending by an applicant shall automatically expire and become null and void one (1) year after the approval date of this text amendment (County Change of Zone No. 06070). All applications which have been placed on pending by an applicant after the approval date of this text amendment (County Change of Zone No. 06070) shall automatically expire and become null and void one (1) year thereafter. At least thirty (30) days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the matter shall automatically terminate unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or County Board agenda as appropriate. (Resolution R-07-0016, March 13, 2007)

ARTICLE 23 FEES

Contents:

23.001. General Regulations

23.001. General Regulations

Any person applying for a change of zone, a community unit plan, a special permit, an administrative amendment to a special permit, an appeal to the Board of Zoning Appeals, a text change, an Airport Zoning District Height Permit, and administrative special permit, a postponement which requires additional legal notice, or any other application under the Zoning Resolution of Lancaster County, or requesting a zoning confirmation letter, shall pay an appropriate fee therefore established by Resolution of the Lancaster County Board of Commissioners. Under no condition shall any fee required hereunder be refunded for failure of said application to be granted by the County Board or other appropriate authority. No fee shall be required when any action is recommended by the County Board on its own motion or by any person or group officially designated to participate in the admission of this resolution. (Resolution No. R-12-0083, October 2, 2012; Resolution No. R-08-0084, October 1, 2008)

ARTICLE 24 HISTORIC PRESERVATION DISTRICT

Contents:

24.010. Name and Citation of Title

24.020. Purpose

24.030 Definitions; General Provisions

24.040 Landmark

24.050 Landmark District

24.060 Historic Preservation Commission Created

24.070 Membership

24.080 Organization

24.090 Secretary and Staff of Preservation Commission

24.100 Attorney; Duties

24.110 Powers and Duties

24.120 Designation of Landmarks and Landmark Districts

24.130 Requirement for Certificate for Certain Work

24.140 Procedure for Certificate

24.150 Certificate Approval or Denial

24.160 Procedure Following Certificate Denial

24.170 Hazardous Structures

24.180 Appeal

24.010. Name and Citation of Title

This title shall be known, referred to, and cited as "Historic Preservation District" of Lancaster County.

24.020. Purpose

This title is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the county's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the county's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the county; to promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the county; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property. The historic landmarks and landmark districts are intended to be zoning overlay districts.

24.030 Definitions; General Provisions

For the purpose of this title, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory.

24.040 Landmark

Landmark shall mean an individual structure, or an integrated group of structures on a single lot or site, or a site having special historical, cultural, architectural, or archeological interest or value.

24.050 Landmark District

Landmark district shall mean an area containing a number of structures having special historical, cultural, architectural, or archaeological interest or value constituting a distinct section of the county. The landmark district shall have a minimum area of 45,000 square feet.

24.060 Historic Preservation Commission Created

There is hereby created the Lincoln/Lancaster County historic Historic Preservation Commission (hereinafter, the "Preservation Commission"). The Preservation Commission shall consist of seven members, six appointed by the Mayor of Lincoln with confirmation by a majority of the City Council and one appointed by a majority of the County Board.

24.070 Membership

The Preservation Commission membership shall include at least two registered architects, one historian qualified in the field of American history, one registered landscape architect, if available; one licensed realtor; and two citizens at large. Members are to be appointed for terms of three years, provided that of those members first taking office, two shall be appointed for one year, two for two years, and three for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term.

24.080 Organization

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the county and the state. Four members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet monthly.

24.090 Secretary and Staff of Preservation Commission

The Planning Director shall act as the non-voting secretary to the Preservation Commission. The city and the county, through the Planning Department, shall provide the Preservation Commission with adequate staff to perform the duties prescribed under this chapter.

24.100 Attorney; Duties

The County Attorney shall be ex officio the attorney for the Preservation Commission on any matters within County zoning jurisdiction brought before the Commission, and shall advise the Preservation Commission, and represent it in any and all legal disputes or court or administrative actions within County zoning jurisdiction.

24.110 Powers and Duties

The powers and duties of the Preservation Commission shall be as follows:

a. Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts, pursuant to the standards in Section 24.120.
b. Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
c. Inspect and investigate structures, sites, and areas which are believed worthy of preservation;
d. Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interest;
e. Prepare National Register nominations and, after consultation with Planning Commission and County Board within its zoning jurisdiction forward them to the State Historic Preservation Office, for all such sites, structures, and districts the Preservation Commission deems eligible for inclusion on the National Register of Historic Places.
f. Solicit gifts and contributions to be made to the county and assist in the preparation of applications for grant funds to be made to the county for the purpose of preservation;
g. For every building or district designated for preservation, prepare a guideline for preservation of the property;
h. Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;
i. Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the County Board;
j. Make recommendations and do such other acts as are mandated by this chapter.

24.120 Designation of Landmarks and Landmark Districts

A site, structure, or area may be designated as a landmark or landmark district if it is of historical, cultural, architectural, or archeological importance as evidenced by meeting one or more of the following standards for designation:

a. Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the County of Lancaster, the State of Nebraska, or the United States;
b. Represents a distinctive architectural style or innovation, or is the work of a craftsman whose individual work is significant in the development of the County of Lancaster, the State of Nebraska, or the United States; or
c. Represents archeological value in that it yields or may be likely to yield information pertaining to prehistory or history.

Any person, group of persons, or association may request the designation of a landmark or landmark district by submitting a petition for such designation to the Planning Department upon a form furnished by the Planning Department. The Preservation Commission, in addition, may on its own motion submit a petition for designation. The Planning Director shall transmit all petitions to the Preservation Commission.

Each petition forwarded to the Preservation Commission by the Planning Director shall be considered by the Preservation Commission at a public hearing with a public record kept. Notice of the time, place, and purpose of such public hearing shall be published by the Planning Department in a daily newspaper having general circulation in Lancaster County and

shall be mailed to the owners of all property included in the proposed designation not less than eight (8) days prior to the date of the hearing, using for this purpose the name and addresses of the last known owners as indicated by the real property tax records of Lancaster County. The Preservation Commission may also give such other notice as may be deemed desirable and practicable.

Whenever possible, the Preservation Commission shall secure the written consent of the owner or owners before proceeding to secure designation as a landmark. The Preservation Commission shall apply the "standards for designation" in its decision.

Within ninety (90) days of the receipt of the petition by the Planning Department, the Preservation Commission shall approve, disapprove, or modify the petition and shall notify the petitioner of its action. Petitions which are approved or approved as modified shall then be transmitted to the Planning Commission. Along with the petition, the Preservation Commission shall include a justification for the designation as a landmark or landmark district and its recommendations for guidelines for preservation of the landmark or landmark district.

The Planning Commission shall consider the petition at a public hearing with a public record kept. Notice of the hearing including posting of property shall be made according to County Zoning regulations Article 22.005. Such posting shall include the property contained in the original petition and the modified petition, if any, unless the applicant and the Preservation Commission agree otherwise. The Planning Commission shall consider the petition in light of the "standards for designation" and the degree of conformity with the Lincoln/Lancaster County comprehensive plan. Within sixty (60) days, the Planning Commission shall recommend approval, disapproval, modification, or continuance of the petition and shall notify the petitioner of its actions. All petitions for property within the County's zoning jurisdiction except for those held for continued consideration shall then be transmitted to the County Board.

Upon receipt of a petition, the County Board may designate a landmark or landmark district by ordinance. The County Board shall consider the "standards for designation" as well as the recommendations of the Planning Director, the Preservation Commission, and Planning Commission, and shall further give consideration to the economic consequences to the county and to the affected owners. The designation shall be by majority vote, except that if any owner of property to be designated as a landmark does not consent to such designation, the vote shall be by two-thirds of the board members. A landmark district shall not be designated if written protests are made by owners of at least fifty-one percent of the included property, excluding public right-of-way, at or prior to public hearing on the designating ordinance. The sufficiency of such protests shall be determined by the County Board.

Each designating ordinance shall include a description and statement of the significance of the landmark or landmark district to justify its designation and a description of the particular features that should be preserved, a guideline for preservation of the landmark or landmark district including particular restrictions as to construction, alteration, repair, or demolition of the landmark or property within the landmark district, and the legal description of the landmark or landmark district.

Within ten (10) days after the effective date of the ordinance designating property as a landmark or a landmark district, the Planning Director shall send to the owner of record of such property so designated or each property within the designated landmark district, by registered or certified mail, a copy of the designating ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. Immediately after the effective date of the ordinance designating property as a landmark or landmark district, the County Clerk shall file certified copies of the designating ordinance with the Register of Deeds and with the Department of Building and Safety.

24.130 Requirement for Certificate for Certain Work

No person shall carry out or cause to be carried out on a landmark or in a landmark district any change in the appearance of a landmark or landmark district for which a building permit or demolition permit is required, or any change restricted by the particular designating ordinance without a certificate issued by the Preservation Commission or the Planning Director as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designating ordinance may be carried out without a certificate issued by the Preservation Commission.

24.140 Procedure for Certificate

The application for such certificate shall be filed with the Planning Department and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Planning shall require. The application and plans shall be referred to the Department of Building and Safety to review the application and plans for compliance with the existing building code ordinances and regulations.

The Planning Director may issue a certificate of "no material effect" if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Department to the Preservation Commission along with any recommendations by the Department of Building and Safety and the Planning Department. Within sixty (60) days of receipt of the application by the Department of Planning, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having a general circulation in Lancaster County and shall be mailed to the certificate applicant not less than eight (8) days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed desirable and necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation of the property contained in the particular preservation designation ordinance for that landmark or landmark district.

24.150 Certificate Approval or Denial

Within forty-five (45) days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a landmark district.

The Preservation Commission:

a. May issue a certificate of "appropriateness" if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or landmark district;
b. May issue a certificate of "exception on the ground of insufficient return or hardship" if it finds that the landmark or property within the landmark district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or
c. May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Director without resubmittal to the Preservation Commission or the Planning Director and approval in the same manner as provided above.

24.160 Procedure Following Certificate Denial

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a landmark district or involves construction upon open areas of a landmark or within a landmark district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the county may proceed by eminent domain proceedings to acquire the landmark or the affected property within the landmark district, but if the county does not initiate proceedings within ninety (90) days, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a landmark district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application.

24.170 Hazardous Structures

The Planning Director shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the Building & Safety Director has determined that the landmark or structure within the landmark district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a landmark district to become hazardous to human health and safety with the intent of then obtaining such permit.

24.180 Appeal

Any County Board member or any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, the Planning Director, or the Planning Commission may appeal such order, approval, disapproval, or other decision to the County Board by filing a written appeal with the County Clerk within thirty (30) days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The County Clerk shall refer the appeal to the County Board, which shall fix within thirty (30) days a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be published in a daily newspaper having a general circulation in Lancaster County by the County Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight (8) days prior to the date of hearing. In exercising its appellate jurisdiction, the order approval, disapproval or other decision appealed from shall be deemed advisory and the County Board may in conformance with the provisions of this title make such decision as ought to be made. In making a determination, the County Board may request information and recommendations from any department of Lancaster County.