BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

| | | |
|---|---|---|
| COUNTY TEXT AMENDMENT NO. 18012: TEXT AMENDMENT TO THE LANCASTER COUNTY ZONING RESOLUTION, TO ADD DEFINITIONS, USES TO VARIOUS DISTRICTS, SPECIAL PERMITS, HISTORIC PRESERVATION DISTRICT, TO REORGANIZE AG PRESERVATION, AND MINOR CHANGES, AS PROVIDED IN ATTACHMENT A | ) | RESOLUTION NO. R-18-0078 |

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114, the Lancaster County Board of Commissioners ("Board") is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County's Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission ("Planning Commission");

WHEREAS, the Lincoln-Lancaster County Planning Department ("Department") has requested a text amendment to the Lancaster County Zoning Resolution by amending various sections to add definitions, add uses to the AG, AGR, R and B Districts; reorganize AG Preservation in the AG District; add special permits, add a new chapter for Historic Preservation District, and to make other miscellaneous minor changes throughout, as provided in Attachment "A," attached hereto and incorporated by this reference;

WHEREAS, the Department has recommended approval of this amendment concluding that the current Lancaster County Zoning Resolution is in need of minor updates. The previous text amendment in 2017 focused primarily on the special permit chapter, where this amendment is a result of looking at the entire text and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement;

WHEREAS, on October 24, 2018, after public hearing, the Planning Commission voted 8-0 to recommend approval of said text amendment;

WHEREAS, on November 20, 2018, the Board conducted a public hearing regarding said text amendment;

WHEREAS, on November 20, 2018, the Board during a public meeting voted to APPROVE the proposed text amendment;

NOW, THEREFORE, BE IT RESOLVED, by the Board, that the amendments to the Lancaster County Zoning Resolution, as provided in Attachment "A," are hereby adopted and APPROVED; and

BE IT FURTHER RESOLVED, that any other references in said Resolution which may be affected by the above specified amendments be, and they hereby are, amended to conform to such specific amendments.

DATED this 20th day of November, 2018, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

Bill Avery

Deb Schorr

Jennifer J. Bickman

Roma Amundson

Wiltgen Absent

APPROVED AS TO FORM
this 20th day of
November, 2018.

Deputy County Attorney
for PAT CONDON
County Attorney

# 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

1.01 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.

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

# ARTICLE 2
# DEFINITIONS

**Sections:**

**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. 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)

Accessory Buildings and Uses. 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.

Agriculture. 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. 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.**

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~~ **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)

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)

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. 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. 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. 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. 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. 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. 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)

Cellar. 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. 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. 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. 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. 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. 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. 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.**

2.005. D.

Digestate. 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. Domestic shelter 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 ~~**exclusively**~~ for residential purposes.

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.

~~Dwelling Unit. One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein.~~

2.006. E.

**Early Childhood Care Facility. 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.**

Excavation. 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)

Feed Lot, Commercial. A use where the principal business is the feeding of livestock or poultry for the purpose of sale for slaughter or butcher. Commercial feed lot shall not include dairy herds or the keeping of livestock other than for slaughter or butcher. (Resolution No. R-17-0040, May 30, 2017)

Flood Plain. 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. 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. 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. 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. Garden center shall mean ~~a~~ **one or more** building**s** ~~or premises~~ 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.

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. ~~444 Cherrycreek Road.~~ (Resolution No. 3478, June 24, 1980)

Grade. 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.

Group Home. 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. 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. 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. 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.

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.

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.**

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. 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. 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)

**Mini-Warehouse. 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.**

Mobile Home. 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. 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. 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. 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.

Organic Materials. 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. 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. 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. 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**,** ~~or~~ 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)

~~Rooming House. See Lodging House~~.

Row House. See Townhouse.

2.020. S.

Service Station. 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. 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. 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)

Social Hall. 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. Solar screen shall mean a device attached to a building to provide shading for glazed areas thereof.

Specified Anatomical Areas. 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. 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. 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. 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. 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. 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

3.001. In order to regulate and restrict the height, number of ~~stores~~ **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.

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.
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.**

**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.**

**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.)**

~~i)~~ **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. R-05-0058, May 25, 2005).

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;

m) 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) 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**);**

aa) Commercial feedlot~~;~~ (Resolution No. R-17-0040, May 30, 2017)**;**

bb) Community Unit Plan~~;~~ (Resolution No. R-17-0040, May 30, 2017)**;**

cc) Health Care Facilities Non-Residential~~;~~ (Resolution No. R-17-0040, May 30, 2017)**;**

dd) Private Recreational Activities~~;~~ (Resolution No. R-17-0040, May 30, 2017)**;**

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

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

**gg) Early Childhood Care Facilities.**

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 ~~this subsection (a)~~ 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~~.00~~) 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).**

~~In such event, the yard requirements of subsection (c)(1) below shall apply to the buildable lots. When less than 550' of frontage is available, minimum lot frontage may be adjusted by the Planning Director~~

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 t**wenty (**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)

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 twenty (20) or more acres. (See also Resolution R-05-0155, December 6, 2005) (Resolution No. R-17-0040, May 30, 2017)

~~**viii. 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)**~~

~~ix.~~ 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~~**: (Resolution No. R-12-0058, July 24, 2012)**~~

~~1.~~ ~~**I**~~ **i**n 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.

~~and~~ (Resolution No. R-12-0058, July 24, 2012).

~~**2. Not nearer than a distance equal to ten percent (10%) of the average lot width from the side lot line.**~~ Resolution No. 3740, August 31, 1983) (Resolution No. R-12-0058, July 24, 2012).

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. AG Preservation Lots - The Planning Director may approve AG Preservation lots and the general requirements of this subsection (a) are not required to be met under the following conditions: (Resolution No. R-12-0058, July 24, 2012)~~

~~1. The overall density on one dwelling unit per 20 acres shall be maintained. The subdivision shall have a minimum of 20.00 acres and a maximum of 80.00 acres with no more than 4 buildable parcels created; (Resolution No. R-12-0058, July 24, 2012)~~

~~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 as 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% pf 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)~~

~~In such event, the yard requirements of subsection (c)(1) below shall apply to the buildable lots. When less than 550' of frontage is available, minimum lot frontage may be adjusted by the Planning Director. Design standards shall meet the requirements of 4.15 of the Lancaster County Subdivision Resolution. (Resolution No. R-12-0058, July 24, 2012;~~

~~Resolution No. R-05-0125, October 5, 2005)~~

iii. In all interior sections 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)

iv. 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 ~~lost~~ **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)

v. 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)

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:

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:

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.

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)
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.)**

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)
l) Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5367, August 26, 1996)
m) 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.**

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.

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 Uses. 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.)**

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)

m) 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.**

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<br>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, ~~one~~ 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.

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, ~~shops~~ **retail** and personal service establishments;
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;
l) Garages, service stations and automobile repair shops or parking lots;
l) Theaters, drive-in theaters, assembly halls, restaurants and taverns;
m) Truck terminals;
n) Wholesale merchandising or storage warehouses;
o) General service and repair establishments**;** ~~**including dyeing or cleaning works or laundries, plumbing and heating, printing, painting, upholstering, tinsmithing or appliance repair shops;**~~
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 ~~**16 through 20**~~ **p though 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;

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;**

**aa) Motor Vehicle Sales;**

**bb) Early Childhood Care Facilities;**

**cc) Contractor Services.**

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 12
## NONCONFORMING AND NONSTANDARD USE~~D~~

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~~d~~ 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 building**s** 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

Sections:


13.001 Special Permit
13.002 Procedures
13.003 Appeal of Planning Commission
13.004 Administrative Amendments
13.005 Enforcement and Revocation of Special Permits
13.006 Reserved
13.007 Reserved
13.008 Academies and Private School
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 uses
13.023 Dwellings for Religious Orders
13.024 Pet Cemeteries
13.025 Mobile Homes
13.026 Recreation Facilities
13.027 Veterinary Facilities
13.028 Sale Barns
13.029 Commercial Storage or Sale of Agricultural Chemicals and Fertilizer
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
13.038 Flood Plain Construction
13.039 Expansion of Nonconforming Uses
13.040 Heritage Center
13.041 Historic Preservation
13.042 Wind Energy Conversion Systems
13.043 Storage of Agriculture Conservation Equipment and Materials
13.044 Dwelling within 1,320 feet of a Publicly Owned Lake Property
13.045 Off Premises Signs
13.046 Sexually Oriented Live Entertainment Establishment
13.047 Race Tracks, Drag Strips and Motor Sport Facilities
13.048 Commercial Wind Energy Conversion System

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 ~~**County Clerk**~~ **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)

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)

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** ~~P~~ **p**rovided, 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. ~~; in the AG, R and B zoning districts.~~ (Resolution No. R-17-0040, May 30, 2017)

13.010. Cemeteries.

**Cemeteries may be allowed by special permit i**~~I~~n the R and I zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.011. Reserved.

13.012. Airfields, Commercial Agriculture Airfields and Heliports.

**Airfields, commercial agriculture airfields and heliports may be allowed by special permit** ~~I~~ **i**n "AG" and "AGR" **zoning** ~~D~~ **d**istricts and Family Airfields in the "AGR" **zoning** ~~D~~ **d**istrict as provided in Section 4.007 and 5.007 may be allowed under the following conditions:

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;
      vii. 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.

6) 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.

7) A "bubble" of clearance of 200' over and around all buildings shall be maintained.

8) Flight operations shall be prohibited from 10 PM to 5 AM.

9) 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) ~~However, a~~**A**n 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)

13.013. Mobile Home Courts.
**Mobile home courts may be allowed by special permit** ~~I~~ **i**n the R zoning district. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983)

13.014. Campground.
**Campground may be allowed by special permit** ~~I~~ **i**n the AG zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.015. Private Recreational Activities.
**Private recreational activities** ~~I~~ **i**ncluding cabins and mobile homes not used as a residency~~;~~ **may be allowed by special permit** in the AG zoning district.

13.016. Riding Stables and Private Stables.
**Riding stables and private stables may be allowed by special permit** ~~I~~ **i**n the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.017. Personal Wireless Services Facility.
**Personal wireless services facility** ~~M~~ **m**ay 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)

13.018. Broadcast Towers.
**Broadcast towers may be allowed by special permit in** ~~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)

13.019. Excavation.
**Excavation** ~~M~~ **m**ay be allowed by special permit in the AG and AGR zoning districts under the **following** conditions ~~below~~. 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)

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.
~~**7) Reclamation plans for returning the site to agricultural use, approved by a local official of the Federal Department of Agriculture Natural Resources Conservation Service as meeting the standards of "Farm Bill Compliance".**~~

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 ~~certification~~ **certificate** of operation.

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.

m) 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 ~~In~~ the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.021. Health Care Facilities, Residential.

**Health Care Facilities, Residential may be allowed by special permit in** ~~In~~ the AG, R and B zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.022. Industrial.

**Industrial may be allowed by special permit on u** ~~U~~ses 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)

13.023. Dwellings for Members of Religious Orders.

**Dwellings for members of religious orders may be allowed by special permit in** ~~In~~ the AG, AGR and R zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.024. Pet Cemeteries.

**Pet cemeteries may be allowed by special permit in** ~~In~~ the "AG" and "AGR" Districts, provided they contain a minimum of five (5) acres.

13.025. Mobile Homes.

**Mobile homes may be allowed by special permit in the AG, AGR and R zoning districts under ~~the~~ one of the following ~~conditions~~:** ~~May be permitted:~~

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, subject to 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** ~~In~~ “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** ~~In~~ "AG" zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.028. Sale Barns.
**Sale barns may be allowed by special permit in** ~~In~~ the "AG" zoning district. (Resolution No. R-17-0040, May 30, 2017)

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** ~~In~~ the "AG" zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.030. **Place 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)

13.031. Community Unit Plans.
**Community unit plans may be allowed by special permit in** ~~In~~ the AG, "AGR" and "R" zoning districts in conformance with the provisions of Article 14. (Resolution No. R-17-0040, May 30, 2017)

13.032. Expanded Home Occupations.
**Expanded home occupation may** ~~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;

m) 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)

13.033. Garden Centers.

**Garden centers may be allowed by special permit in** ~~In~~ the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017)

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 ~~shall~~ **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. R-17-0040, May 30, 2017; Resolution No. 3501, July 29, 1980)

13.035. Commercial Feedlot.

Commercial feedlot facilities for livestock and poultry ~~shall~~ **may** be allowed by special permit in the AG zoning district. 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; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5238, June 20, 1995)

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-17-0040, May 30, 2017; Resolution No. R-12-0023, March 20, 2012).

13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation.
**Commercial composting operation and/or commercial anaerobic digestion operation** ~~M~~ **m**ay 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-17-0040, May 30, 2017; Resolution No. R-14-0007, Jan. 28, 2014)

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)

13.039. Expansion of Nonconforming **and Nonstandard** Uses.
**Expansion of nonconforming uses and nonstandard uses may be allowed by special permit in** ~~In~~ all zoning districts except the "I" Industrial District, ~~a special permit may be granted~~ 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)

13.040. Heritage Center.

**Heritage center may be allowed by special permit in** ~~In~~ the AG District, ~~a special permit may be granted~~ 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. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. 4277, April 28, 1987)

13.041. Historic Preservation.

**Historic preservation may be allowed by special permit in** ~~In~~ any zoning district ~~**except the "I" Industrial District**~~, ~~a special permit may be granted~~ 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 ~~**in the Comprehensive Plan or additional structures or sites identified and approved**~~ **as landmarks** by resolution of the ~~**Planning Commission**~~ **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 ~~significant~~ **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;**

~~i) The State Historical Preservation Officer shall be given the opportunity to review the structure or site and the proposal for reuse thereof;~~

**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 the 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.**

**m)** 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;

~~l)~~ **n)** The type of signage proposed for the structure or site shall be reviewed and approved. ~~(Resolution No. R-11-0023, March 29, 2011; Resolution No. R-11-0023, March 29, 2011)~~

13.042. Wind Energy Conversion Systems (WECS).

**Wind energy conversion systems may be allowed by special permit in** ~~In~~ the "R", "B" and "I" Zoning Districts, ~~a special permit may be granted~~ 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. R-11-0023, March 29, 2011; Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

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. R-11-0023, March 29, 2011; Resolution No. 4656, June 26, 1990)

13.044. ~~Special Permit.~~ **Dwellings Within 1,320 feet of a Publicly Owned Lake**
~~Special permitted use~~: 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;

m) 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 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. R-11-0023, March 29, 2011; Resolution No. 5428, January 22, 1997)

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 No. R-17-0040, May 30, 2017; Resolution R-00-10, January 26, 2000)

13.046. Sexually Oriented Live Entertainment Establishment,

**Sexually oriented live entertainment establishment** ~~M~~ **m**ust 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 No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution 00-129, October 13, 2000)

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, ~~**morals**~~, and the general welfare. (Resolution No. R-07-0061; July 24, 2007)

<u>13.048. Commercial Wind Energy Conversion System (CWECS).</u>

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.

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 3 ½ 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.

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 ~~or~~ 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 both participating and 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.

j) A professional pre-construction noise study shall be conducted which includes all property within one mile of a tower support base. 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.
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.
m) At the discretion of the County Board, post-construction noise level measurements may be required to be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.
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 shall be required to determine whether a violation has occurred. (Resolution No. R-15-0061, November 24, 2015; Resolution No. R-11-0022, March 29, 2011)

**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.**

## ARTICLE 14
## 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-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011)

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 No. R-11-0023, March 29, 2011; Resolution R-07-0016, March 13, 2007)

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 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)

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;
m) 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 used, the location and size of all proposed water mains, the proposed hydrant locations and any necessary extension of the proposed system to existing water mains or to a proposed community well, the location of the proposed community well, and the type of water treatment to be used;**~~
   ~~**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. If an individual water well system for each lot is proposed, date on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten (10) acres on a grid system. The results of these preliminary tests shall in no way be construed to guarantee the quantity or quality of water to individual lots in the proposed community unit plan and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed community unit plan.**~~

   **(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 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 as data obtained from a test well or test wells located within 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.**

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 ~~Code~~ **Zoning Regulations** and applicable state statutes.

p) A Computer-Aided-Design (CAD) file representing only the preliminary plat boundary survey and street tree centerlines shall be submitted that complies with the CAD File Submittal Standards maintained by the Lancaster County Engineer. (Resolution No. R-18-0001, January 9, 2018)

~~**14.014. Design Standards; Density.** The density of a community unit plan, the shape, size and location of buildings, required open space buffers, recreational facilities, and utilities shall be constructed in conformance with the design standards adopted by resolution of the County Board.~~

## 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.

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. R-17-0040, May 30, 2017; Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

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-17-0040, May 30, 2017; Resolution No. R-16-0076, November 30, 2016)

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~~(h)~~**( 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)

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. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)

## ARTICLE 19
## BOARD OF ZONING APPEALS

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 County of~~ 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 ~~him~~ **the member** and a hearing, which shall be a public hearing if ~~he~~ **the member** so requests. (Resolution No. 3545, November 18, 1980)

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 ~~**eight**~~ **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-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, ~~**morals**~~ 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-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 24
# Historic Preservation District

Sections:

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.
224.070 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 of 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 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 of 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.