# ZONING REGULATIONS

**of**

# ANTELOPE COUNTY NEBRASKA

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# Article 1 General Provisions

## Section 101 – Title

These regulations shall be known, referred to, and cited as the Zoning Resolution of Antelope County, Nebraska.

## Section 102 - Jurisdiction

The provisions of this Resolution shall apply to a land within the boundaries of Antelope County, Nebraska, excluding the land included, now or in the future, in the corporate limits of any incorporated municipality within or adjoining the County and excluding any legally established planning and zoning jurisdictional areas of any incorporated municipality within or adjoining the County, as defined on the Official Zoning Map of any such municipality.

## Section 103 - Purpose

In pursuance of and in compliance with the authority conferred to Nebraska counties by Section 23 of the Nebraska Statutes, as amended, this Resolution is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Antelope County, Nebraska and for the purpose of assisting in the implementation of the duly adopted Antelope County, Nebraska Comprehensive Plan. This Resolution is also enacted to preserve and protect the customs and culture of the people of Antelope County and the following specific purposes:

- Developing both urban and non-urban areas and lessening congestion in the streets and roads and reducing the waste of excessive amounts of streets and roads;
- Securing safety from fire and other dangers and lessening or avoiding the hazards to persons and damage to property resulting from the accumulation of runoff or storm or flood waters;
- Providing adequate light and air and preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
- Promoting such distribution of population, such classification of land uses and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply and other public requirements;
- Protecting the tax base and protecting property against blight and depreciation;
- Securing the economy in governmental expenditures;
- Fostering the State's agriculture, recreation and other industries;
- Encouraging the most appropriate use of land within Antelope County, Nebraska, and;
- Preserving, protecting and enhancing historic buildings, places and districts.

## Section 104 - Building and Wind Break Tree Provision

This regulation, provided for under this Resolution regulates, restricts or prohibits the erection, construction, reconstruction and/or alteration of all buildings, structures, grain bins and wind break trees and includes the following:
(see figure 104)

- The basic setback for all buildings, structures and grain bins shall be fifty (50) feet from the right-of-way line of any road, street or highway right-of-way.

- At all roadway intersections no trees, grain bins, buildings or structures shall be located within the triangular area formed by the intersecting roadway right-of-way lines and a line connecting points on said right-of-way lines which are seventy (70) feet eight(8) inches from the intersection of said right-of-way lines. (refer to Figure 104)

- All other tree shelter belts shall be located no closer than twenty (20) feet to the roadway right-of-way. (refer to Figure 104)

- It shall be the responsibility of the property owner to contact the appropriate power or gas utility and Diggers Hotline prior to construction of any building, structure, grain bin or planting of trees.

- Public utility buildings or structures containing one-hundred (100) square feet or less in area shall be exempt from this provision.

# Article 2 Application of Regulations

**Section 201 - General Application**: The regulations set forth in this Resolution shall be minimum

requirements and, within each zoning district, shall be uniformly applied to each class or kind of structure, building or use, except as hereinafter provided.

**Section 202 - Zoning Affects Every Building and Use:** With the exception of the provisions of Article 7 of this Resolution regarding non-conforming uses and structures, no building, structure or land shall hereafter by used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with the regulations specified in this Resolution. Further, no building or structure shall hereafter be erected, constructed, reconstructed, enlarged, moved or altered to exceed the height or bulk, to occupy a greater percentage of land area, to have a narrower or smaller front, side or rear setback than is herein required, or be in any manner contrary to the requirements of this Resolution, provided that:

- Non-residential farm buildings, as defined in Section 303.38 of this Resolution, shall be subject to the requirements of this Resolution, but shall be exempt from the zoning permit requirements of this Resolution;
- Any farm building containing a use other than an agricultural use, as defined in Section 303.04 of this Resolution, shall be considered a non-farm building and shall be subject to the zoning permit requirements of this Resolution;
- Any farm building located on a lot, tract or parcel of land, which does not qualify as a farm, as defined in Section 303.37 of this Resolution, shall be considered a non-farm building and shall be subject to all applicable requirements of this Resolution, including zoning permit requirements, and;
- Any waste handling facility, as defined in Section 303.97 of this Resolution, which may be associated with a farm building shall be considered a non-farm structure and/or use and shall be subject to all applicable requirements of this Resolution, including zoning permit requirements.

**Section 203 Setback and Lot, Tract, Parcel Size Reduction Prohibited**: No setback, lot, tract or parcel, existing as of the effective date of this Resolution, shall be reduced in dimension or area below the minimum requirements set forth in this Resolution. Setbacks, lots, tracts or parcels created after the effective date of this Resolution shall meet or exceed the minimum requirements set forth in this Resolution.

**Section 204 Provisions Declared to be Minimum Requirements**: In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and/or general welfare.

**Section 205 Disclaimer of Building and Other Codes and County Liability**: This Resolution is a zoning regulation only and regulates only the use of land. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical, structural or other code or regulation which would regulate the design and construction of any building or structure within the jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements set forth in this Resolution are solely for the purpose of assuring compliance with the land usage limitations and requirements set forth in this Resolution and for the purposes described in Section 103 of this Resolution. Antelope County, Nebraska assumes no liability and shall not in any manner be held liable for any design or construction problem or defect in any building or structure for which a zoning permit or certificate of zoning compliance or other form of land usage approval may have been issued nor shall Antelope County, Nebraska assume any liability whatsoever for noncompliance with any federal, state or other code, regulation or requirement.

## Article 3 Construction and Definitions

**Section 301 Construction:** The following rules of construction shall apply unless inconsistent with the plain meaning of the text of this Resolution:

TENSE: Words used in the present tense include the future tense.

NUMBER: Words used in the singular include the plural and words used in the plural include the singular.

SHALL AND MAY: The word "shall" is mandatory and the word "may" is permissive.

GENDER: The masculine shall include the feminine.

HEADINGS: In the event that there is any conflict or inconsistency between the heading of an Article, Section, Subsection or paragraph of this Resolution and the text thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such text.

**Section 302 General Terminology**: The word "County" shall mean Antelope County, Nebraska. The words "County Board" shall mean the Antelope County Board of Supervisors. The words "Planning Commission" shall mean the Antelope County Planning Commission duly appointed by the Board of Supervisors. The words "Board of Adjustment" and "Board" shall mean the Antelope County Board of Adjustment duly appointed by the Board of Supervisors. The words "Zoning Administrator" shall mean that person duly appointed by the Board of Supervisors to administer and enforce the requirements of this Resolution.

**Section 303 Definitions**: Words or terms not herein defined shall have their ordinary meaning in relation to the context. For purposes of this Resolution, certain words and terms used in this Resolution are defined as follows:

**303.01 ABUT:** Any situation where a lot, tract or parcel borders directly on another lot, tract or parcel or is separated from an adjoining lot, tract or parcel by a public road right-of-way, which is sixty six (66) feet or less in width.

**303.02 ACCESSORY USE OR BUILDING:** A building or use, which is subordinate and incidental to that of the main or principal building or use on the same lot, tract or parcel.

**303.03 AEROBIC DIGESTION PROCESS:** Any process for digestion of waste in which the waste is digested using free oxygen, wherein sufficient oxygen is available to satisfy fifty percent (50%) of the daily chemical / biological oxygen demand inflow.

**303.04 AGRICULTURAL USE:** The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, raising and management of poultry, fish, bees and other animals, including confined and intensive animal feeding use and associated waste handling facility, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution, truck farming, forestry or orchards, the non-commercial storage and processing of agricultural products produced on the premises, and confinement of an unrestricted number of ruminant animals for birthing, weaning or back-grounding purposes for less than two hundred ten (210) days in any calendar year in lots or pens normally used for crop production or vegetation.

**303.05 AGRONOMIC RATES:** The application of plant nutrients, from all sources, to meet, but not exceed, the estimated annual nutrient needs of the crop being produced, based upon past or projected yields, so as to avoid build-up of nutrients including, but not limited to, nitrate, ammonia and phosphorus. Determination of the agronomic rate shall include the available nutrients in the soil, the nitrogen content of any irrigation water, and the nutrient content of any animal wastes, sludge and commercial fertilizer to be applied.

**303.06 ANAEROBIC DIGESTION:** Any process for digestion of waste in which the waste is digested where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

**303.07 ANIMAL UNIT:** The relationship of various animals with regard to manure production based upon one thousand pounds of animal(s) regardless of type. For purposes of this Resolution, the following relationship with regard to manure production shall be as follows:

| Type of Animal | Animal Unit(s) |
|---|---|
| Beef Animal (500 - 1,200 pounds)…….. | 1.00 |
| Beef or Dairy Calf (150 - 500 pounds)…… | 0.50 |
| Young Dairy Stock (500 - 1,000 pounds)…….. | 0.75 |
| Replacement Heifers……... | 1.00 |

| | |
|---|---|
| Dairy Cow…….. | 1.40 |
| Horse…….. | 1.00 |
| Swine (55 pounds or heavier)……. | 0.40 |
| Swine (less than 55 pounds)……... | 0.04 |
| Swine (sow and litter)……. | 0.50 |
| Sow or Boar…… | 0.40 |
| Sheep…….. | 0.10 |
| Chicken…….. | 0.01 |
| Turkey…… | 0.02 |
| Ostrich……. | 0.40 |

**303.08 ANIMAL WASTE:** Any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.

**303.09 ANIMAL WASTEWATER:** Any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding, or other raw material or intermediate or final matter or product used in or resulting from the production of animals or from products directly or indirectly used in any Waste Handling Facility Use, as defined in Section 303.97 of this Resolution, or any spillage or overflow from animal watering systems, when allowed to mix with animal manure, or any liquid used in washing, cleaning, or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control in a confined or intensive animal feeding use.

**303.10 BASEMENT:** A building space wholly or partially underground and having more than one-half (1/2) of its height, measured from its floor to the top of its average wall height, below the average elevation of the finished grade of the soil around said space.

**303.11 BED AND BREAKFAST, BOARDING OR LODGING HOUSE:** A building, other than a hotel or motel, where for compensation and by arrangement for definite periods, meals and / or lodging are provided for customers.

**303.12 BUILDABLE AREA:** The portion of a lot or tract of land remaining after the front, side and rear setbacks, as herein defined, have been provided.

**303.13 BUILDING:** A structure having a roof or having a roof and walls used or intended to be used for sheltering of persons, animals or property. When divided or separated by other than common walls, each portion or section of a building shall be considered a separate building. (Refer to Section 303.38, Farm Building and Section 303.67, Non-Farm Building.)

**303.14 BUILDING HEIGHT:** The vertical distance, measured from the average ground level at the front of a building or structure to the highest point of the building roof, excluding chimneys, antennas or other similar appurtenances or the highest point of a structure.

**303.15 BULK STORAGE:** The storage of materials for distribution to other locations and not for use or consumption of such materials on the premises.

**303.16 CAMPGROUND:** Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used to set apart for supplying camping space for two (2) or more camping units for camping purposes to the public. Campground shall include any buildings, structures, vehicles or enclosures used or intended to be used wholly or in part for the accommodation of campers.

**303.17 CAMPING UNIT:** Any vehicle, trailer, tent or movable shelter used for camping purposes.

**303.18 CERTIFICATE OF ZONING COMPLIANCE / CERTIFICATE OF OCCUPANCY:** A written certificate issued by the zoning administrator, stating that the premises has been inspected after erection, construction, reconstruction, alteration or moving of a building or structure or after a change in the use of land stating that the premises complies in all respects with the requirements of this Resolution and may be occupied for the use declared.

**303.19 COMMERCIAL USE:** A use, other than an agricultural use, where products are grown or purchased for

sale or resale for profit or where services are sold or provided for profit.

**303.20 COMPATIBLE USE:** A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other.

**303.21 COMPOSTING (AEROBIC):** The natural process of decomposing vegetative refuse, manure and other naturally degradable materials using free oxygen which is sufficient in quantity to maintain aerobic digestion.

**303.22 COMPOSTING (ANAEROBIC):** The natural process of decomposing vegetative refuse, manure and other naturally degradable materials in large piles where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

**303.23 COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the County recommended by the Planning Commission and adopted by the County Board of Supervisors.

**303.24 CONDITIONAL USE:** A land use that would not be generally compatible with other permitted land uses in a zoning district, but which if controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote the public health, safety, convenience and general welfare.

**303.25 CONDITIONAL USE PERMIT:** A written zoning permit issued by the Zoning Administrator upon authorization of a conditional use under the terms of this Resolution by the County Board of Supervisors. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Supervisors.

**303.26 CONFINED ANIMAL FEEDING USE:** The raising, feeding or management of more than three hundred (300) animal units at any one time in roofed buildings or structures which may be open sided or totally enclosed and which may have hard surfaced, slatted or other type of surfaced floor, and / or on hard surfaced, non-earthen, outdoor pens or lots used for confinement of such animals. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the owner of such use of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the animal unit capacity by the Zoning Administrator or other duly appointed official at the time of such dispute. Any waste handling facilities, as defined in Section 303.97 of this Resolution, associated with such confined animal feeding use shall be considered a separate waste handling facility use. For purposes of this Resolution, waste handling facilities associated with any confined animal feeding uses shall be classified and regulated with regard the number of animals served by such waste handling facility in accordance with the following classes of size, as well as the category of waste handling facility utilized, as defined in Section 303.97 of this Resolution:

Class I - A confined animal feeding use with a one-time capacity of more than three hundred (300) animal units, but less than one thousand one (1,001) animal units.
Class II - A confined animal feeding use with a one-time capacity of one thousand one (1,001) to two thousand five hundred (2,500) animal units.
Class III - A confined animal feeding use with a one-time capacity of two thousand five hundred one (2,501) to five thousand (5,000) animal units.
Class IV - A confined animal feeding use with a one-time capacity of five thousand one (5,001) to ten thousand (10,000) animal units.
Class V - A confined animal feeding use with a one-time capacity of ten thousand one (10,001) or more animal units.

**303.27 CONSTRUCTION:** The erection, installation, or assembly of a new facility: the addition, expansion, extension, alteration, conversion, or replacement of an existing facility: or the relocation of a facility from one activity or site to another activity or site. It includes equipment installed in (real Property Installed Equipment) and made a part of such facilities, related site preparation, excavation, filling and landscaping or other land improvements.

**303.28 DEVELOPMENT:** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining excavation, landfill or land disturbance; any use or extension of the use of land on a parcel identified by property owner name and legal description on a zoning, building or conditional use permit application. Activities regarding any land acquisition, lease acquisition, project funding, any project related bidding process, structure design, project related research, any project related contract negotiations or any other redevelopment planning shall be considered development.

**303.29 DWELLING:** Any building or portion thereof, other than a hotel, motel, bed and breakfast, group home or other building used for short-term occupancy by human beings, which is designed and / or used for living purposes on an on-going basis.

**303.30 DWELLING, MULTI-FAMILY:** A dwelling unit having independent living accommodations for three (3) or more families.

**303.31 DWELLING, SINGLE-FAMILY:** A dwelling unit having independent living accommodations for, and occupied by, one (1) family.

**303.32 DWELLING, TWO-FAMILY (DUPLEX):** A dwelling unit having independent living accommodations for and occupied by two (2) families.

**303.33 DWELLING UNIT:** One room or combination of rooms which constitute a separate and independent housekeeping establishment containing independent cooking, sleeping and restroom facilities.

**303.34 EASEMENT:** A right or privilege granted by the owner of a defined parcel of land for the use of such defined parcel of land for a specific purpose or purposes by the public, another person, corporation or other legal entity.

**303.35 FACULTATIVE DIGESTION (LAGOON):** Any process for digestion of waste in which the waste is digested using anaerobic digestion at lower elevations in a lagoon and aerobic digestion at the upper levels and surface of the lagoon which is accomplished through limiting the amount of volatile solids to not more than four (4) pounds per day per one thousand (1,000) cubic feet of water in said lagoon and said lagoon is operated to maintain this volatile solids limitation.

**303.36 FAMILY:** An individual or two (2) or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons, excluding servants, who may not be related, living together in a single dwelling unit.

**303.37 FARM:** A crop production, livestock production or other similar enterprise containing twenty (20) acres or more of land from which one thousand dollars ($1,000) or more of crop or meat products are produced each year.

**303.38 FARM BUILDING:** Any non-residential building located on a farm, as defined in Section 303.37 of this Resolution, which is utilized for agricultural purposes, provided that when the use or consequences of the agricultural use conducted in a farm building exits from the building onto, across or under the land, whether underneath the building or adjoining thereto or onto or into some other structure, such use, if not an agricultural use, shall not be considered part of such building, shall not be considered an agricultural use, and shall be subject to the requirements and limitations of this Resolution. Waste handling facilities, as defined in Section 303.97 of this Resolution, which may be associated with a use in a farm building, shall be considered a non-agricultural use and shall be subject to the requirements and limitations of this Resolution.

**303.39 FLOOD PLAIN:** Those lands within the zoning jurisdiction of Antelope County which are subject to a one percent (1%) or greater chance of flooding in any given year. Determination of flood plains shall be based on historical high water marks and interpolation of such high water marks by the Natural Resource District or other agency capable of determining such flood plains until such time as flood hazard maps are produced and provided by the Federal Flood Insurance Administration, after which such flood hazards maps shall be utilized.

**303.40 FLOOR:** A level or story in a building.

**303.41 FLOOR AREA:** The sum of the gross horizontal areas of the one or several floors of all buildings or

portions thereof, on the lot or tract.

**303.42 FRONTAGE (LOT):** The length of the real property abutting one (1) side of a road right-of-way, measured along the dividing line between said real property and the road right-of-way.

**303.43 GROUP DAY CARE CENTER / NURSERY SCHOOL:** An establishment other than public, private nonreligious or parochial school, which provides day care, play groups, nursery school or education for five (5) or more unrelated children.

**303.44 GROUP HOME:** A facility, licensed or approved by the State of Nebraska or other appropriate agency, in which more than two (2) persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care, for any of the following purposes. 1) adaptation to living with, or rehabilitation from, disabilities; 2) adaptation to living with, or rehabilitation from, emotional or mental disorders, or mental retardation; 3) rehabilitation from the effects of drug or alcohol abuse; or 4) supervision while under a program of alternatives to imprisonment, including, but not limited to pre-release, work release and probationary programs.

**303.45 HOME BASED BUSINESS:** See Section 303.46, Home Occupation.

**303.46 HOME OCCUPATION:** An occupation or business enterprise conducted in a dwelling unit or accessory building by members of the family occupying the dwelling unit, established in accordance with standards and restrictions set forth in this Resolution.

**303.47 IMPACT EASEMENT (DEED RESTRICTION):** An easement or deed restriction, recorded in the office of the Antelope County Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding use, a waste handling facility use or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

**303.48 INCOMPATIBLE USE:** A land use of one type that is unsuitable for direct association or location near or abutting a land use of a different type because of its inconsistency with the Intent statement of the zoning district in which such uses are located, because of major differences in building types, building mass, building height and use activities, and because such use would diminish the use, value and enjoyment of the other property.

**303.49 INTENSIVE ANIMAL FEEDING USE:** The feeding of more than three hundred (300) animal units at any one time in partial or total earthen pens or lots which are or used for confinement of animals where manure is or may be in contact with the earth. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the animal unit capacity by the Zoning Administrator or other duly appointed official at the time of such dispute. Any waste handling facilities, as defined in Section 303.97 of this Resolution, shall be considered a separate waste handling facility use. For purposes of this Resolution, waste handling facility uses associated with any intensive animal feeding uses shall be categorized as an AN (anaerobic) facility, as defined in Section 303.93 of this Resolution, and classified with regard to the number of animal units served in accordance with the following classes of size:

Class I - An intensive animal feeding use with a one-time capacity of more than three hundred (300) animal units, but less than one thousand one (1,001) animal units.

Class II - An intensive animal feeding use with a one-time capacity of one thousand and one (1,001) to two thousand five hundred (2,500) animal units.

Class III - An intensive animal feeding use with a one-time capacity of two thousand five hundred and one (2,501) to five thousand (5,000) animal units.

Class IV - An intensive animal feeding use with a one-time capacity of five thousand and one (5,001) to ten thousand (10,000) animal units.

Class V - An intensive animal feeding use with a one-time capacity of ten thousand and one (10,001) or more animal units.

**303.50 JUNK YARD:** See Salvage Yard.

**303.51 LANDFILL:** A waste disposal site employing an engineered method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting and applying cover material over all exposed waste designed in accordance with the requirements of the Nebraska Department of Environmental Quality and licensed by said Department.

**303.52 LOT (ZONING):** A piece, parcel or plot of land under single ownership or control, not divided by any public street or road, but having frontage on a public street or road which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot of record, a portion of a lot of record, a combination of complete lots of record, a combination of complete lots of record and portions of lots of record, or portions of lots of record.

**303.53 LOT AREA:** The total horizontal area of a lot, excluding all street or alley rights-of-way.

**303.54 LOT, CORNER:** A lot which has frontage on two (2) or more streets or roads at the intersection of said streets or roads.

**303.55 LOT DEPTH:** The average horizontal distance between the front and rear lot lines of any lot.

**303.56 LOT OF RECORD:** A lot, which is part of a subdivision plat or lot, plot or parcel described by metes and bounds, recorded in the office of the Registrar of Deeds of Antelope County, Nebraska prior to the effective date of this Resolution.

**303.57 LOT WIDTH:** The horizontal distance between the side lot lines, measured at a right angle from one side lot line at the minimum front setback distance set forth in the various zoning districts specified in this Resolution.

**303.58 MANUFACTURED HOME:** A factory-built structure which is to be used for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F. R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or any successor regulations thereto and which complies with the following minimum standards:

1. A minimum floor area of nine hundred (900) square feet,
2. A minimum exterior width of eighteen (18) feet,
3. A minimum roof pitch of two and one-half (2 ½) inches of rise per each twelve (12) inches of horizontal run
4. Exterior material shall be of a color, material, and scale comparable with existing residential site-built, single-family construction,
5. A non-reflective roof of material which is or simulates asphalt or wood shingles, tile or rock,
6. All wheels, axles, transporting lights and removable towing apparatus have been removed
7. Is placed on and permanently attached to a foundation of the same construction as required for site-built homes,
8. Is permanently connected to public utilities in the same manner required for site-built homes.

**303.59 MOBILE HOME:** A detached dwelling unit, which was originally designed for long term human habitation and which was constructed and fabricated into a complete unit at a factory and capable of being transported to a location for use on its own chassis and wheels, identified by model number and serial number by its manufacturer, and designed primarily for placement on a non-permanent foundation when used for residential purposes, but not including any structure which meets the definition of Manufactured Home or Modular Home, as herein defined.

**303.60 MOBILE HOME LOT:** A lot or parcel of land for the placement of one (1) mobile home.

**303.61 MOBILE HOME PARK:** Any parcel of land area under single ownership and control upon which sites for

parking of two (2) or more mobile homes connected to utilities and used by persons for living or sleeping purposes are provided by lease, rent or free of charge.

**303.62 MOBILE HOME SUBDIVISION:** A parcel of land, which has been or is intended to be subdivided into two (2) or more lots, for sale to persons to place a mobile home on said lot.

**303.63 MODULAR HOME:** A manufactured housing unit, as defined in Section 71-1557 of the Nebraska Revised Statutes 1943, which bears the seal of the Nebraska Department of Health or its successor.

**303.64 NON-CONFORMING LOT OF RECORD:** A lot, which is part of a subdivision plat or lot, plot or parcel described by metes and bounds, recorded in the office of the Registrar of Deeds of Antelope County, Nebraska as of the effective date of this Resolution which does not comply with the minimum lot area, width and other lot standards established in the various zoning districts created by this Resolution.

**303.65 NON-CONFORMING STRUCTURE:** A lawfully erected structure in existence as of the effective date of this Resolution which does not comply with the lot coverage, height, setback requirements or other standards applicable to new structures in the zoning district in which said structure is located.

**303.66 NON-CONFORMING USE:** A lawfully established use of land in existence at the date of adoption of this Resolution, which does not comply with the regulations of this Resolution.

**303.67 NON-FARM BUILDING:** Any building used for residential purposes, any building containing a use which is not an agricultural use, as defined in Section 303.04 of this Resolution, any building located on a farm, as defined in Section 303.37 of this Resolution, which contains a use other than an agricultural use, as defined in Section 303.04 of this Resolution, any building located on a parcel of land which does not qualify as a farm, as defined in Section 303.37 of this Resolution and any building associated with a waste handling facility use, as defined in Section 303.97 of this Resolution.

**303.68 ODOR:** That characteristic of a substance which makes it offensive to the human sense of smell such that it unreasonably interferes with the use, value or enjoyment of neighboring properties if not controlled.

**303.69 PARCEL:** A piece of land, one section or less in area, the boundaries of which are properly described in a deed or conveyance.

**303.70 PARKING SPACE, OFF-STREET:** An area, open or closed, which is sufficient in size to permit the parking of one (1) or more vehicles, together with a driveway connecting said parking area to a street or road to permit ingress and egress by said vehicle.

**303.71 PERMANENT FOUNDATION:** The substructure of a structure to which the structure is permanently attached which provides a permanent support for said structure around its entire perimeter and at points within its perimeter where needed.

**303.72 PREMISES:** The land area containing a land use which is contiguous with and under the same ownership as the land use.

**303.73 PREVAILING WINDS:** Prevailing winds in Antelope County are from the north and northwest in winter months and south in summer months. Prevailing wind directions, using magnetic north as determined through use of a common compass, are defined as:

North - from forty-five degrees west of north to forty-five degrees east of north
South - from forty-five degrees west of south to forty-five degrees east of south
East - from forty-five degrees east of north to forty-five degrees east of south
West - from forty-five degrees west of north to forty-five degrees west of south

**303.74 PRINCIPAL BUILDING:** A building in which the principal use on the lot is situated.

**303.75 PRIVATE AIRSTRIP:** A privately owned parcel of land used for take-off and landing of small aircraft which is duly registered with the Nebraska Department of Aeronautics.

**303.76 PRIVATE ROADWAY:** A privately owned, open, unoccupied space other than a public road, reserved as the principal means of access to abutting property.

**303.77 PUBLIC USE AREA:** An area of land or water, whether publicly or privately owned, which is designed for and used by ten (10) or more unrelated persons on at least a quarterly basis for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas, public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not be construed to include any rights-of-way for streets or roadways, hiking, biking or other trails, or privately owned land used for hunting and/or fishing.

**303.78 QUARTER SECTION:** That portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four (4) sides, has two (2) intersecting sides which coincide with two (2) intersecting section lines and contains approximately one-fourth (1/4) of the land area contained within a square section of land.

**303.79 RECREATIONAL VEHICLE:** A temporary dwelling for travel, recreation and vacation use including travel trailers, camping trailers, pickup campers, motor coaches, camp cars, tent trailers, boats or any other vehicular portable structure.

**303.80 RESIDENTIAL USE:** A dwelling unit located on a lot, parcel or tract of land.

**303.81 ROAD / ROADWAY:** A public right-of-way set aside for public travel which affords the principal means of access to abutting property.

**303.82 ROAD CENTERLINE:** A line extending down the center of a road or street right-of-way, as established by official survey.

**303.83 ROADSIDE STAND:** A structure or portion thereof used for the shelter, display and sale of craft and similar items, fruit, vegetables and other agricultural crops produced on the premises.

**303.84 SALVAGE YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales establishments.

**303.85 SECTION OF LAND:** A division or parcel of land on the government survey, comprising one (1) square mile of land encompassing six hundred forty (640) acres more or less. Each "township" (six miles square) is divided by straight lines into thirty six (36) sections, and these are again divided into half sections and quarter sections.

**303.86 SETBACK (YARD):** A horizontal distance, as prescribed in the various zoning districts established in this Resolution, from the center-line of the roadway on which the lot has frontage and the side or rear lot line of any lot in which a building may not be constructed. Setbacks are further defined as follows:

SETBACK, FRONT: An open space extending across the entire width of a lot between the centerline of the road on which the lot has frontage and the nearest point of a building. A corner lot has two (2) front setbacks.

SETBACK, REAR: An open space extending across the entire width of the lot between the rear lot line and the nearest point of a building.

SETBACK, SIDE: An open-space extending along the side lot line from the front setback to the rear setback and lying between the side lot line and the nearest point of a building.

SETBACK, TRANSITIONAL: An open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.

**303.87 SIGN:** Any identification, description, display or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or parcel of land which directs attention to an object, product, place, activity, business, person, service or interest.

**303.88 SOLID MANURE:** Waste produced by living cattle, dairy cattle, sheep and other ruminants and horses

which contains not less than twelve percent (12%) solids by weight, or waste produced by living swine, poultry or other non-ruminant animals which contains not less than twenty five percent (25%) solids by weight.

**303.89 SOLID WASTE:** Any garbage, refuse, discarded material including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, residential or other use, but excluding any animal waste, animal waste water or any waste from a waste handling facility, as defined in Section 303.97 of this Resolution.

**303.90 STORY:** That portion of a building included between the surface of any floor and the surface of the next floor above, or if there be no floor above, then the space between the floor and the ceiling next above it. A basement hall be counted as a story if more than four (4) feet of said basement is above the average finished grade of the adjoining ground.

**303.91 STREET:** See ROAD

**303.92 STRUCTURE:** Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on the ground.

**303.93 STRUCTURAL ALTERATIONS:** Any change in the supporting members of a structure, such as bearing walls, partitions, columns, beams or girders.

**303.94 TOWER:** A structure situated on a site that is intended for transmitting or receiving television, radio, telephone, GPS or similar forms of communications.

**303.95 USE:** The purpose or activity for which land and buildings thereon is designed, arranged, intended or for which it is occupied or maintained.

**303.96 VARIANCE:** A relaxation of the height, lot area, size of structure or buildings or size of yards and open space terms of this Resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the owner, a literal enforcement of the requirements of this Resolution would result in unnecessary and undue hardship.

**303.97 WASTE HANDLING FACILITY:** Any and all land, structures, combination of structures, under floor pits, holding ponds, debris basins, diversion terraces, liquid manure storage pits, lagoons, above ground pipelines, irrigation devices, or appurtenance thereto, apparatus, equipment, or mechanism, whether on the same or different premises than the industrial, commercial or other type of use, including any confined and intensive animal feeding use generating waste, used to hold, store, process, digest, transport, distribute, control or otherwise dispose of dead animals, manure and waste materials, other than solid waste as defined in Section 303.85 of this Resolution. Any facilities, apparatus, or mechanism used to ventilate, exhaust, process or treat hazardous gases, odor, dust, smoke or other waste product emanating from any building or structure, including any farm building, that occurs as a consequence of the use of that building or structure shall be considered part of a waste handling facility use. Waste handling facilities shall be categorized with regard to the types of such facilities and the methods of operation of such facilities as they relate to the potential for odor production, environmental degradation and compatibility with abutting and neighboring land uses as follows:

Category A (aerobic): A waste handling facility use in which:

1. all waste is collected, processed or digested utilizing aerobic digestion facilities and processes, including aerobic lagoons, and/or aerobic composting and in which there is surface application of solid manure and / surface application or injection of liquid manure, liquid waste or waste water onto / into the soil on crop or other land, and

2. dust, hazardous gases, odor or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and

3. dust, hazardous gases, or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category ANC (covered anaerobic - deep pit): A waste handling facility in which:

1. all waste is collected and digested utilizing anaerobic digestion facilities and processes including anaerobic lagoons and holding basins, pits or above ground tanks, which are covered and the gases generated by the digestion of said waste are collected and treated to avoid explosion, fire hazards and the generation of odor, and in which there is surface application of solid manure or injection of liquid (non-solid) manure into the soil on crop or other land, and

2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and

3. dust, hazardous gases, odor or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category FAC (facultative): A waste handling facility in which:

1. all or part of the waste produced is collected and digested utilizing anaerobic digestion lagoon(s) and processes designed to allow an introduction of not more than four (4) pounds of volatile solids per day per one thousand (1,000) cubic feet water in a lagoon and such lagoon(s) shall be operated and maintained to insure such capacity is available at all times and operated to minimize removal of top-water to reduce odor production, and there is surface application of solid manure and / surface application or injection of liquid manure, liquid waste or waste water onto / into the soil on crop or other land, and

2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are not collected and processed to minimize air contamination, but simply exhausted into the air, and

3. dust, hazardous gases, odor or other air contaminants emitted from any open-sided buildings or open pens are not controlled in a reasonable manner and do not minimize blowing of dust and odor onto abutting and neighboring properties.

Category AN (anaerobic): A waste handling facility in which:

1. all or part of the waste produced is collected and digested utilizing anaerobic digestion facilities and processes, including uncovered anaerobic holding ponds or pits, anaerobic lagoons, sludge or settling basins, anaerobic stockpiling of waste as a solid and there is application of liquid (non-solid) manure and waste on the surface of crop or other land, and

2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are not collected and processed to minimize air contamination, but simply exhausted into the air, and

3. dust, hazardous gases, odor or other air contaminants emitted from any open-sided buildings or open pens are not controlled in a reasonable manner and do not minimize blowing of dust and odor onto abutting and neighboring properties.

**303.98 ZONING ADMINISTRATOR:** The person duly designated by the Antelope County Board of Supervisors to administer and enforce the regulations established under this Resolution.

**303.99 ZONING DISTRICT:** One of several sets of zoning regulations designed for a particular class of land uses which established uniform regulations governing the use, building and structure height, area, size, intensity of use and other standards of land use within unincorporated area of the County.

# Article 4 Establishment and Designation of Districts

**Section 401 Planning Commission Recommendations**: It shall be a purpose of the Planning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein which are consistent with the Comprehensive Plan for Antelope County, Nebraska. The Planning Commission shall make a preliminary report and hold one or more public hearing(s) thereon before submitting its final report and recommendation to the County Board of Supervisors. The Board of County Supervisors shall not hold its public hearing or take final action on any zoning regulations until it has received the final report and recommendation of the Planning Commission.

**Section 402 District Created**: For purposes of this Resolution and to assist in the implementation of the Antelope County Comprehensive Plan, the following zoning districts are created, herein named and described in Article 5 of this Resolution:

AG-G…General Agricultural District
AG-R… River Corridor Agricultural District
AG-T… Transitional Agricultural District
RCI….. Rural Commercial - Industrial District
WPO… Wellhead Protection Overlay District
AHO… Airport Hazard Overlay District
FHA… Flood Hazard Overlay District

**Section 403 Official Zoning Map**: The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chairperson of the County Board of Supervisors and attested by the County Clerk under the following words: "This is to certify that this is the Official Zoning Map of Antelope County, Nebraska referred to in Section 403 of Resolution No.____ of the Antelope County,, Nebraska" together with the date of the adoption of this Resolution. The signed copy of the Official Zoning Map shall be maintained in the office of the Zoning Administrator and/or County Clerk for the use and benefit of the public.

**Section 404 Official Zoning Map Amendment:**
Changes on the Official Zoning Map: If, in accordance with the provisions of this Resolution, changes are made in the zoning district boundaries or other explanatory matter portrayed on the Official Zoning Map, such changes shall be promptly entered on said Official Zoning Map after amendment of same has been approved by the County Board together with an entry on the Official Zoning Map as follows: "On_____ (date), by official action of the County Board of Supervisors, the following change(s) was / were made in the Official Zoning Map: (brief description of the change) , which entry shall be signed by the Chairperson of the County Board of Supervisors and attested by the County Clerk. No changes to this Resolution, which involve matter portrayed on the Official Zoning Map, shall become effective until after such change and entries on such Official Zoning Map have been made. Changes shall be in Accordance with Required Procedures: No change of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in Article 11 of this Resolution.
Penalties for Unauthorized Changes: Any unauthorized change of any kind by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law.
Final Authority of the Official Zoning Map: Regardless of the existence of purported copies of the Official Zoning map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Zoning Administrator and/or County Clerk, shall be the final authority as to the current zoning status of zoning of land within Antelope County, Nebraska.

**Section 405 Official Zoning Map Replacement**: In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the County Board of Supervisors may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. Each new Official Zoning Map shall be identified by the signature of the chairperson of the County Board of Supervisors and attested by the County Clerk under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on (date of adoption of original map) as part of Resolution No. (number of original adoption resolution) of the Antelope County, Nebraska Board of County Supervisors." Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof shall be

preserved together with all available records pertaining to its adoption and amendment.

**Section 406 Rules for Interpretation of Zoning District Boundaries**: Where uncertainty exists as to the boundaries of zoning districts indicated on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the center-lines of roads, streets, or highways shall be construed to follow such center-lines

B. Boundaries indicated as approximately following platted lot, tract or parcel lines shall be construed as following such lines and boundaries indicated as approximately following the corporate limit boundaries of any municipality shall be construed to follow such corporate limit boundaries.

C. Boundaries indicated as approximately following the boundaries of an extra-territorial zoning jurisdiction area adopted by and depicted on the official zoning map of an incorporated municipality shall be construed to follow such extra-territorial jurisdictional area boundaries.

D. Boundaries indicated as following railroad lines shall be construed to follow a line midway between the tracks of the main railroad track.

E. Boundaries indicated as following shore lines of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such shore line and in the event of change in the shore line shall be construed as moving with the shore line Boundaries indicated as following the center line of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such center line.

F. Boundaries indicated as parallel to or extensions of features indicated in Paragraphs A, B and D immediately above shall be so construed.

G. Distances of boundaries not specified on the Official Zoning Map shall be determined by measurement according the scale of the Official Zoning Map.

H. Where a district boundary line divides a lot, tract or parcel, which was under single ownership and control as of the effective date of this Resolution, the Board of Zoning Adjustment may, upon application, permit the extension of either zoning district for either portion of the lot into the remaining portion of the lot.

I. In circumstances not covered by Paragraphs A through H immediately above or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries to best accomplish the objectives of the Intent statements of the zoning districts involved.

**Section 407 Annexation Rule**: Annexation of land within Antelope County, Nebraska to any incorporated municipality within or adjoining the County shall remove such land from the jurisdiction of this Resolution and any legal extension of any extra-territorial zoning jurisdictional area, resulting from such annexation, by any such incorporated municipality shall, upon depiction of the revised extra-territorial jurisdictional area on the official zoning map of such incorporated municipality, remove such land from the jurisdiction of this Resolution.

# Article 5 Zoning Districts

## Section 501 AG - G General Agricultural District

**501.01 Intent** The intent of this district is to, protect, promote and facilitate agricultural crop production, livestock production, which is in balance with the natural environment, and foster other and new forms of agricultural production which are compatible with existing agricultural uses and the environment. The intent is also to encourage soil and water conservation, to prevent contamination of the natural environment within the County and to preserve and protect land best suited for agricultural uses by preventing or regulating the introduction, encroachment and

location of non-farm or ranch residential uses, commercial uses, industrial uses and other non-agricultural uses which would be or could become incompatible with the agricultural character and the occasional generation of dust, odors, noise and other similar events produced by the agricultural uses permitted within this district, and by regulating uses, including confined and intensive animal feeding uses, which could result in contamination of the air, soils and water, or which could negatively impact the use, value and enjoyment of property, or which could be inconsistent with the purposes of this Resolution, as herein set forth, or which could
negatively impact the culture and way of life in Antelope County.

**501.02 Outright Allowable Principal Uses and Structures:** The following uses and structures shall be allowable uses outright. Such uses and structures shall comply with the minimum lot area, setback and other applicable requirements of this Resolution, but such uses and structures shall not require a zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.37 of this Resolution, but excluding any residential dwelling unit(s), whether or not associated with an agricultural use, excluding confined and intensive animal feeding uses, as defined in Sections 303.26 and 303.49 of this Resolution and excluding any associated waste handling facilities.

2. Non-commercial grain, hay and produce storage facilities including non-commercial storage warehouses and plant seed sales and storage facilities.

3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures and flood and erosion control structures. (Irrigation facilities used as part of a waste handling facility shall be subject to the requirements of Sections 501.03 and 501.05 and the setback restrictions set forth in Table 501.05 of this Resolution.)

4. Forestry, tree farming and plant nurseries.

5. Signs, including permanent on-site and outdoor advertising signs (billboards). (All permanent signs along a federal or state highway are subject to the permit requirements of the Nebraska Department of Roads.)

6. Day care and child care uses, when conducted in a residential dwelling unit by the occupants of such residential dwelling unit.

7. Land application of fully composted animal waste, as defined in Section 303.08 of this Resolution, to the surface of the land at agronomic rates, land application of solid manure, as defined in Section 303.88 of this Resolution, to the surface of the land at agronomic rates when there is no stockpiling of such manure on any premises where such manure is to be applied or any site where liquid or slurry animal waste is injected into the soil at agronomic rates.

8. Stockpiling, defined as the placement of a product or material on any premises for any length of time for temporary storage and, in the case of animal waste or manure, the placement, for any length of time, of any animal waste or manure on any parcel of land where such waste is to not immediately applied to the land contained within such parcel or on another parcel, provided such stockpiling shall meet all of the following conditions:

   A. In order to minimize the odor impacts of stockpiled animal waste and manure on properties neighboring such stockpiles, only animal waste and manure which contains at least the following levels of solids, by weight, shall be so stockpiled on a parcel of land for application to such land:

      1. twenty four percent (24%) solids by weight for waste produced by cattle, dairy cattle, sheep or other ruminant animals and horses;

      2. fifty percent (50%) solids by weight for waste produced by swine, poultry and other non-ruminant animals.

   B. The amount of solid manure stockpiled on any parcel shall not exceed the amount of waste which can be applied on such parcel at agronomic rates, as defined in Section 303.05 of this Resolution, for a

calendar year.

C. Any solid manure stockpile shall be located at least three-eighths (3/8) mile from the nearest wall of any church, school or residential dwelling unit not of the same ownership as the parcel on which the stockpile is to be placed or to the nearest boundary of any public use area.

**501.03 Permitted Principal Uses and Structures:** The following uses and structures shall be permitted uses and structures, but shall require the issuance of a zoning permit and/or certificate of zoning compliance:

1. Commercial grain and produce storage uses, including storage warehouses and grain elevators.
2. Public, parochial and private schools.
3. Road maintenance equipment storage sheds, fire stations, public utility substations and utility distribution systems and similar structures and uses.
4. Churches, cemeteries and related uses.
5. Fish hatcheries, wild life management area, game farms and commercial hunting and fishing where such hunting and fishing does not involve the development of lodges or other buildings devoted solely to the support of such hunting and fishing activities, provided that if such uses qualify as a Public Use Area, as defined in Section 303.74 of this Resolution, such uses shall comply with the minimum separation distances from any existing confined or intensive animal feeding use as set forth in Table 505.05 of this Resolution.
6. Child care and day care uses, when conducted in a building other than a residential dwelling unit.
7. Single-family dwellings, including manufactured housing and mobile homes, provided such dwellings comply with all of the following conditions:

A. Such dwellings, if not on the same premises with and of the same ownership as any confined or intensive animal feeding use, as defined in Sections 303.26 and 303.49 of this Resolution or any associated waste handling facility, as defined in Section 303.97 of this Resolution, shall be separated from any existing confined or intensive animal feeding use and associated waste handling facility by the minimum distance set forth in Table 501.05 of this Resolution for the class of confined or intensive animal feeding use and type of associated waste handling facility which such existing confined or intensive feeding use qualifies, unless the developer of such dwelling shall grant an impact easement, as defined in Section 303.47 of this Resolution, to the owner of the existing confined or intensive animal feeding use, in which case any lesser distance shall be permitted. Such minimum separation distance shall be measured from the nearest point of any land actively used or approved under this Resolution as a confined or intensive animal feeding use or associated waste handling facility, including any site where liquid (non-solid) animal waste is applied to the surface of the land, to the nearest wall of such dwelling unit. Minimum separation distances shall not apply to any site where solid manure, as defined in Section 303.88 of this Resolution, is applied on the surface of the land or where liquid (non-solid) animal waste is injected into the soil. (Additional exceptions to the minimum separation requirements shall be as specified in Sections 705, Paragraphs C and D of this Resolution.)

B. Exceptions to the minimum separation distance specified in Table 501.05 of this Resolution may be granted by conditional use where topography, prevailing winds, special types of waste handling facilities or other factor or combination of factors relating to odor, dust or other impacts on neighboring uses is determined by the County Board of Supervisors, after review and recommendation by the Planning Commission, that reduction in said minimum separation distance will not interfere with the normal operations of an existing confined or intensive animal feeding use and any associated waste handling facility.

C. Such dwelling shall be located on a parcel of land with an area not less than that specified in Section 501.07 of this Resolution and such parcel shall have a lot (parcel) width and frontage not less than that specified in Section 501.08 of this Resolution, provided that a larger area may be required if the regulations and standards of Title 124 of the Nebraska Department of Environmental Quality, with regard to soil percolation, slope, depth to groundwater or other requirement of said Title 124 shall require a larger parcel, the requirements of said Title 124 shall govern.

D. The parcel on which such dwelling is located shall front on and have vehicular access to an existing public roadway other than a roadway designated by the Antelope County Board of Supervisors as a

minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance roadway, the developer of such parcel shall be responsible for the cost of improving such roadway to County standards before the County shall agree to accept maintenance by the County of such roadway and further provided that if such parcel is located on any other unimproved roadway, the developer of such parcel shall be responsible for the costs of improving such roadway to County Standards and shall be responsible for the maintenance of such roadway unless the Antelope County Board of Supervisors shall agree to accept such roadway for County maintenance. Antelope County shall not, however, be committed to accepting such roadway even if such roadway is improved to County road standards by the owner(s) of such roadway.

E. The total number of residential dwellings on any parcel of land under the same ownership as of the effective date of this Resolution shall not exceed two (2) additional dwellings over the number of dwellings existing on any parcel as of the effective date of this Resolution unless a conditional use for a residential subdivision is authorized as a conditional use by the County Board of Supervisors in accordance with the procedures and requirements of Article 10 of this Resolution. In order to be subdivided for development of additional residential dwellings, an existing parcel shall be of sufficient area to allow each such residential dwelling to comply with the minimum lot area requirements of Section 501.07 of this Resolution.

F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership with such confined or intensive animal feeding use or associated waste handling facility and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive animal feeding use and associated waste handling facility has been discontinued or an impact easement, as defined in Section 303.47 of this Resolution is executed. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing distance requirements from such confined or intensive animal feeding use or associated waste handling facility as set forth in Table 501.03 of this Resolution and the subsequent sale thereof.

8. Any confined or intensive animal feeding use and any waste handling facility associated with any confined or intensive animal feeding use in existence as of the effective date of this Resolution, may be expanded in the number of animal units served and / or land area occupied by such use, provided that such expansion shall comply with all of the following limitations:

A. Regardless of the requirements of Paragraphs C and D immediately below, any expansion of waste handling facilities associated with confined or intensive animal feeding uses existing as of the effective date of this Resolution or amendment thereto which is mandated and required by the Nebraska Department of Environmental Quality or other State or Federal agency where there is not an increase in the animal unit capacity of the confined or intensive animal feeding use shall not be considered an expansion of said use and any such expansion shall be permitted, provided any such waste handling facilities shall comply with the minimum separation distances from neighboring uses as set forth in Table 501.03 of this Resolution. In the event any such mandated expansion would result in separation distances from neighboring uses which are less than set forth in said Table 501.03 and flood hazard areas, topography or property lines do not allow such waste handling facility to be located in an area which would comply with the separation distances set forth in said Table 501.03 such use shall be considered a conditional use, which upon a finding by the County Board of Supervisors that there is no alternative location for such waste handling facility, shall be approved by the County Board of Supervisors in accordance with the requirements of Section 17 of Legislative Bill 975 of the 99th Legislature, 2nd Session, 2006, known as the Livestock Waste Management Act.

B. Regardless of the requirements of Paragraphs C and D immediately below, any expansion of waste handling facilities associated with confined or intensive animal feeding uses existing as of the effective date of this Resolution or amendment thereto which is mandated and required by the Nebraska Department of Environmental Quality or other State or Federal agency where the existing animal unit capacity is five thousand (5,000) or fewer beef cattle, three thousand (3,000) or fewer dairy cattle shall not be considered an expansion of said use and any such expansion shall be permitted, provided any such waste handling facilities shall comply with the minimum separation distances from neighboring uses as set forth in Table 501.03 of this Resolution. In the event any such

mandated expansion would result in separation distances from neighboring uses which are less than set forth in said Table 501.03 and flood hazard areas, topography or property lines do not allow such waste handling facility to be located in an area which would comply with the separation distances set forth in said Table 501.03 such use shall be considered a conditional use, which upon a finding by the County Board of Supervisors that there is no alternative location for such waste handling facility, shall be approved by the County Board of Supervisors in accordance with the requirements of Section 17 of Legislative Bill 975, known as the Livestock Waste Management Act. Also in accordance with said Livestock Waste Management Act, where expansion of the waste handling facility is permitted or authorized by conditional use under this Subsection B, such animal feeding use shall be permitted to expand in its animal unit capacity in accordance with Subsection C or D immediately below or in accordance with the following limitations, whichever is greater, provided that expansion under subparagraphs 1) through 4) immediately below shall comply with the minimum separation distances from neighboring uses as set forth in Table 501.03 of this Resolution:

1. Five hundred (500) additional beef cattle if the confined or intensive animal feeding use has an existing animal capacity of three thousand (3,000) or fewer head of cattle,

2. Three hundred (300) additional beef cattle if the confined or intensive animal feeding use has an existing animal capacity of more than three thousand (3,000), but no more than five thousand (5,000) head of cattle,

3. Three hundred fifty (350) additional dairy cattle if the confined or intensive animal feeding use has an existing animal capacity of two thousand (2,000) or fewer head of dairy cattle,

4. Two hundred ten (210) additional dairy cattle if the confined or intensive animal feeding use has an existing capacity of more than two thousand (2,000), but no more than three thousand five hundred (3,500) head of dairy cattle.

C. If the animal feeding use and / or waste handling facility associated with a confined or intensive animal feeding use complies with the minimum separation distances from neighboring uses, as set forth in Table 501.03 of this Resolution, such use may be expanded, provided such expansion shall comply with all requirements of Paragraph D, Parts 3) through 8) immediately below and such expansion shall not result in separation distances from any lot of record less than twenty (20) acres in area, church, school, public use area or dwelling unit not of the same premises with and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth in Table 501.03 for the class of animal feeding use and category of waste handling facility which the animal feeding use would qualify after expansion unless the owner(s) of any such church, school, public use area, dwelling unit or lot of record less than twenty (20) acres in area shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

D. If the confined or intensive animal feeding use or associated waste handling facility is located closer than the minimum separation distances from neighboring uses, as set forth Table 501.03 of this Resolution for the class of animal feeding use and category of waste handling facility for which the existing use qualifies, such use may be expanded, provided any expansion complies with all of the following restrictions:

1. Such feeding use or any associated waste handling facility may not expanded closer to any lot of record less than twenty (20) acres in area, church, school, public use area or dwelling unit not on the same premises and of the same ownership as the animal feeding use and associated waste handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 501.03 unless the owner(s) of any such church, school, public use area, dwelling unit or lot of record less than twenty (20) acres in area shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

2. Expansion in any other direction shall be permitted, provided that such expansion shall not result in separation distances to any lot of record less than twenty (20) acres in area, church, school, public use area or dwelling unit not on the same premises with and of the same ownership as the animal feeding use and associated waste handling facility being less than set forth in said Table 501.03 for the class of animal feeding use and category of waste handling facility for which the use would qualify after

such expansion, unless the owner(s) of any such church, school, public use area, dwelling unit or lot of record less than twenty (20) acres in area shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

3. Any physical expansion of the animal feeding use or associated waste handling facility shall be immediately contiguous with (abut) the existing feeding use or associated waste handling facilities.

4. Such expansion may occur in phases over time, but such expansion(s) shall be limited to a total of five hundred (500) animal units more than the one time animal unit capacity existing as of the effective date of this Resolution. Expansion beyond this limit may only be authorized as a conditional use in accordance with the procedures and requirements of Section 501.05 and Article 10 of this Resolution

5. No minimum separation distance shall be applicable to any site where any fully composted animal waste or solid manure, as defined in Section 303.88 of this Resolution, is applied at agronomic rates to the surface of the land without stockpiling of such waste or manure on any premises where such manure is applied to any site where liquid or slurry animal waste is injected into the soil at agronomic rates.

6. Additional animals shall not be added to the use until any new permit required by the Nebraska Department of Environmental Quality or its successor agency shall have been issued and such use shall be operated in a manner consistent with the requirements of any such permit and the requirements of this Resolution.

7. Exceptions to the minimum separation distance specified in Table 501.03 may be authorized by conditional use where special types of waste handling facilities, special provisions for odor control, special provisions for dust control, topography. Prevailing winds or other factor or combination of factors exist and it is determined by the County Board of Supervisors, after review and recommendation by the Planning Commission, that reduction in said minimum separation distance will not unreasonably interfere with the use and enjoyment of neighboring properties or reduce the value of such neighboring properties.

8. For purposes of this regulation, a dwelling unit not of the same ownership and not on the same premises as the animal feeding use or associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable residential dwelling and, if vacant and not habitable, would not require more cost than the present assessed valuation of the dwelling structure (excluding the assessed valuation of the land) to make such dwelling habitable.

9) Development of new Class I confined and intensive animal feeding uses, as defined in Section 303.26 and 303.49 of this Resolution and associated waste handling facilities, provided all such uses shall comply with all of the following requirements:

A. Such feeding use or any associated waste handling facility shall be separated from any church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use by at least the minimum distances specified in Table 501.03 of this Resolution, unless the owner of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

B. No minimum separation distance shall be applicable to any site where any fully composted animal waste or solid manure, as defined in Section 303.88 of this Resolution, is applied at agronomic rates to the surface of the land without stockpiling of such waste or manure on any premises where such manure is to be applied or any site where liquid or slurry animal waste is injected into the soil at agronomic rates.

C. Such use shall not be established until any permit required by the Nebraska Department of

Environmental Quality or its successor agency shall have been issued and such use shall be operated in a manner consistent with the requirements of any such permit and the requirements of this Resolution.

D. Exceptions to the minimum separation requirements, as set forth in said Table 501.03, may be authorized by conditional use where special types of animal feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Supervisors, after review and recommendation by the Planning Commission, that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.

E. For purposes of this regulation, a dwelling unit not of the same ownership and not on the same premises as the animal feeding use or associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable residential dwelling and, if vacant and not habitable, would not require more cost than the present assessed valuation of the dwelling structure (excluding the valuation of the land) to make such dwelling habitable.

## TABLE 501.03

### MINIMUM SEPARATION DISTANCES BETWEEN CONFINED AND INTENSIVE ANIMAL FEEDING USES AND WASTE HANDLING FACILITIES AND ABUTTING AND NEIGHBORING USES

| **CONFINED AND INTENSIVE FEEDING USES AND WASTE HANDLING FACILITIES by Category and by Class of Use Served:** | **MINIMUM DISTANCE FROM A WASTE HANDLING FACILITY TO A NEIGHBORING DWELLING UNIT, CHURCH, SCHOOL, OR PUBLIC USE AREA*** | |
|---|---|---|
| | **North / South**** | **East / West**** |
| **Category A (Aerobic) waste handling facility serving a:** | | |
| Class I confined animal feeding use (300 - 1,000 animal units) | 0.5 mile | 0.25 mile |
| Class II confined animal feeding use (1,001 - 2,500 animal units) | 0.75 mile | 0.5 mile |
| Class III confined animal feeding use (2,501 - 5,000 animal units) | 1.0 mile | 0.75 mile |
| Class IV confined animal feeding use (5,001 - 10,000 animal units) | 1.25 miles | 1.0 mile |
| Class V confined animal feeding use (10,001 or more animal units) | 1.5 miles | 1.0 mile |
| **Category ANC (Covered Anaerobic -Deep Pit) waste handling facility serving a:** | | |
| Class I confined animal feeding use (300 - 1,000 animal units) | 0.5 mile | 0.25 mile |
| Class II confined animal feeding use (1,001 - 2,500 animal units) | 0.75 mile | 0.5 mile |
| Class III confined animal feeding use (2,501 - 5,000 animal units) | 1.0 mile | 0.75 mile |
| Class IV confined animal feeding use (5,001 - 10,000 animal units) | 1.25 miles | 1.0 mile |
| Class V confined animal feeding use (10,001 or more animal units) | 1.5 miles | 1.25 miles |
| **Category FAC (Facultative) waste handling facility serving a:** | | |
| Class I confined animal feeding use (300 - 1,000 animal units) | 0.75 mile | 0.5 mile |
| Class II confined animal feeding use (1,001 - 2,500 animal units) | 1.0 mile | 0.75 mile |
| Class III confined animal feeding use (2,501 - 5,000 animal units) | 1.25 miles | 1.0 mile |
| Class IV confined animal feeding use (5,001 - 10,000 animal units) | 1.5 miles | 1.25 miles |
| Class V confined animal feeding use (10,001 or more animal units) | 2.0 miles | 1.5 miles |
| **Category AN (Anaerobic) waste handling facility serving a:** | | |
| Class I confined animal feeding use (300 - 1,000 animal units) | 0.5 mile | 0.33 mile |
| Class II confined animal feeding use (1,001 - 2,500 animal units) | 0.75 mile | 0.5 mile |
| Class III confined animal feeding use (2,501 - 5,000 animal units) | 1.0 mile | 0.75 mile |
| Class IV confined animal feeding use (5,001 - 10,000 animal units) | 1.5 miles | 1.0 mile |
| Class V confined animal feeding use (10,001 or more animal units) | 3.0 miles | 1.5 miles |
| **Category AN (Anaerobic) waste handling facility *** serving a:** | | |
| Class I intensive animal feeding use (300 - 1,000 animal units) | 0.5 mile | 0.33 mile |
| Class II intensive animal feeding use (1,001 - 2,500 animal units) | 0.75 mile | 0.5 mile |
| Class III intensive animal feeding use (2,501 - 5,000 animal units) | 1.0 mile | 0.75 mile |
| Class IV intensive animal feeding use (5,001 - 10,000 animal units) | 1.5 miles | 1.0 mile |
| Class V intensive animal feeding use (10,001 or more animal units) | 3.0 miles | 1.5 miles |
| **Category A (Aerobic) serving a:** | | |
| Municipal or other waste handling facility | 0.5 mile | 0.5 mile |

Footnotes:

* Measurement of this distance shall be from the point of the confined or intensive animal feeding use or waste handling facility associated including any site where raw or partially digested liquid or slurry waste is applied to the surface of the land, nearest to a church, school, public use area or dwelling not on the same premises and not of the same ownership as the waste handling facility, to the nearest wall of such dwelling,

church, school, or nearest boundary of a public use area, provided that if one or more impact easement(s), as defined in Section 303.47 of this Resolution, shall have been granted to the owner of the waste handling facility use, in which case any church, school, dwelling unit or public use area associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Minimum separation distances herein specified shall not apply to sites where solid manure, as defined in Section 303.88 of this Resolution, is spread on the surface of the land without stockpiling of such manure on the premises prior to application at agronomic rates or where liquid or slurry waste is injected into the soil at agronomic rates. A dwelling unit not of the same ownership and on the same premises as the waste handling facility use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than the present assessed valuation of the dwelling structure (excluding the valuation of the land) to make such dwelling habitable.

** Separation distances are based upon compass directions of prevailing winds and shall be applied as defined in Section 303.73 of this Resolution.

*** By definition in this Resolution, all waste handling facilities serving intensive animal feeding uses, shall be categorized as AN (Anaerobic) unless a conditional use exception is authorized in accordance with the requirements and procedures of this Resolution where it is clearly demonstrated that a different category of waste handing facility is appropriate.

**501.04 Permitted Accessory Uses and Structures**: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building shall require the issuance of a zoning permit and / or certificate of zoning compliance.

2. Home occupations, in accordance with Section 608 of this Resolution. When established in accordance with Section 608 of this Resolution, issuance of a zoning permit or certificate of zoning compliance shall not be required.

3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

**501.05 Conditional Uses**: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Supervisors may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG - G, General Agricultural District:

1. Expansion of Class I, II, III, IV and V confined and intensive animal feeding uses and associated waste handling facilities existing as of the effective date of this Resolution beyond the limits set forth in Section 501.03, Subsection 9 of this Resolution and development of new Class II, III, IV and V confined and intensive animal feeding uses, as defined in Sections 303.26 and 303.49 of this Resolution and associated waste handling facilities, as defined in Section 303.97 of this Resolution, provided that such uses shall meet or exceed all of the following requirements:

   A. Such confined or intensive animal feeding uses shall meet or exceed the separation distances set forth in Table 501.03 of this Resolution, for the applicable class of the confined or intensive animal feeding use unless the owner of any neighboring church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution, in which case any lesser distance or that distance agreed upon in such easement may be applied.

   B. Any waste handling facility use, as defined in Section 303.97 of this Resolution, associated with any confined or intensive animal feeding use shall also meet or exceed the separation distances set forth in Table 501.03 of this Resolution and shall meet or exceed all requirements for waste handling facility uses, as set forth in Subsection 2 of this Section, unless the owner of any neighboring church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution, in which case any lesser distance or that distance agreed upon in such easement may be applied. No minimum separation distance shall be applicable to any site where any fully composted animal waste or solid

manure, as defined in Section 303.88 of this Resolution, is applied at agronomic rates to the surface of the land without stockpiling of such waste or manure on any premises where such manure is to be applied or any site where liquid or slurry animal waste is injected into the soil at agronomic rates.

C. For all classes of confined and intensive animal feeding uses, regardless of size or type, all run-off, control ponds and basins, methods of waste disposal and related waste handling facilities and operational activities shall be engineered and developed to minimize air and ground and surface water pollution and shall be constructed and operated in accordance with the requirements established by the County Board of Supervisors. In understanding of and determining the appropriateness of any such proposed use, the Planning Commission and County Board may request review and recommendations by the applicable Natural Resource District, the Natural Resources Conservation Service, the Nebraska Department of Environmental Quality, the Cooperative Extension Service or their successor agencies, geologists, soil scientists, agronomist, biological engineers, civil engineers and any other entity with environmental protection expertise. The Planning Commission and / or County Board of Supervisors may elect to agree with the engineering and operating requirements of the Nebraska Department of Environmental Quality as may be specified in any permit required to be approved by such Department of Environmental Quality.

D Any confined or intensive animal feeding use or associated waste handling facility shall be located only in areas of the County which are not subject to flooding on a one hundred (100) year basis, and only in areas where it is determined by the County Board of Supervisors that the geology, soil permeability, depth to water table, drainage patterns and other natural environment characteristics will minimize the potential for surface and ground water contamination. In making a determination regarding the appropriateness of the site, the Planning Commission and County Board of Supervisors may utilize the advice and recommendations of the Natural Resource District, the Natural Resources Conservation Service, the Nebraska Department of Environmental Quality, the Cooperative Extension Service or their successor agencies, or any geologist, soil scientists or other persons or entities with applicable environmental protection expertise.

E. Confined or intensive animal feeding uses and any associated waste handling facilities shall not be located closer than one thousand (1,000) feet to any public well and not closer than one-hundred (100) feet to any residential domestic well nor shall any confined or intensive animal feeding use or waste handling facility use be located in any legally established wellhead protection area.

F. Any waste handling facility use which proposes to dispose of any waste through application of said waste on crop or other land shall indicate that the owners of such waste handling facility use shall have, either through ownership or lease of suitable terms, an adequate amount of such land to permit application of such waste based on agronomic rates, as defined in Section 303.05 of this Resolution, and avoid any build-up of nutrients or chemicals which can damage the production capacity of the land, result in runoff of such waste or chemicals into abutting property or into any stream, wetland, or drainage way. The County Board of Supervisors, in authorizing any waste handling facility use, may utilize recommendations of the Department of Environmental Quality, the Natural Resources Conservation Service, the Cooperative Extension Service and any other crop production experts in determining the maximum amount of waste to be placed on each acre of land to be used for such purposes, the timing of such waste placements, and the total amount of land necessary to distribute all waste, and shall establish such maximum per acre application limits and such minimum total land area.

G. The County Board of Supervisors may require the owner / operator of such waste handling facility use to conduct, or allow to be conducted by a third party at the owner's / operator's expense, annual soil sampling and testing for build up of nutrients, including nitrate, ammonia and phosphorus, on all locations where waste is to be placed and may require the submission of the results of such soil sampling and testing to the County Board of Supervisors. Build up of nitrogen levels shall result in a requirement for reduced application of nutrients the following year and build up of phosphorus levels to greater than one-hundred fifty (150) parts per million shall result in a requirement to cease application of nutrients containing phosphorus until such time as the level of phosphorus is below one hundred (100) parts per million.

H. All locations, which are used by any authorized confined or intensive animal feeding use for stockpiling or composting of animal waste and/or solid manure for distribution to other sites for land application, or composting of solid livestock manure shall be subject to authorization by the County Board of Supervisors as

part of the authorization of a waste handling facility use and such authorization may include the establishment of maximum amounts of waste which may be stockpiled, the methods and operation of any waste composting facility, and facilities to collect and properly digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site, provided that any composting shall be aerobic composting and the maximum amount of waste which may be stockpiled shall not exceed the waste produced in twelve (12) consecutive months by the animal feeding use the stockpiling or composting facility is serving.

I. Each confined or intensive animal feeding use shall submit a plan for the proper and timely disposal of dead animals. Such plan shall provide for disposal of dead animals within thirty six (36) hours of knowledge of death. Such plan shall also comply with any requirements of law or regulations of the State of Nebraska and shall be subject to the approval of the County Board of Supervisors who may establish additional requirements regarding the proper and timely disposal of dead animals. At a minimum such plan shall comply with the following restrictions:

1) dead animals shall not be removed from the premises where they died unless disposed of at a licensed rendering plant;

2) on-site burial shall result in the carcasses being buried at least four (4) feet below the surface of the ground or incineration in a State approved incinerator;

3) Composting in accordance with the procedures of the American Veterinary Medical Association, Volume 210, No. 8.

The proposed use of a separate entity or company to collect and dispose of dead animals shall require written verification of the availability of and commitment to provide such services by the separate entity or company and written notice to the County immediately upon the cessation of such services by said entity or company and an indication of how dead animal disposal will occur in a timely manner.

J. The owner / operator of any waste handling facility use authorized by the County Board of Supervisors shall agree to permit access to the waste handling facilities to allow inspection of the premises by the Zoning Administrator or other person(s) designated by the County Board of Supervisors to assure compliance with all conditions established by the County Board of Supervisors in authorizing such use. Such inspections shall be conducted on a written complaint basis or as a result of information gathered through his / her own investigation and shall first be investigated by the Zoning Administrator who shall document compliance or lack of compliance with all conditions of use established by the County Board of Supervisors in authorizing such use. The Zoning Administrator shall contact the owner / operator of the confined or intensive feeding use to be inspected prior to such inspection and the owner / operator shall agree to allow such inspection within twenty four (24) hours of such request. The Zoning Administrator shall follow all bio-hazard procedures applicable to the site being inspected when conducting such inspections. Such inspections shall be considered a general function of the Zoning Administrator and the cost of such inspection of such complaints shall be considered an administrative expense of the County and shall not be assessed against the owner(s) of a waste handling facility use.

Upon a finding by the Zoning Administrator that a waste handling facility use is not in compliance with the approved conditions of use, he/she shall report same to the County Board of Supervisors and shall notify the owner / operator of the waste handling facility use involved, in writing, that the use is in violation of the approved conditions of use and shall state the specific violation(s). The owner / operator of such uses shall have thirty (30) calendar days to correct such violation. If the violation is not corrected within such time period, as verified through additional inspection(s) by the Zoning Administrator, the Zoning Administrator shall initiate all actions authorized under this Resolution to require compliance with the conditions of use approved by the County Board of Supervisors, including the possible requirements of reducing the waste produced by reduction in the activities generating such waste or in the case of confined or intensive animal feeding uses, reducing the number of animal units on the premises or removal of all animals until such violation(s) have been corrected.

A condition of authorization of any waste handling facility use shall be that the owner(s) / operator of each such use authorized under this Resolution shall agree to comply with any written order of the County Board of

Supervisors, up to and including reduction in the activities generating such waste or in the case of confined or intensive animal feeding uses, reduction in the number of animals being feed at the location, to correct any lack of compliance with any conditions of the original or subsequent
conditional use authorization detected in any on-site inspection within Thirty (30) calendar days of the date of the written order for compliance issued by the Zoning Administrator. In the event the owner / operator of a waste handling facility use involved in the inspection can present reasonable cause to the County Board of Supervisors that additional time to comply with any order of the Zoning Administrator is needed, the County Board of Supervisors may authorize an extension of time up to, but not exceeding Sixty (60) days. Failure to comply with the order for compliance within the time specified shall result in a further order to cease all activities which result in the generation of waste or in the case of confined or intensive animal feeding uses, the removal of all animals from the premises until such time as compliance with these regulations can be achieved.

The provisions for inspections of waste handling facilities shall apply to waste handling facility uses which were in existence as of the effective date of this Resolution to the extent of determining compliance with the limitations on unauthorized expansion of such facilities, but the provisions for inspections and compliance shall fully apply to any waste handling facility uses which were in existence as of the effective date of this Resolution, if any such use has been expanded in its capacity beyond that which existed as of the effective date of this and a conditional use for such expansion has been authorized by the County Board of Supervisors.

K. Each waste handling facility use shall be engineered, constructed and operated utilizing best management practices to minimize odor, dust, flies, vermin and other problems and hazards to avoid environmental contamination and / or negative impacts on adjoining and neighboring properties.

L. In authorizing any waste handling facility use, the County Board of Supervisors may attach any additional requirement or condition of design or operation of such use, which may be in excess of any requirement or condition of the Nebraska Department of Environmental Quality or the United States Department of Environmental Protection, which will minimize the potential for environmental degradation and/or negative impacts on adjoining and neighboring properties, provided such requirement or condition is based upon scientific fact or best available data, which may include recommendations by the Natural Resource District, the Natural Resources Conservation Service, geologists, biological engineers, civil engineers and any other entities with applicable environmental protection expertise and not based upon heresy, unfounded public remonstrance or other reason not based on reasonable finding or fact.

M. In authorizing any waste handling facility use, the County Board of Supervisors may require the installation of groundwater monitoring wells at recommended locations, require that sampling from such well(s) occur on a particular schedule, that sampling of the well(s) be conducted by an independent certified party, that independent laboratory analysis of the samples be conducted, and that the results of the laboratory analysis be provided to the County Board of Supervisors in accordance with the sampling schedule, all at the expense of the owner of the waste handling facility use. When groundwater monitoring wells are required, a minimum of three such wells shall be required for each use. One (1) of the three (3) monitoring wells shall be located up gradient of the ground water flow direction, with the remaining wells located down gradient. Each monitoring well shall be sampled once in the spring and once in the fall, with each sample measuring depth to water before purging, and each sample shall be analyzed for levels of nitrate, chloride, ammonia and phosphorus with analysis results submitted to the County Zoning Administrator. In establishing any requirement for monitoring wells, the County Board of Supervisors shall take into account any such wells required by the Nebraska Department of Environmental Quality in its permitting process. In making a determination of the appropriateness of monitoring wells, the County Board of Supervisors may request the advice of the applicable Natural Resources District, the Department of Environmental Quality and/or other qualified entity with groundwater contamination expertise,

N. Any confined or intensive animal feeding use or associated waste handling facility use shall generally be located only in areas of the County where the impact(s) on the public infrastructure and services, particularly roads and bridges, will not result in an undue cost burden to the taxpayers of the County in providing such infrastructure and services. In making a determination regarding the appropriateness of the site, if the County Board of Supervisors determines that the anticipated impacts will unduly impact the present level of services, road maintenance or bridge capacities and maintenance, the Board may

require financial participation by the owner of the animal feeding use in the improvement and/or maintenance of said infrastructure.

O. Where any Federal and/or State of Nebraska permit for facilities associated with a waste handling facility use is required, such permit(s) shall be approved by the appropriate Federal or State agency and all facilities required by such Federal or State agency and all facilities and safeguards required by the County Board of Supervisors shall be in place and operable prior to the generation of waste or in the case of confined or intensive animal feeding uses, prior to the introduction of any animals to the premises. Any such Federal or State permit shall not need to have been issued prior to authorization of a conditional use, but shall be a condition of such authorization.

P. Exceptions to the minimum separation distance requirements set forth in Table 501.05 of this Resolution may be approved as part of granting of a conditional use where special types of waste handling facility uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of other factors exist and it is determined by the County Board of Supervisors that reduction of this minimum spacing distance will not unreasonably interfere with the value, use and enjoyment of adjoining and neighboring properties.

Q. Any conditional use application for a waste handling facility use which is determined by the County Board of Supervisors to be in compliance with all requirements of this Section and for which there is agreement by the owner of such use to comply with any additional requirement established by the Board of Supervisors, as set forth in Subsection L immediately above, shall be authorized by the County Board of Supervisors.

2. Application of liquid (non-solid) animal waste from confined or intensive animal feeding uses or associated waste handling facility uses located outside the boundaries of Antelope County, Nebraska, to the surface of land within Antelope County, subject to the following limitations:

1. Surface application of liquid waste shall require that the site(s) for such application shall be separated from any residential dwelling, church, school or public use area in Antelope County or any adjoining county by the minimum distance specified in Table 501.05 of this Resolution for the class of use or type of waste handling facility for which the use qualifies, unless the owner of any neighboring church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.44 of this Resolution, in which case any lesser distance or that distance agreed upon in such easement may be applied.

B. Any animal waste applied shall be applied at agronomic rates, as defined in Section 303.05 of this Resolution, and avoid any build-up of nutrients or chemicals which can damage the production capacity of the land, result in runoff of such waste or chemicals into abutting property or into any stream, wetland, or drainage way or in any way contaminate the environment. The County Board of Supervisors, in authorizing any waste handling facility use, may utilize recommendations of the Department of Environmental Quality, the Natural Resources Conservation Service, the Cooperative Extension Service and any other crop production experts in determining the maximum amount of waste to be placed on each acre of land to be used for such purposes, the timing of such waste placements, and the total amount of land necessary to distribute all waste, and shall establish such maximum per acre application limits and such minimum total land area.

The County Board of Supervisors may require the owner / operator of such waste handling facility use from which waste is applied to land in Antelope County, to conduct, or allow to be conducted by a third party at the owner's /operator's expense, annual soil sampling and testing for build-up of nutrients, including nitrogen, ammonia and phosphorus, on all locations where waste is to be placed and may require the submission of the results of such soil sampling and testing to the County Board of Supervisors. Build-up of nitrogen levels shall result in a requirement for reduced application of nutrients the following year and build-up of phosphorus levels to greater than one-hundred fifty (150) parts per million shall result in a requirement to cease application of nutrients containing phosphorus until such time as the level of phosphorus is below one hundred (100) parts per million.

3. General welding and agricultural equipment repair businesses, automobile repair and body shop businesses and other commercial business and industrial uses determined by the Board of Supervisors to be reasonably compatible with the surrounding land uses with regard to traffic generation, noise, odors, dust, vibrations and potential air, soil or water pollution or explosion or other hazard.

4. Livestock auction barns and yards.

5. Crop dusting businesses and related aircraft landing strips and airports.

6. Commercial fuel and fertilizer bulk plants, provided that bulk storage facilities for storage of fuel, anhydrous ammonia fertilizer or other explosive or poisonous gas materials shall be separated from any neighboring residential dwelling unit, school, church or public use area by at least a distance as specified below for the quantity of such material stored on a per tank basis.

    1. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of thirty thousand (30,000) gallons or less the minimum separation shall be five hundred (500) feet.

    2. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of more than thirty thousand (30,000) gallons, but less than one hundred thousand (100,000) gallons, the minimum separation shall be seven hundred fifty (750) feet.

    3. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of one hundred thousand (100,000) gallons or more the minimum separation shall be one thousand (1,000) feet.

    Measurement of the minimum separation distance shall be from the nearest wall of a neighboring residential dwelling unit, school or church and from the nearest boundary of any public use area to the nearest bulk storage tank.

    In any instance where the owner(s) of any neighboring residential dwelling unit, school, church, or public use area shall grant the owner of a bulk fuel or bulk anhydrous ammonia or other explosive or poisonous gas material storage an impact easement, as defined in Section 303.44 of this Resolution, the minimum separation distance shall be as specified in such impact easement, but not less than three hundred (300) feet.

    The above stated separation distances shall not apply to bulk storage of dry or liquid fertilizers.

7. Solid waste landfills, recycling facilities and transfer stations when in compliance with all requirements established by the Board of Supervisors in granting a conditional use and in compliance with all permit requirements of the Nebraska Department of Environmental Quality.

8. Salvage (junk) yards, provided such uses are separated from any existing dwelling unit, church, school, public use area or cemetery by a distance of not less than one-half (1/2) mile.

9. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses, including bed and breakfast uses and motels.

10. Mineral extraction and sand and gravel extraction facilities and operations.

11. Public service facilities not allowable as permitted principal uses in Section 501.03 of this Resolution.

12. Residential subdivisions in excess of the two (2) additional dwellings per parcel in existence as of the effective date of this Resolution limitation. (Refer to Section 501.03, Subsection 8, Paragraph E)

13. Radio, television, microwave and other types of erected towers, including wind generation towers, provided such towers comply with any applicable airport hazard height limitations and further provided that any such tower is set back from the right-of-way line of any public roadway or from any neighboring church, school, public use area or residential dwelling unit by a distance equal to or exceeding the height of such tower.

14. Other uses and structures determined by the Board of Supervisors to be comparable with the above stated conditional uses and consistent with the Intent statement of this zoning district.

**501.06 Prohibited Uses and Structures**: Other uses and structures which are not allowed in this District as allowable, permitted, accessory or conditional uses shall be prohibited.

**501.07 Minimum Lot Area Requirements**: The following shall be the minimum lot area requirements for uses located within this district:

1. The minimum lot area for a single-family dwelling unit, manufactured home or mobile home shall be three (3) acres, provided that a larger lot may be required if the standards and regulations of Title 124 of the Nebraska Department of Environmental Quality with regard to soil percolation rates, slope, depth to water table or other requirement of said Title 124 requires the use of a lagoon or other type of waste disposal facility, in which case the lot shall be sized to comply with the requirements of said Title 124.

2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivisions, shall be the lot area appropriate for such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than three (3) acres in area.

**501.08 Minimum Lot Width and Frontage**: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. The minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than one hundred fifty (150) feet and a minimum frontage less than sixty six (66) feet.

**501.09 Minimum Building Setback Requirements**: The following shall be the minimum yard requirements for uses located within this district:

Front Setback - Eighty three (83) feet, measured from the center line of a County Road, provided that for lots which front on a Federal or State highway the front setback shall be fifty (50) feet from the right-of-way line of such highway.

Side Setback - Ten (10) feet

Rear Setback - Thirty (30) feet

**501.09 Maximum Height of Structures:** No limitation, except for buildings designed for human habitation which shall be limited to a height of forty (40) feet.

## Section 502 AG - R River Corridor Agricultural District

**502.01 Intent**: The intent of this district is to protect the environmentally sensitive lands along the Elkhorn River and the East Branch of Verdigris Creek which is north of U.S. Highway 20 and to preserve the scenic quality and wetlands of these surface water corridors by encouraging the types of agricultural and other uses which are compatible with protection of these surface water resources and to allow the development of non-agricultural land uses which are compatible with maintaining the water quality and scenic quality of these corridors and which are compatible with the agricultural uses permitted within and near these corridors.

**502.02 Outright Allowable Principal Uses and Structures**: The following uses and structures shall

be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.38 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use and excluding confined and intensive animal feeding uses, as defined in Sections 303.26 and 303.49 of this Resolution and any associated waste handling facilities, as defined in Section 303.97 of this Resolution.
2. Grain and produce storage including non-commercial storage warehouses, plant seed sales and similar storage facilities.
3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities. (Irrigation facilities used as part of a waste handling facility shall be subject to the requirements of Sections 501.03 and 501.05 and the setback restrictions set forth in Table 501.03 of this Resolution.
4. Forestry, tree farms and plant nurseries.
5. Day care and child care uses, when conducted within a residential dwelling.
6. Signs, including permanent on-site and outdoor advertising signs. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).

**502.03 Permitted Principal Uses and Structures**: The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and / or certificate of zoning compliance:

1. Public service facilities and buildings, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.

2. Churches, cemeteries and related uses.

3. Fish hatcheries, game farms and commercial hunting and fishing where such hunting and fishing does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.

4. Day care and child care uses, when conducted in a building other than a residential dwelling.

5. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following conditions:

   A. Such dwellings, if not on the same premises with and of the same ownership as any confined or intensive animal feeding use, as defined in Sections 303.26 and 303.49 of this Resolution or any associated waste handling facility, as defined in Section 303.97 of this Resolution, shall be separated from any existing confined or intensive animal feeding use and associated waste handling facility by the minimum distance set forth in Table 501.03 of this Resolution for the class of confined or intensive animal feeding use and type of associated waste handling facility which such existing confined or intensive feeding use qualifies, unless the developer of such dwelling shall grant an impact easement, as defined in Section 303.47 of this Resolution, to the owner of the existing confined or intensive animal feeding use, in which case any lesser distance shall be permitted. Such minimum separation distance shall be measured from the nearest point of any land actively used or approved under this Resolution as a confined or intensive animal feeding use or associated waste handling facility, including any site where liquid (non-solid) animal waste is applied to the surface of the land, to the nearest wall of such dwelling unit. Minimum separation distances shall not apply to any site where solid manure, as defined in Section 303.88 of this Resolution, is applied on the surface of the land or where liquid (non-solid) animal waste is injected into the soil. (Additional exceptions to the minimum separation requirements shall be as specified in Sections 705, Paragraphs C and D of this Resolution.)

   2. Exceptions to the minimum distance separation requirements as set forth in Subsection A immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Supervisors that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or

intensive animal feeding use.

C. Such dwelling shall be located on a parcel of land with an area not less than that specified in Section 502.07 of this Resolution and such parcel shall have a lot (parcel) width and frontage not less than that specified in Section 502.08 of this Resolution, provided that a larger area may be required if the regulations and standards of Title 124 of the Nebraska Department of Environmental Quality, with regard to soil percolation, slope, depth to groundwater or other requirement of said Title 124 shall require a larger parcel, the requirements of said Title 124 shall govern.

D. The parcel on which such dwelling is located shall front on and have vehicular access to an existing public roadway other than a roadway designated by the Antelope County Board of Supervisors as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance roadway, the developer of such parcel shall be responsible for the cost of improving such roadway to County standards before the County shall agree to accept maintenance by the County of such roadway and further provided that if such parcel is located on any other unimproved roadway, the developer of such parcel shall be responsible for the costs of improving such roadway to County Standards and shall be responsible for the maintenance of such roadway unless the Antelope County Board of Supervisors shall agree to accept such roadway for County maintenance. Antelope County shall not, however, be committed to accepting such roadway even if such roadway is improved to County road standards by the owner(s) of such roadway.

E. The total number of dwellings on any parcel of land under the same ownership as of the effective date of this Resolution shall not exceed more than two (2) additional dwellings over the number of dwelling(s) existing on said parcel as of the effective date of this Resolution, unless a conditional use for a residential subdivision has be authorized by the County Board of Supervisors in accordance with the requirements of this Resolution. In order to be subdivided for development of additional residential dwellings, an existing parcel shall be of sufficient area to allow each such residential dwelling to comply with the minimum lot area requirements of Section 501.07 of this Resolution.

F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership with such confined or intensive animal feeding use or associated waste handling facility and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive animal feeding use and associated waste handling facility has been discontinued or an impact easement, as defined in Section 303.47 of this Resolution is executed. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing distance requirements from such confined or intensive animal feeding use or associated waste handling facility as set forth in Table 501.03 of this Resolution and the subsequent sale thereof.

6. Any confined or intensive animal feeding use and any associated waste handling facility use in existence as of the effective date of this Resolution, may be expanded in the number of animal units served and / or land area occupied by such use, provided that such expansion shall comply with all of the following limitations:

A. Such expansion shall not decrease the distance from the existing confined or intensive animal feeding use or associated waste handling facility to the nearest bank of the Elkhorn River or the East Branch of Verdigris Creek north of U.S. Highway 20, along which this zoning district is applied.

B. If animal feeding use and / or the waste handling facility, associated with a confined or intensive animal feeding use complies with the minimum separation distances from neighboring uses, as set forth in Table 501.03 of this Resolution, such use may be expanded in any direction provided that such expansion complies with all requirements of Paragraph C, Sub-paragraphs 3) through 8) immediately below and such expansion shall not result in separation distances to any church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth in said Table 501.03 for the class of animal feeding use and category of the waste handling facility for which the use would qualify after such expansion, unless the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

C. If the confined or intensive animal feeding use or associated waste handling facility is located closer than the minimum separation distances from neighboring uses, as set forth in Table 501.03 of this Resolution for the class of animal feeding use and category of waste handling facility, such use may be expanded, provided any expansion complies with all of the following restrictions:

1. Such feeding use or any associated waste handling facility may not be expanded closer to any church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use or associated waste handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 501.03, unless the owner of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

2. Expansion in any other direction shall be permitted, provided that such expansion shall not result in separation distance to any other church, school, public use area or dwelling unit not on the same premises and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth said Table 501.03 for the class of animal feeding use and category of the waste handling facility for which the use would qualify after such expansion, unless the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and associated waste handling facility an impact easement, as defined in Section 303.47 of this Resolution.

3. Any physical expansion of the animal feeding use or associated waste handling facility shall be immediately contiguous (abut) with the existing feeding use or associated waste handling facilities.

4. Such expansion may in phases over time, but such expansion(s) shall be limited to a total of five hundred (500) animal units more than the one-time animal unit capacity which existed as of the effective date of this Resolution. Expansion beyond this limit may only be authorized as a conditional use in accordance with the procedures and requirements of this Article 10 of this Resolution.

5. No minimum separation distance shall be applicable to any site where any fully composted animal waste or solid manure, as defined in Section 303.88 of this Resolution, is applied at agronomic rates to the surface of the land without stockpiling of such waste or solid manure on any premises where such manure is to be applied or any site where liquid or slurry animal waste is injected into the soil at agronomic rates.

6. Additional animals shall not be added to the use until any new permit required by the Nebraska Department of Environmental Quality or its successor agency shall have been issued and such use shall be operated in a manner consistent with the requirements of any such permit and the requirements of this Resolution.

7. Exceptions to the minimum separation requirements, as set forth in said Table 501.03, may be authorized by conditional use where special types of animal feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Supervisors, after review and recommendation by the Planning Commission, that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.

8. For purposes of this regulation, a dwelling unit not of the same ownership and not on the same premises as the animal feeding use or associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable residential dwelling and, if vacant and not habitable, would not require more cost than the present assessed valuation of the dwelling structure (excluding the valuation of the land) to make such dwelling habitable.

**502.04 Permitted Accessory Uses and Structures**: The following uses and structures shall be permitted

as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building, shall require the issuance of a zoning permit and / or certificate of zoning compliance.

2. Home occupations, in accordance with Section 608 of this Resolution. When established in accordance with Section 608 of this Resolution, issuance of a zoning permit or certificate of zoning compliance shall not be required.

3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

**502.05 Conditional Uses:** After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Supervisors may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG - R, River Corridor Agricultural District:

1. General welding and agricultural equipment repair businesses and other commercial business and industrial uses, determined by the Board of Supervisors to be reasonably compatible with the surrounding land uses with regard to traffic generation, noise, odors, dust, vibrations and potential air, soil or water pollution or explosion or other hazard.

2. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses including bed and breakfast operations and motels.

3. Public service facilities not allowable as permitted principal uses in Section 504.02 of this Resolution.

4. Mineral extraction and sand and gravel extraction facilities and operations.

5. Residential subdivisions in excess of the two (2) additional dwellings per parcel in existence as of the effective date of this Resolution. (Refer to Section 502.03, Subsection 6, Paragraph E)

6. Waste Handling Facilities, associated with municipal waste handling facilities.

7. Radio, television, microwave and other types of erected towers, including wind generation towers, provided such towers comply with any applicable airport hazard height limitations and further provided that any such tower is set back from the right-of-way line of any public roadway or from any neighboring church, school, public use area or residential dwelling unit by a distance equal to or exceeding the height of such tower.

8. Commercial fuel and fertilizer bulk plants, provided that bulk storage facilities for storage of fuel, anhydrous ammonia fertilizer or other explosive or poisonous gas materials shall be separated from any neighboring residential dwelling unit, school, church or public use area by at least a distance as specified below for the quantity of such material stored on a per tank basis.

   A. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of thirty thousand (30,000) gallons or less the minimum separation shall be five hundred (500) feet.

   B. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of more than thirty thousand (30,000) gallons, but less than one hundred thousand (100,000) gallons, the minimum separation shall be seven hundred fifty (750) feet.

   C. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage in tanks with a capacity of one hundred thousand (100,000) gallons or more the minimum separation shall be one thousand (1,000) feet.

   Measurement of the minimum separation distance shall be from the nearest wall of a neighboring residential dwelling unit, school or church and from the nearest boundary of any public use area to the nearest bulk storage

tank.

In any instance where the owner(s) of any neighboring residential dwelling unit, school, church, or public use area shall grant the owner of a bulk fuel or bulk anhydrous ammonia or other explosive or poisonous gas material storage an impact easement, as defined in Section 303.47 of this Resolution, the minimum separation distance shall be as specified in such impact easement, but not less than three hundred (300) feet.

The above stated separation distances shall not apply to bulk storage of dry or liquid fertilizers.

9. Other uses and structures determined by the Board of Supervisors to be comparable with the above conditional uses and consistent with the Intent statement of this zoning district.

**502.06 Prohibited Uses and Structures**: All other uses and structures which are not allowed in this district either as an allowable use, a permitted use, accessory use or conditional use is prohibited. This prohibition shall specifically include any new confined and intensive animal feeding uses and associated waste handling facilities, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution.

**502.07 Minimum Lot Area Requirements**: The following shall be the minimum lot area requirements for uses located within this district:

1. The minimum lot area for a single-family dwelling unit, manufactured home or mobile home shall be three (3) acres, provided that a larger lot may be required if the standards and regulations of Title 124 of the Nebraska Department of Environmental Quality with regard to soil percolation rates, slope, depth to water table or other requirement of said Title 124 requires the use of a lagoon or other type of waste disposal facility, in which case the lot shall be sized to comply with the requirements of said Title 124.

2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivisions, shall be the lot area appropriate for such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than three (3) acres in area.

**502.08 Minimum Lot Width and Frontage**: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. The minimum lot width shall be three hundred (300) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than three hundred (300) feet and a minimum frontage less than sixty six (66) feet.

**502.09 Minimum Building Setback Requirements**: The following shall be the minimum setback requirements for uses located within this district, provided that any front, side or rear setback shall be a minimum of one hundred (100) feet from the nearest bank of the Elkhorn River or the East Branch of Verdigris Creek north of U.S. Highway 20:

Front Setback - Eighty three (83) feet, measured from the center line of a County Road, provided that for lots which front on a Federal or State highway the front setback shall be fifty (50) feet from the right-of-way line of such highway.

Side Setback - Ten (10) feet

Rear Setback - Ten (10) feet

**502.10 Maximum Height**: No limitation, except that the maximum height for any building designed for human habitation shall be forty (40) feet.

# Section 503 AG - T Transitional Agricultural District

**503.01 Intent**: The intent of this district is to preserve land for agricultural use while allowing development of non-agricultural uses near the urban communities in the County in a compatible relationship to each other and the agricultural uses and provide protection of the communities from encroachment of incompatible agricultural and other land uses which could negatively impact the agricultural uses in the zoning district or the communities around which this zoning district is applied.

**503.02 Outright Allowable Principal Uses and Structures**: The following uses and structures shall be allowable uses outright. Such uses and structures shall comply with the minimum lot area, setback and other applicable requirements of this Resolution, but such uses and structures shall not require a zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.38 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use and excluding confined and intensive animal feeding uses, as defined in Sections 303.26 and 303.49 of this Resolution and any associated waste handling facilities, as defined in Section 303.97 of this Resolution.

2. Grain and produce storage including non-commercial storage warehouses, plant seed sales and similar storage facilities.

3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities. (Irrigation facilities used as part of a waste handling facility shall be subject to the requirements of Sections 501.03 and 501.05 and the setback restrictions set forth in Table 501.03 of this Resolution.)

4. Forestry, tree farms and plant nurseries.

5. Day care and child care uses, when conducted within a residential dwelling.

6. Signs, including permanent on-site and outdoor advertising signs. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).

**503.03 Permitted Principal Uses and Structures**: The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and / or certificate of zoning compliance:

1. Public service facilities and buildings, including public, parochial and private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.

2. Churches, cemeteries and related uses.

3. Fish hatcheries, game farms and commercial hunting and fishing where such hunting and fishing does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.

4. Child care and day care uses, when conducted in a building other than a residential dwelling.

5. Single-Family dwellings, including manufactured housing, modular homes and mobile homes, provided such dwellings comply with all of the following conditions:

   A. Such dwellings, if not on the same premises with and of the same ownership as any confined or intensive animal feeding use, as defined in Sections 303.26 and 303.49 of this Resolution or any associated waste handling facility, as defined in Section 303.97 of this Resolution, shall be separated from any existing confined or intensive animal feeding use and associated waste handling facility by

the minimum distance set forth in Table 501.03 of this Resolution for the class of confined or intensive animal feeding use and type of associated waste handling facility which such existing confined or intensive feeding use qualifies, unless the developer of such dwelling shall grant an impact easement, as defined in Section 303.47 of this Resolution, to the owner of the existing confined or intensive animal feeding use, in which case any lesser distance shall be permitted. Such minimum separation distance shall be measured from the nearest point of any land actively used or approved under this Resolution as a confined or intensive animal feeding use or associated waste handling facility, including any site where liquid (non-solid) animal waste is applied to the surface of the land, to the nearest wall of such dwelling unit. Minimum separation distances shall not apply to any site where solid manure, as defined in Section 303.88 of this Resolution, is applied on the surface of the land or where liquid (non-solid) animal waste is injected into the soil. (Additional exceptions to the minimum separation requirements shall be as specified in Sections 705, Paragraphs C and D of this Resolution.)

B. Exceptions to the minimum distance separation requirements as set forth in Subsection A immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Supervisors that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use.

C. Such dwelling shall be located on a parcel of land with an area not less than that specified in Section 503.07 of this Resolution and such parcel shall have a lot (parcel) width and frontage not less than that specified in Section 503.08 of this Resolution, provided that a larger area may be required if the regulations and standards of Title 124 of the Nebraska Department of Environmental Quality, with regard to soil percolation, slope, depth to groundwater or other requirement of said Title 124 shall require a larger parcel, the requirements of said Title 124 shall govern.

D. The parcel on which such dwelling is located shall front on and have vehicular access to an existing public roadway other than a roadway designated by the Antelope County Board of Supervisors as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance roadway, the developer of such parcel shall be responsible for the cost of improving such roadway to County standards before the County shall agree to accept maintenance by the County of such roadway and further provided that if such parcel is located on any other unimproved roadway, the developer of such parcel shall be responsible for the costs of improving such roadway to County Standards and shall be responsible for the maintenance of such roadway unless the Antelope County Board of Supervisors shall agree to accept such roadway for County maintenance. Antelope County shall not, however, be committed to accepting such roadway even if such roadway is improved to County road standards by the owner(s) of such roadway.

E. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership with such confined or intensive animal feeding use or associated waste handling facility and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive animal feeding use and associated waste handling facility has been discontinued for a period of thirty six (36) consecutive months or an impact easement, as defined in Section 303.47 of this Resolution is executed. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing distance requirements from such confined or intensive animal feeding use or associated waste handling facility as set forth in Table 501.03 of this Resolution and the subsequent sale thereof.

**503.04 Permitted Accessory Uses and Structures**: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building shall require the issuance of a

zoning permit and / or certificate of zoning compliance.

2. Home occupations, in accordance with Section 608 of this Resolution. When established in accordance with Section 608 of this Resolution, issuance of a zoning permit or certificate of zoning compliance shall not be required.

3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

**503.05 Conditional Uses**: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Supervisors may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG - T Transitional Agricultural District:

1. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses, including bed and breakfast operations and motels.

2. Public service facilities not allowable as permitted principal uses in Section 503.03 of this Resolution.

3. Mineral extraction and sand and gravel extraction facilities and operations.

4. Nursing home facilities and group homes

5. Commercial and industrial uses, determined by the Board of Supervisors to be compatible with adjoining land uses.

6. Waste handling facilities associated with municipal sewage treatment facilities.

7. Radio, television, microwave and other types of erected towers, including wind generation towers, provided such towers comply with any applicable airport hazard height limitations and further provided that any such tower is set back from the right-of-way line of any public roadway or from any neighboring church, school, public use area or residential dwelling unit by a distance equal to or exceeding the height of such tower.

8. Commercial fuel and fertilizer bulk plants, provided that bulk storage facilities for storage of fuel, anhydrous ammonia fertilizer or other explosive or poisonous gas materials shall be separated from any neighboring residential dwelling unit, school, church or public use area by at least a distance as specified below for the quantity of such material stored on a per tank basis.

    a. Regardless of the separation distances set forth in paragraphs B, C and D immediately below, the minimum separation distance for any bulk fuel and anhydrous ammonia or other explosive or poisonous gas material storage tank from the nearest corporate limit line of any incorporated municipality shall be one-fourth (1/4) mile.

    b. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of thirty thousand (30,000) gallons or less the minimum separation shall be five hundred (500) feet.

    c. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage tanks with a capacity of more than thirty thousand (30,000) gallons, but less than one hundred thousand (100,000) gallons, the minimum separation shall be seven hundred fifty (750) feet.

    d. For bulk fuel and anhydrous ammonia or other explosive or poisonous gas materials storage in tanks with a capacity of one hundred thousand (100,000) or more gallons the minimum separation shall be one thousand (1,000) feet.

    Measurement of the minimum separation distance shall be from the nearest wall of a neighboring residential dwelling unit, school or church and from the nearest boundary of any public use area to the nearest bulk storage tank.

In any instance where the owner(s) of any neighboring residential dwelling unit, school, church, or public use area shall grant the owner of a bulk fuel or bulk anhydrous ammonia or other explosive or poisonous gas material storage an impact easement, as defined in Section 303.44 of this Resolution, the minimum separation distance shall be as specified in such impact easement, but not less than three hundred (300) feet.

The above stated separation distances shall not apply to bulk storage of dry or liquid fertilizers.

9. Other uses and structures determined by the Board of Supervisors to be comparable with the above stated conditional uses and consistent with the Intent statement of this zoning district.

**503.06 Prohibited Uses and Structures**: All other uses and structures which are not specifically allowed in this District as permitted uses and consistent with the Intent statement of this zoning district. This prohibition shall specifically include all classes of confined and intensive animal feeding uses and all categories of associated waste handling facilities except municipal waste handling facilities, as defined in Sections 303.26, 303.49 and 303.97 of this Resolution.

**503.07 Minimum Lot Area Requirements**: The following shall be the minimum lot area requirements for uses located within this district.

1. The minimum lot area for a single-family dwelling unit, manufactured home or mobile home shall be three (3) acres, provided that a larger lot may be required if the standards and regulations of Title 124 of the Nebraska Department of Environmental Quality with regard to soil percolation rates, slope, depth to water table or other requirement of said Title 124 requires the use of a lagoon or other type of waste disposal facility, in which case the lot shall be sized to comply with the requirements of said Title 124, and further provided that where a semi-public or public sewer collection and treatment system is provided, the minimum lot size shall be ten thousand (10,000) square feet.

2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivisions, shall be the lot area appropriate for such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than three (3) acres in area if on-site sewer disposal is proposed or not less than ten thousand (10,000) square feet if a semi-public or public sewer collection and treatment system is to be used a sewage disposal system is not needed.

**503.08 Minimum Lot Width and Frontage**: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. For lots on which on-site sewage disposal is proposed, the minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than seventy five (75) feet and a minimum frontage less than sixty six (66) feet.

2. For lots on which connection to semi-public or public sewer collection and treatment system is to be used, the minimum lot width shall be seventy five (75) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than seventy five (75) feet and a minimum frontage less than sixty six (66) feet.

**503.09 Minimum Building Setback Requirements:** The following shall be the minimum setback requirements for uses located within this district: For lots three (3) acres or larger in area:

1. Front Setback - Eighty three (83) feet, measured from the center line of a County Road, provided that for lots which front on a Federal or State highway the front setback shall be fifty (50) feet from the right-of-way line of such highway.

2. Side Setback - Ten (10) feet

3. Rear Setback - Thirty (30) feet

**For lots smaller than three (3) acres in area:**

1. Front Setback - Eighty three (83) feet, measured from the center line of a County Road, provided that for lots which front on a Federal or State highway the front setback shall be twenty five (25) feet from the right-of-way line of such highway.

2. Side Setback - Five (5) feet

5. Rear Setback - Ten (10) feet

**503.10 Height Limitation**: No limitation, except that the maximum height for any building designed for human habitation shall be forty (40) feet.

## SECTION 504 WPO Wellhead Protection Overlay District

**504.01 Intent**: The intent of this district is to overlay any of the primary zoning districts herein established and described in Sections 501 through 503 of this Resolution in order to assist municipalities and other public water supply systems, as defined in Title 179, Nebraska Department of Health, Chapter 2, within or adjoining Antelope County, which may operate water wells in or near the County in providing protection from contamination of such wells through regulation of land uses which have the potential for contamination of the groundwater source(s) from which said wells derive water. The intent of this district is also to protect existing and future agricultural uses, which are in balance with the natural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of the public water supply system wells, from over regulation by said municipalities or public water supply systems with regard to wellhead protection.

**504.02 Prerequisite Requirements for Application of this Overlay District**: Prior to the application of this overlay district to any lands in Antelope County, the municipality or public water supply system, which maintains and operates water supply wells within or adjoining the County for which the wellhead protection areas include lands within Antelope County, shall make application to the Antelope County Planning Commission and Antelope County Board of Supervisors seeking application of this district to specified lands within the County. Prior to making such application and prior to approval of any application of this overlay district to any lands within the County, the municipality or other public water supply system making such application shall have first complied with all other requirements of the Wellhead Protection Area Act (Neb. Rev. Stat. 46-1501 through 45-1509 and the additional requirements listed as follows:

1. Delineation of the wellhead protection area(s) based upon a twenty (20) year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality.

2. Approval of such wellhead protection area(s) by the Nebraska Department of Environmental Quality. (Refer to limitation in Section 504.03 herein.).

3. Completion and mapping of an inventory of potential contamination sources within the wellhead protection area(s), including identification of abandoned.

4. Formulation of emergency / contingency / long-range plans in the event of disruption of the supply of water from wells in the wellhead protection area(s).

5. Formulation and implementation of an on-going public involvement / education program to permit public comment in the establishment of a wellhead protection program and a plan to provide public information regarding the program and voluntary cooperation with the same.

6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the wellhead protection area(s).

7. The municipality or other public water supply system shall execute an interlocal agreement with Antelope County for the administration of the regulations within the land areas to be included in this Wellhead Protection Overlay District. In such agreement, the municipality or other public water supply system shall agree to accept the wellhead protection regulations set forth in this overlay district, agree to pay to the County any fees negotiated between such entity and the County for the administration of these regulations in those land areas under the County's zoning jurisdiction, agree to pay all legal costs associated with any legal challenge to the requirements of this overlay district, and agree to hold the County harmless from any liability related to the requirements of this district, except for proper administration and enforcement of the requirements of this district by the County, together with other terms and conditions which are acceptable to the parties involved in any such inter-local agreement.

**504.03 Limitation on Application of this Overlay District**: This district may only be applied to lands within wellhead protection areas based upon a twenty (20) year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality. In the event the boundaries of any such wellhead protection area(s) do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter quarter section lines, the boundaries of such areas shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-the-field determination of such boundaries.

**504.04 Amendment of Official County Zoning Map**: Whenever the requirements of Section 504.02 of this Resolution have been complied with, and the County Planning Commission and County Board of Supervisors have conducted public hearings regarding application of this overlay zoning district in accordance with Article 11 of this Resolution and the County Board of Supervisors has acted to approve the application of a wellhead protection overlay district, the boundaries of such wellhead protection area (overlay zoning district), defined in accordance with Section 504.03 above, shall be indicated on the Antelope County, Nebraska Official Zoning Map and such map shall be signed in accordance with the requirements of Section 1104 of this Resolution.

**504.05 Allowable, Permitted and Accessory Uses and Structures**: Any use or structure indicated as an allowable use, permitted use or accessory use in the primary zoning district(s) on which this wellhead protection overlay district is overlain, shall be allowed or permitted in accordance with the zoning permit requirements set forth in such primary zoning district(s), except when specifically prohibited in Section 504.07 of this Resolution and except when an otherwise allowable, permitted or accessory use is listed as a conditional use in Section 504.08 of this Resolution. All such allowable, permitted and accessory uses shall comply with the additional wellhead protection restrictions set forth in Section 504.08 of this Resolution.

**504.06 Conditional Uses**: Any use listed as a conditional use in the primary zoning district(s) on which this wellhead protection overlay district is overlain, except the uses specifically prohibited in Section 504.07 of this Resolution, may be authorized as a conditional use in accordance with the requirements and procedures specified in Article 10 of this Resolution, provided the authorization of any conditional use

**504.07 Prohibited Uses and Structures**: Uses and structures, which are prohibited in the primary zoning district(s) on which this district is overlain, shall be prohibited and, regardless of whether prohibited in the primary zoning district(s), the following uses and structures shall be specifically prohibited on any land area on which this wellhead protection overlay district is applied:

1. Confined or intensive animal feeding uses and associated waste handling facility uses,

2. Landfills and refuse recycling centers.

**504.08 Wellhead Area Protection Requirements**: The following restrictions shall apply to all uses within any land areas on which this Wellhead Protection Overlay District is applied:

1. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Titles 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage of

gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or other land area, in excess of one thousand one hundred (1,100) gallons shall be prohibited, except when a conditional uses for a commercial or industrial uses is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Titles 126 and 129.

2. Fuel storage associated with any irrigation well engine shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.

3. Fuel storage, except when associated with a commercial or industrial use authorized as a conditional use (Item A above) and except for any fuel storage associated with any irrigation well engines (Item 2 above) shall not be permitted within one thousand (1,000) feet of any well protected under this wellhead protection overlay district.
4. Storage of fertilizers, herbicides, pesticides and other materials, determined by the United States Environmental Protection Agency to be hazardous materials, shall be prohibited, except when a conditional use for such use is authorized and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 121, 126, 128, 159 and 198, administered by the Nebraska Department of Environmental Quality and other agencies.

5. No septic tank, tile field or other on-site sewage disposal system, associated with any residential, commercial, industrial or other type of land use, shall be located within one thousand (1,000) feet of any well protected under this wellhead protection overlay district, provided that if a lot of record, as defined in Section 303.54 of this Resolution, exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one septic tank and tile field or other on-site sewage disposal system may be established, provided such tank, tile field or other system complies with the requirements of Title 124 of the Nebraska Department of Environmental Quality.

6. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet of any well protected under this wellhead protection overlay district, provided that if a lot of record, as defined in Section 303.56 of this Resolution, exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) well may be established, provided such well shall be constructed in accordance with the rules and requirements of Title 178.

7. Any application of fertilizers, pesticides, or herbicides to the land or crops through an irrigation system (chemigation) shall comply with the rules and requirements of Title 195.

8. If any land area contained within a wellhead protection overlay zoning district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resource District(s).

**504.09 Minimum Lot Area Requirements**: The minimum lot area for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

**504.10 Minimum Lot Area and Frontage Requirements**: The minimum lot width and frontage for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

**504.11 Minimum Building Setback Requirements**: The minimum setback for all regulated structures and buildings in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain, provided that the minimum setback requirements from protected wells, as set forth in Section 504.08 of this Resolution, shall also be complied with.

**504.12 Maximum Height**: The maximum height of any building or structure shall be as set forth in the primary zoning district on which this district is overlain.

# SECTION 505 RCI RURAL COMMERCIAL - INDUSTRIAL DISTRICT

**505.01 INTENT**: The intent of this district is to allow for the development of commercial and industrial uses in rural areas of Antelope County when such uses are specifically agribusiness uses serving the agricultural producers in Antelope County, to allow development of non-agricultural related business and industrial uses along the major highways in Antelope County, on a case by case basis, in order to minimize potential conflicts with agricultural production activities and housing which may exist along such major highways and to allow the development of off-premise advertising signs (billboards) along such major highways in appropriate areas in which this district is applied.

**505.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES**: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.43 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use.

2. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities.

3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.

4. Forestry, tree farms and plant nurseries.

5. Child and day care uses conducted within a permitted dwelling unit.

**505.03 PERMITTED PRINCIPAL USES AND STRUCTURES**: The following uses and structures shall be considered agribusiness uses and shall be permitted uses. Off-premise advertising signs (billboards), although not an agribusiness use, shall also be a permitted use in accordance with the restrictions set forth in this Section. Such uses shall require the issuance of a zoning permit / building permit and/or certificate of zoning compliance:

1. Bulk fuel and bulk fertilizer plants provided such plants are located so that the nearest boundary of the lot or tract on which said plant is located shall be a minimum of one-half (1/2) mile from any adjoining residential dwelling, church, school or public use area.

2. Commercial welding shops and farm machinery repair businesses, excluding the sale of new farm machinery.

3. Commercial grain elevators and commercial grain storage facilities.

4. Livestock auction barns and yards, provided that the nearest boundary of the lot or tract on which said use is located shall be a minimum of one-half (1/2) mile from any adjoining residential dwelling, church, school or public use area.

5. Signs, including permanent (non-portable) business identification signs and off-premise advertising signs (billboards) in accordance with the following restrictions:

   A. Non-portable business identification signs:

   1) The total number of permanent business identification signs, excluding off-premise advertising signs (billboards), shall not exceed three (3) per premises.

**505.04 PERMITTED ACCESSORY USES AND STRUCTURES**: The following uses and

structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building shall require the issuance of a zoning permit and / or certificate of zoning compliance.

2. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

**505.05 CONDITIONAL USES**: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the RCI - Rural Commercial - Industrial District:

1. Non-agricultural related commercial and industrial uses, determined by the Board of Supervisors to be compatible with adjoining land uses and the intent statement of this District.

2. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses including bed and breakfast operations and motels.

3. Other uses and structures, determined by the Board of Commissioners to be comparable with the above listed conditional uses, compatible with surrounding land uses and consistent with the Intent statement of this District.

**505.06 PROHIBITED USES AND STRUCTURES**: All other uses and structures which are not permitted in this District either as a permitted use, accessory use or conditional use is prohibited. This prohibition shall specifically include all classes of confined or intensive animal feeding uses, as defined in Sections 303.25 and 303.46 of the Resolution and any associated waste handling facility uses, as defined in Section 303.93 of this Resolution.

**505.07 MINIMUM LOT AREA REQUIREMENTS**: The following shall be the minimum lot area requirements for uses located within this district.

1. The minimum lot area shall be two (2) acres, provided that a larger lot area may be required by the standards and regulations of the Nebraska Department of Health and the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems indicate that a larger lot is appropriate,

2. The minimum lot area for uses identified as conditional uses in this District shall be the lot area appropriate for such uses, as determined by the Board of Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than two (2) acres.

**505.08 MINIMUM LOT WIDTH AND FRONTAGE**: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. The minimum lot width shall be two hundred fifty (250) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Supervisors in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than two hundred fifty (250) feet and a minimum frontage less than sixty six (66) feet.

**505.09 MINIMUM BUILDING SETBACK REQUIREMENTS**: The following shall be the minimum yard requirements for uses located within this district:

1. Front Setback - Eighty Three (83) feet from the center line of any roadway, provided that for lots which front on a Federal or State Highway the front setback shall be fifty (50) feet from the right-of-way line.

2. Side Setback - Twenty five (25) feet

3. Rear Setback - Fifty (50) feet

**505.10 MAXIMUM HEIGHT**: No limitation, except that the maximum height for any building designed for human habitation shall be thirty-five (35) feet and, except for any applicable restrictions in airport approach zones.

# Section 506 AHO Airport Hazard Overlay District

- **Intent:** This district is established as an overlay district for application over any primary zoning district within three (3) statute miles in all directions from the adjacent boundaries of the Antelope County Airport which are within the planning and zoning jurisdiction of the Antelope County, Nebraska and is intended to prevent airport hazards and protect the public investment and utility of the airport.

- **Airport Hazard Area Description:** The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones described as follows:

1. The Operation Zones are longitudinally centered on each existing or proposed runway as follows:

    - Length: For existing and proposed paved runways, the operation zones begin and end two hundred (200) feet beyond the end of each runway. For existing and proposed turf runways, the operation zones begin and end at the runway ends.

    - Width: For existing and proposed instrument runways, the operation zones are one thousand (1,000) feet wide. For all other existing and proposed runways, the operation zones are five hundred (500) feet.

    - Height: The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

2 The Approach Zones extend from the end of each operation zone and are centered along the extended runway center-lines. The Approach Zones dimensions are as follows:

    - For Instrument Runways:

        - Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway center line. The approach zones are one thousand (1,000) feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway center line three (3) miles from the operation zone, the approach zone is five thousand two hundred eighty (5,280) feet wide.

        - Height Limit: The height limit of the approach zones begins at the elevation of the operation zones and rises one (1) foot vertically for fifty (50) horizontally (50:1) up to a maximum of one hundred fifty (150) feet above the nearest existing or proposed runway end.

    - For Visual Runways:

        - Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway center line. The approach zones are five hundred (500) feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway center line three (3) miles from the operation zone, the approach zone is three thousand seven hundred (3,700) feet wide.

        - Height: The height limit of the approach zones begins at the elevation of the operation zone and rises one (1) foot vertically for every forty (40) feet horizontally (40:1) up to a maximum of one hundred fifty (150) feet above the nearest existing or proposed runway end.

- The Transition Zones extend outward at right angles to the runway center line and upward at a rate of one (1) foot vertically for every seven (7) feet horizontally (7:1). The height limit of the transitional zones begins at the height limit of the adjacent operation zones or approach zones. The transitional zones end at a height of one hundred fifty (150) feet above the nearest existing or proposed runway.

- The Turning Zones extend three (3) miles from the existing or planned airport property lines, excluding the operation zones, approach zones or transition zones. The height limit of the turning zones is one hundred fifty (150) feet above the nearest existing or proposed runway end.

**Height Restriction:** No building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character shall hereafter be erected, constructed or established, nor shall any tree be allowed to grow above the heights described in Subsection 506.02 above.

**Airport Zoning Map and Location:** The boundaries, operation zones, approach zones, transition zones and turning zones of the airport are indicated on the airport zoning map, identified as Zoning Map Drawing No. ZN-NL-74 which is attached hereto and made a part of this Resolution by reference. A copy of the Airport Zoning Map shall at all times be on file in the office of the Antelope County Clerk.

**Permit Requirements:** Erection, construction or reconstruction of any building, transmission line, pole, tower, chimney, wires or any other structure or appurtenance or planting of any tree within the Hazard Area shall require issuance of a zoning permit and, if Neb. Rev. Stat §3.403 is applicable, a permit from the Nebraska Department of Aeronautics.

**Non-Conforming Structures:** Within the hazard area, no non-conforming building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character or tree shall hereafter be replaced, substantially reconstructed, altered, replanted or allowed to grow to a height above the heights permitted in this Section. If such structures or tree have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more, such shall not be reconstructed, repaired, altered, replanted or allowed to grow except in compliance with the requirements of this Resolution.

**Marking of Non-Conforming Structures:** In granting any permit or variance under this Section, the Zoning Administrator or board of adjustment may, if he/she/ it deems such action advisable to effectuate the purposes of this Section and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its option and at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to fliers the presence of an airport hazard.

**Conflicts:** In the event of any conflict between these airport hazard regulations and any other regulations established by this or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.

# Article 6 Supplemental District Regulations

**Section 601 Application**: The supplemental regulations set forth in this Article qualify and supplement all zoning district regulations and are declared to be part of this Resolution and applicable to all uses and structures in all zoning districts.

**Section 602 Setback Requirements:** Minimum building setbacks shall be required along all public roadways as set forth in the district regulations. An open space abutting a roadway shall be deemed a front setback for purposes of determining setback depth requirements. Setbacks equal to or exceeding the minimum setback requirements of each district shall be provided with the following qualifications:

1. Any setback so placed or oriented that none of the specific setback definitions contained in this Resolution are applicable shall necessitate a determination by the Zoning Administrator of a suitable setback dimension which will be consistent with the intent of the setback requirements within the applicable zoning district.

2. No structure shall project into a required front, side or rear setback. All parts of a structure shall be in compliance with the required setbacks including any eave, cornice, overhang, awning, balcony, or bay window, projection of belt courses, sills, lintels, chimneys and other similar ornamental or architectural features, but excluding unenclosed, uncovered steps, entrance platforms, ramps, terraces or landings which are at or below grade level.

**Section 603 Setback Exceptions**: Such appurtenant features as sidewalks, walkways, driveways, curbs, drainage and erosion control installations, mail boxes, lamp posts, bird baths, and similar installations are permitted accessory uses on any lot.

**Section 604 Fences and Walls**: Nothing in this Resolution shall be deemed to prohibit the erection and maintenance of any fence in connection with agricultural uses or any retaining wall in association with any use in any zoning district and any ornamental fence, wall or structural screen fence shall be permitted in any yard. Nothing in this Resolution shall be deemed to prohibit the installation of living screens consisting of trees, shrubs or other plant material.

**Section 605 Division of Lots and Parcels**: After any portion of a lot has been developed under the provisions of this Resolution, such lot may be divided into smaller lots only if each resulting lot and any buildings thereon comply in all respects to all regulations of the zoning district in which said lot is located.

**Section 606 Conversions of Use:** Any use of land which is converted to another use shall comply in all respects with the requirements of this Resolution.

**Section 607 Accessory Uses**: Accessory uses shall be permitted as specified in all zoning districts in accordance with the following provisions:

1. Any accessory use shall be incidental to, subordinate to and commonly associated with the primary use of the lot.
2. Any accessory use shall be operated and maintained under the same ownership and control and on the same lot as the primary use of the lot.
3. Any accessory use shall be clearly subordinate to the primary use of the lot in height, area, bulk and extent.
4. Any accessory use shall be permitted only after the erection and operation of a primary use of the lot.

**Section 608 Home Occupations and Home Based Businesses**: A home occupation, in compliance with the following restrictions, shall be permitted to accompany residential (agricultural or non-agricultural) use by the granting of a certificate of zoning compliance:

1. The home occupation shall be owned by the occupants of the dwelling unit or accessory building and conducted within the dwelling unit or accessory building by a member or members of the occupants of the dwelling unit and not more than three (3) additional employees who reside other than in said dwelling unit.

2. The home occupation is clearly subordinate to the residential / agricultural use of the lot and does not change the residential / agricultural character of the lot nor infringe upon the right of neighboring owners to enjoy their property.

3. Any business or industrial use not meeting these limitations shall be considered a commercial or industrial use and shall be subject to conditional use authorization in accordance with the requirements of this Resolution.

**Section 609 New Railroad Crossing Site Distance Restrictions:** For any new public highway - rail grade crossings the minimum site distances shall be determined according to the following Table. The site triangle must be clear of all permanent obstructions such as buildings, structures or topography. (see Illustration and table 609)

Illustration 609

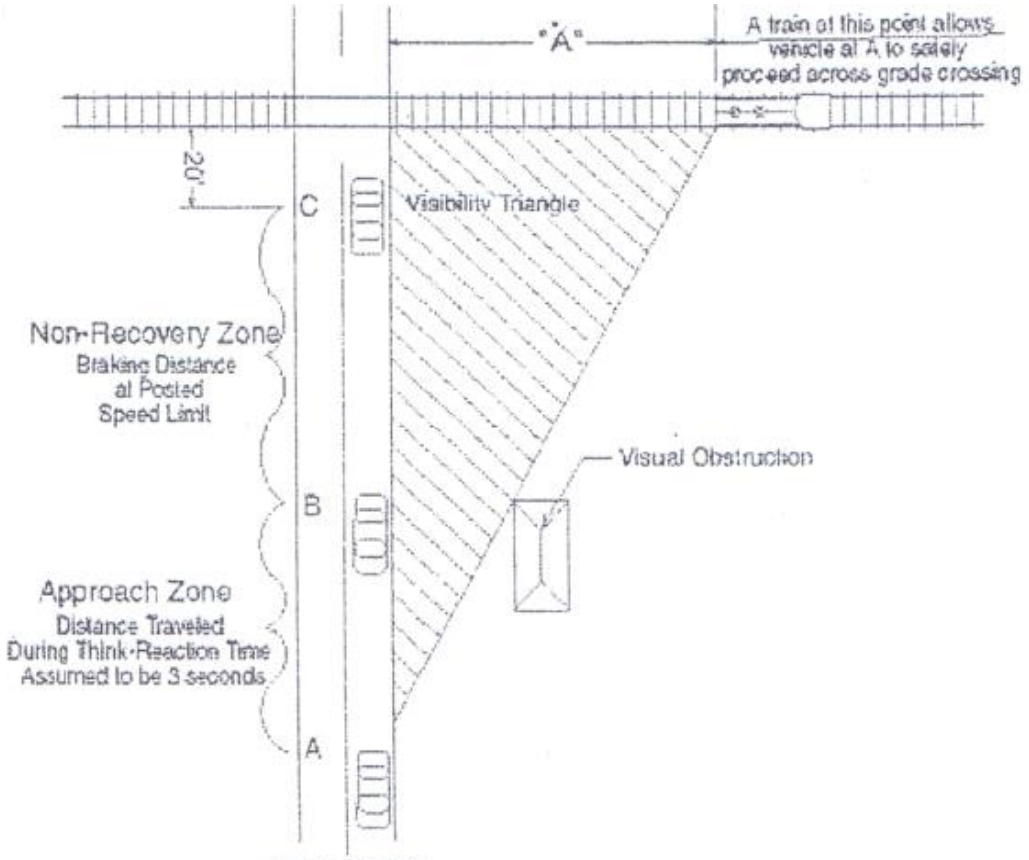


Figure 2.01G1

TABLE 609

**Required Design Site Distance for Combinations of Highway and Train Vehicle Speeds**

| Train Speed | Highway Speed (mph) | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 0 | 10 | 20 | 30 | 40 | 50 | 60 | 70 |
| | Distance Along Railroad From Crossing "A" (measured in feet) | | | | | | | |
| 10 | 162 | 126 | 94 | 94 | 99 | 107 | 118 | 129 |
| 20 | 323 | 252 | 188 | 188 | 197 | 214 | 235 | 258 |
| 30 | 484 | 378 | 281 | 281 | 295 | 321 | 352 | 387 |
| 40 | 645 | 504 | 376 | 376 | 394 | 428 | 470 | 516 |
| 50 | 807 | 630 | 470 | 470 | 492 | 534 | 586 | 644 |
| 60 | 967 | 756 | 562 | 562 | 590 | 642 | 704 | 774 |
| 70 | 1129 | 882 | 656 | 656 | 684 | 750 | 822 | 904 |
| 80 | 1290 | 1008 | 752 | 752 | 788 | 856 | 940 | 1032 |
| 90 | 1450 | 1134 | 844 | 844 | 884 | 964 | 1056 | 1160 |
| | Distance Along Highway From Crossing B (measured in feet) | | | | | | | |
| | 20 | 65 | 125 | 215 | 330 | 470 | 640 | 840 |

# Article 7 Non-Conforming Uses

**Section 701 Intent**: Within the zoning districts established by this Resolution or future amendments to such districts, there exist 1) lots, 2) buildings or structures, 3) uses of land and buildings or structures, and 4) characteristics of use which were lawful prior to the adoption or future amendment of this Resolution, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are discontinued, but not to encourage their survival. It is further the intent of this Resolution that, with the exception of existing residential structures, non-conformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other buildings, structures or uses prohibited in the zoning district in which such non-conformities are located, except as specifically authorized in this Resolution.

**Section 702 Limitations on Expansion**: Non-conforming buildings, structures and uses are declared by this Resolution to be incompatible with the intent of the zoning districts and the permitted uses in the zoning districts. A non-conforming use of a building or structure, a non-conforming use of land, or a non-conforming use of a building or structure and land in combination, except existing residential structures, shall not be extended or enlarged after adoption of this Resolution or amendment thereto, except as specifically authorized in this Resolution.

**Section 703 Hardship**: To avoid any undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction or designated use of any building or structure for which actual construction has been lawfully initiated in good faith prior to the effective date of the Resolution or amendment thereto where actual construction activity has been carried on diligently. Actual construction is defined to be the placing of substantial

construction materials, other than earth, in a permanent position and fastened in a permanent manner. “Carried on diligently” shall be defined to mean that construction has been on-going except through the winter months, defined as being November 1 through April 1 of the following year.

**Section 704 Exceptions**: Notwithstanding other requirements of this Section, a lawfully established residential use rendered non-conforming by adoption of this Resolution or amendment thereto, may be enlarged, altered, or reconstructed, subject to the following restrictions:

1. Such residential use shall comply with Section 705 of this Resolution.

2. This provision shall not be construed to include more than one use on a lot and shall be applicable to land as such uses remains otherwise lawful.

3. Enlargement or reconstruction of a lawfully established residential use rendered non conforming by adoption of this Resolution may occur, provided that if such residential use is non-conforming by reason of non-compliance with any setback requirement, any enlargement shall not further reduce any nonconforming setback and further provided that reconstruction of any non-conforming residential use shall occur on the existing foundation or any other location which reduces or eliminates any non-conformity.

**Section 705 Non-Conforming Lots of Record**: In any zoning district, primary and customary accessory buildings of the type permitted in each zoning district may be erected on any single lot of record after the effective date of this Resolution or amendment thereto notwithstanding limitations imposed by this Resolution or amendment thereto, subject to the following conditions:

1. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are applicable to the zoning district in which such lot is located, provided that erection of any building or structure shall comply with all setback (yard) requirements of the zoning district in which said lot is located. Variance of said minimum setback requirements shall be obtained only through action of the Board of Adjustment.

2. If two (2) or more lots or combination of lots and portions of lots with continuous frontage in the same ownership are of record on the effective date of this Resolution or amendment thereto and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Resolution and no portion of said parcel shall be used or sold in any manner which diminishes compliance with the minimum lot width and area requirements of the zoning district in which said parcel is located nor shall any division of any parcel be made which creates a lot with width or area which is less than the requirements set forth in the zoning district in which said parcel is located.

3. Where a lawfully established lot, tract or parcel, less than twenty (20) acres in area, was in existence and under separate ownership as of the effective date of this Resolution and the entirety of such lot, tract or parcel lies within the minimum separation distances set forth in this Resolution for any confined or intensive animal feeding use or associated waste handling facility, a residential use may be established on said lot, tract or parcel.

4. Where a lawfully established lot, tract or parcel, less than twenty (20) acres in area, was in existence and under separate ownership as of the effective date of this Resolution and a portion of such lot, tract or parcel lies within the minimum separation distances set forth in this Resolution for any confined or intensive animal feeding use or associated waste handling facility, a residential use may be established on said lot, tract or parcel, provided such residential use is located on that portion of said lot, tract or parcel which is beyond the minimum separation distances specified in this Resolution from any such confined or intensive animal feeding use or associated waste handling facility.

**Section 706 Non-Conforming Use of Land**: Where on the effective date of this Resolution or amendment thereto, a lawful use of land exists which would not be permitted under the requirements of this Resolution or amendment thereto and where such use involves no buildings or structures with a replacement cost exceeding two hundred fifty dollars ($250), the use may be continued so long as it remains otherwise lawful in

accordance with the following conditions.

1. If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform with the requirements of this Resolution or amendments thereto.

2. No additional building or structure not conforming to the use restrictions and other regulations of the Resolution or amendment thereto shall be erected in connection with such non-conforming use.

3. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel of land on which it is located that has not been used in connection with such non-conforming use.

4. No such non-conforming use shall be enlarged or expanded to occupy a greater area of the lot or parcel of land on which it is located than was used in association with such use on the effective date of this Resolution or amendment thereto.

**Section 707 Non-Conforming Use of Buildings / Structures and Land In Combination**: If a lawful use involving individual buildings or structures and land in combinations, exists at the effective date of this Resolution or amendment thereto that would not be permitted in the zoning district in which said non-conforming use of building or structures and land in combination is located, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. With the exceptions set forth in Section 704 of this Resolution, no existing building or structure devoted to a use not permitted in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use permitted in the zoning district as a permitted use, an accessory use or a conditional use.

2. With the exceptions set forth in Section 704 of this Resolution, any non-conforming use may be extended throughout any parts of a building or structure which were arranged or designed for such use as of the effective date of this Resolution or amendment thereto, but no such use shall be extended to occupy any land outside such building or structure which was not in use as of the effective date of this Resolution or amendment thereto.

3. If no structural alterations are made, any non-conforming use of a building or structure and land in combination, may through authorization of a conditional use in accordance with the procedures and requirements of this Resolution, be changed to another non-conforming use provided that the County Board of Supervisors, in authorizing said conditional use, shall find that the proposed use is equally appropriate or more appropriate to the intent of the zoning district than is the existing use. In authorizing such conditional use, the Board of Supervisors may set conditions for such proposed use to assure that such use will remain appropriate for location in the zoning district.

4. Any building or structure or building or structure and land in combination, in or on which a nonconforming uses is superseded by a permitted use shall thereafter conform to the requirements of this Resolution and the non-conforming use shall not thereafter be resumed.

5. With the exceptions set forth in Section 704 of this Resolution, no existing building or structure devoted to a use not permitted in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use to a use in the zoning district listed as a allowable use, a permitted use, an accessory use or a conditional use.

6. With the exceptions set forth in Sections 704 of this Resolution and Paragraph C above, any nonconforming use may be extended throughout any parts of a building or structure which were arranged or designed for such use as of the effective date of this Resolution or amendment thereto, but no such use shall extended to occupy any land outside such building or structure which was not in use as of the effective date of this Resolution or amendment thereto.

7. Lawfully existing confined or intensive animal feeding uses and associated waste handling facility uses rendered non-conforming by these regulations may be expanded, but only in accordance with all

restrictions set forth in Sections 501.03, 501.05, and 502.03 of this Resolution.

8. When a non-conforming use of a building or structure or building or structure and land in combination is voluntarily discontinued or abandoned for twelve (12) consecutive months, except when governmental action impedes access to the premises, the building(s), structure(s) and land shall not thereafter be used for any use that is not in compliance with this Resolution or amendment thereto. In the event a confined or intensive animal feeding use and associated waste handling facility use, as defined in this Resolution, is discontinued or abandoned for a period of twelve (12) consecutive months, such use may be re-established within the confines of the area in which the previous feeding operation was conducted, but such use shall be considered permanently abandoned and shall not be re-established if its use is discontinued for a period of thirty six (36) consecutive months or longer.

9. Where non-conforming use status applies to a building(s) or structure(s), such building(s) or structure(s) and land in combination, if all or part of any such building(s) or structure(s) are involuntarily removed or destroyed through fire, tornado, earthquake or other event, such building(s) or structure(s) and the may be reconstructed and the use which existed in such building(s) or structure(s) at the time of such involuntary removal or destruction may be re-established, even though such building(s) or structure(s) or the use thereof is non-conforming with the requirements of this Resolution, provided that such re-establishment shall not involve any expansion of such building(s) or structure(s) or expansion of change of use, except to a use that would be in compliance with the requirements of this Resolution. Zoning permits shall be required for reconstruction of any non-farm building, as defined in Section 303.67 of this Resolution.

**Section 708 Repairs and Maintenance**: Maintenance and ordinary repairs, replacement of walls or members, fixtures, heating and cooling equipment, wiring or plumbing within any non-conforming building or structure may be performed notwithstanding any other requirements of this Resolution or amendment thereto. Such repairs and maintenance shall not require any zoning permit.

**Section 709 Uses Under Conditional Use Authorization**: A use authorized as a conditional use under the terms of this Resolution shall not be deemed a non-conforming use, except where such use is not in compliance with any conditions of use established in the granting of such conditional use by the Board of Supervisors, provided however, that a change of one non-conforming use to another non-conforming use, authorized by conditional use, shall remain a non-conforming use.

# Article 8 Administration and Enforcement

**Section 801 Organization**: The administration and enforcement of this Resolution is hereby vested in the Antelope County Planning Commission, the Antelope County Board of Adjustment, the Antelope County Board of Supervisors, the Zoning Administrator, appointed by the Board of Supervisors, the Antelope County Attorney and such other persons as may be designated by the Board of Supervisors.

## Section 802 Authorities:

Planning Commission:
With regard to the proper administration and enforcement of this Resolution, the Antelope County Planning Commission shall have the following authorities:

1. Hear and recommend action to the Board of Supervisors regarding all applications for amendments to the text of this Resolution and / or changes (rezoning) to the Antelope County Official Zoning Map.

2. Hear and recommend action to the Board of Supervisors regarding all applications for conditional uses, as set forth in this Resolution.

3. Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.

4. Periodically review the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.

5. Invoke any authorized remedy for the enforcement of this Resolution.

Board of Adjustment:
With regard to proper administration and enforcement of this Resolution, the Antelope County Board of Adjustment shall have the following authorities:

1. Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator when such order, requirement, decision, or determination is appealed by the person(s) affected by such order, requirement, decision or determination.

2. Hear and authorize specific appeals at variance with the requirements of this Resolution that would not be contrary to the public interest, where owning to special conditions demonstrated and after written findings of legitimate hardship, as defined and specified in Section 907, Paragraph C, Sub-paragraph 1of this Resolution, a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship and not merely an inconvenience.

3. Hear and decide appeals regarding interpretation of zoning district boundaries, as indicated on the Official Zoning Map, in accordance with the requirements and limitations of this Resolution.

4. Prescribe uniform rules of procedure pertaining to investigations, findings of fact, applications, appeals and public hearings.

5. Invoke any legal remedy for the enforcement of this Resolution including full power to order discontinuance of any use and stays of work (stop work orders) on any premises in violation of the requirements of this Resolution.

Board of Supervisors:
With regard to proper administration and enforcement of this Resolution, the Antelope County Board of Supervisors shall have the following authorities:

1. Hear and decide conditional use applications upon which it is required to act under the terms of this Resolution, after recommendation from the Planning Commission.

2. Consider and adopt amendments to the text of this Resolution and / or changes (rezoning) to the Antelope County Official Zoning Map, after review and recommendation by the Planning Commission.

3. Consider and adopt a schedule of permit and application fees for administration of this Resolution, after review and recommendation by the Planning Commission.

4. Provide for the proper and constant enforcement of this Resolution through appointment of a Zoning Administrator and sufficient budget to enable the Planning Commission, the Board of Adjustment, the Board of Supervisors, the Zoning Administrator, the County Attorney and any other persons designated by the Board of Supervisors to carry out the responsibilities assigned to then by adoption of this Resolution.

Zoning Administrator:
With regard to proper administration and enforcement of this Resolution, the Antelope County Zoning Administrator shall have the following authorities:

1. Make available to the public application forms for amendments to this Resolution and / or Official Zoning Map, for appeals to the Board of Adjustment, and conditional use requests to the Board of

Supervisors and to issue zoning permits and certificates of zoning compliance (occupancy permits) as required by the Resolution and to maintain records of all such applications and permits issued.

2. Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution. Where violations are determined to exist, the Zoning Administrator shall have the authority to issue letters of violation, stop work orders and any other legal remedy to assure compliance with the requirements of this Resolution.

3. Provide interpretation of the text of this Resolution and the Official Zoning Map when necessary and such other technical and clerical assistance as the public, the Planning Commission, Board of Adjustment and Board of Supervisors may require.

4. Maintain and provide information to the public regarding the requirements of this Resolution and provide for the timely publishing of legal notices and other notifications relative to administration of this Resolution as prescribed by law.

5. Maintain permanent and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits, certificates of zoning compliance, variances, appeals, conditional uses and applications thereof together with all records of meetings and public hearings pertaining to this Resolution.

**Section 803 Responsibilities**: The following shall be the responsibilities of the various entities involved in the proper administration and enforcement of this Resolution:

1. It is the intent of this Resolution that all questions of interpretation and enforcement regarding this Resolution shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from a decision of the Zoning Administrator and that recourse from the decisions of the Board of Adjustment shall be to the courts, as prescribed by law.

2. It is further the intent of this Resolution that the duties of the Board of Supervisors relative to this Resolution shall be limited to those specified in Section 802.11 through 802.14 of this Resolution and shall not include the hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this Resolution.

3. If the Zoning Administrator shall find that any of the provisions of this Resolution are being violated, he /she shall notify the person(s) responsible for such violation in writing, indicating the nature of the violation and ordering the action or actions necessary to correct and eliminate such violation. The Zoning Administrator shall have the full authority to order discontinuance of prohibited or unauthorized uses of land, buildings or structures, removal of prohibited or unauthorized buildings or structures or prohibited or unauthorized additions thereto, discontinuance of any work being done in violation of the requirements of the Resolution, and the taking of any other legal action necessary to ensure compliance with or prevent violation of the provisions of this Resolution.

4. The Zoning Administrator, operating through the County or other designated Attorney, shall have express authority to initiate and carry out any and all legal actions appropriate and necessary to enforce the provisions of this Resolution and any orders of the Board of Adjustment, without further authorization by the Board of Supervisors. Adoption of this provision by the Antelope County Board of Supervisors is expressly intended to authorize the Zoning Administrator and County or other designated Attorney to initiate and carry out all legal actions appropriate and necessary to enforce the provisions of this Resolution that is or may be applicable under the laws of the State of Nebraska.

**Section 804 Zoning Permits Required**: No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered without a zoning permit / certificate of zoning compliance first being issued by the Zoning Administrator, provided that non-residential farm buildings shall be exempt from such permit / certificate of zoning compliance requirement and further provided that if a farm building shall house a commercial, industrial or other non-agricultural use under the definitions and terms of this Resolution, such building shall not be considered a farm building, but rather a commercial, industrial or other non-farm building and shall be subject to such zoning

permit / certificate of zoning compliance requirements. Waste handling facility uses, as defined in this Resolution, which may be associated with any farm building shall be considered a separate non-farm structure and / or use and shall not be exempt from such permit requirements.

Public entities and political subdivisions shall not be required to obtain zoning permits for the construction, repair, and/or erection of road signs, bridges, culverts and any other structures upon and within public rights-of-way or easements of record.

No zoning permit or certificate of zoning compliance shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Adjustment in the form of an administrative appeal, or receive written authorization from the Board of Adjustment in the form of an approved variance or a written authorization from the Board of Supervisors in the form of an approved conditional use, as provided for in this Resolution.

**Section 805 Application for a Zoning Permit**: The following requirements shall apply to all requests for a zoning permit:

1. All applications for a zoning permit shall be made on forms prescribed for such application by the Board of Supervisors and shall have incorporated into said forms a place for drawing of a plot plan showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of all existing and proposed parking areas, water supply and sewage disposal facility locations, and such other information as may be pertinent to said application.

2. The application shall include, the name(s), address(es) and telephone number(s) of the applicant and such other information as may be lawfully required by the Zoning Administrator, including existing and proposed uses of land, buildings and structures, existing or proposed building or structure alterations, the number of families, housekeeping units on the premises, conditions existing on the premises, provisions for water supply, sewage disposal and erosion control, soil conditions and permeability and such other information as may be necessary to determine conformance with the requirements of the Resolution and enforcement thereof.

3. Upon receipt of a complete zoning permit application and receipt of any applicable application fee, the Zoning Administrator shall make two (2) copies of the zoning permit application and return one (1) copy to the applicant after he / she has marked the copy of the permit as approved or disapproved and attested to same by his / her dated signature. If a zoning permit application is denied, the Zoning Administrator shall state the reason(s) for such denial in writing and attach the same to the applicant's copy of the application.

4. The Zoning Administrator shall mark the original of the zoning permit application as approved or disapproved in the same manner as the copy and shall maintain said original together with written reason(s) for denial of said application in the permanent files of the County.

5. When the Zoning Administrator approves a zoning permit for erection of any building or structure or erection of any addition to or alteration thereof, he / she shall issue one (1) copy of such approved zoning permit to the Antelope County Assessor.

6. Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such plot plan and permit and no other use, arrangement or construction. If the Zoning Administrator determines that the use, arrangement or construction developed under any approved permit is not proceeding according to the approved permit and applicable regulations or conditions, the Zoning Administrator shall revoke said permit and issue a written stop work order and require that such use, arrangement or construction be brought into conformance with the approved permit.

**Section 806 Limitations on Issuance of Zoning Permits**: The following limitations shall apply to the issuance of all applicable zoning permits:

1. Notwithstanding of provisions of this Resolution, in the event a conditional use application has been duly filed with the zoning administrator and the use and/or location of such use proposed in said conditional use application would, due to setback or other requirements of this Resolution, restrict or otherwise prohibit the issuance of a zoning permit for another use on any neighboring property, a zoning permit for any use on neighboring property which would be restricted or prohibited by the authorization of said conditional use shall not be issued by the Zoning Administrator until the application for conditional use has been decided by the County Board of Supervisors in accordance with the requirements of this Resolution. In the event such conditional use is authorized, a zoning permit for a use, which would be restricted or prohibited on neighboring property, shall be issued only in conformance with the resulting restriction(s) or shall not be issued if the requested use would then be prohibited.

2. Pursuant to Section 39.1311 Neb. Rev. Stat., issuance of any zoning permit for development of structures and land uses in any proposed state highway corridor which has been officially designated by the Nebraska Department of Roads shall be subject to review of said Department of Roads in accordance with said Section 39.1311 Neb. Rev. Stat. Upon receipt of any building / zoning permit application for development of structures or land uses in any such designated corridor, the Zoning Administrator shall forward notice of such application building / zoning permit to the Department of Roads. The Department of Roads shall have sixty (60) days from the date of mailing of said notice to said Department to review any such application, unless the Department waives the time period in writing to the Zoning Administrator. Within the sixty (60) day period, the Department may, if it wishes, file with the Zoning Administrator a statement of intent to negotiate with the owner of the land on which any such building / zoning permit application. Upon filing of such statement of intent, the Department shall have a six (6) month period for negotiations with such owner. At the end of such six (6) month period, if the owner has not withdrawn the application for a building / zoning permit, the Zoning Administrator shall issue said permit, if said permit complies in all other respects with the Resolution.

**Section 807 Expiration of Zoning Permits**: If the work described in any approved zoning permit has not been initiated within ninety (90) calendar days of the date of approval of such permit or if work described in any approved permit has not been completed within two (2) years of the date of approval of such permit, the said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be provided to the person(s) affected together with written notice that further work, as described in the canceled permit is prohibited, unless the applicant can qualify for a new zoning permit.

**Section 808 Certificates of Zoning Compliance for new Use or Change of Use**: The following requirements shall apply to the issuance of all certificates of zoning compliance (occupancy permits):

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator

B. No Certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Supervisors in the form of an approved conditional use, as provided for in this Resolution.

C. Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such approved plot plans and permit and no other use, arrangement or construction developed under any approved permit is not according to the approved zoning permit and applicable regulations or conditions, the Zoning Administrator shall not issue a Certificate of Zoning/Occupancy Compliance, but shall instead inform the applicant in writing of the violations and specify the actions necessary to bring such use, arrangement or construction into compliance with the approved zoning permit.

D. A Certificate of Zoning/Occupancy Compliance, once issued, shall remain in effect so long as the use of the land, buildings and structures is used in accordance with said Certificate.

**Section 809 Failure to Obtain Zoning Permit / Certificate of Zoning/Occupancy Compliance**: Failure to obtain required Zoning Permits and Certificates of Zoning Compliance or failure to

comply with the plans and application information under which such permits or certificates were issued shall be a violation of this Resolution and be punishable as provided in Section 1202 if this Resolution.

## Article 9 Board of Adjustment

**Section 901 Establishment and Procedure**: A Board of Adjustment is hereby created and shall be known as the Antelope County Board of Adjustment. The Board of Adjustment shall be appointed by the Board of Supervisors and shall consist of five (5) members, plus one (1) additional member designated as an alternate member who shall attend meetings and serve only when one of the regular members in unable to attend for any reason. One (1) member of the Board of Adjustment shall be appointed from the membership of the Antelope County Planning Commission by the Board of Supervisors and the loss of membership on the Planning Commission shall also result in the immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commission member to the Board of Adjustment by the Board of Supervisors. No member of the Board of Supervisors shall be a member of the Board of Adjustment.

**Section 902 Terms of Office**: The members appointed to the Board of Adjustment shall be appointed for a term of three (3) years and be removable for cause by the Board of Supervisors upon written charges and after public hearing to consider and decide on such charges. Vacancies shall be filled by appointment for the unexpired terms of member whose term becomes vacant.

**Section 903 Election of Officers**: The Board of Adjustment shall annually elect one (1) of its members as Chairperson and another as Vice Chairperson, who shall act as Chairperson in the elected Chairperson's absence. Each member shall serve until a successor has been selected.

**Section 904 Secretary of the Board of Adjustment**: The Board of Adjustment shall annually elect one (1) of its members as Secretary / Treasurer or shall appoint the Zoning Administrator to serve as Secretary / Treasurer to the Board of Adjustment.

**Section 905 Records of the Board of Adjustment**: The Board of Adjustment shall adopt bylaws and rules of procedure in accordance with the provisions of this Resolution necessary to conduct its affairs. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as a majority of the Board shall determine. The Chairperson, or in his / her absence, the Vice Chairperson may administer oaths and compel attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep written minutes of its proceedings, indicating evidence presented, findings of fact made by the Board, decisions of the Board, the attendance of members, and the vote of each member upon each question. Records of all actions of the Board shall be kept in the office of the County Clerk and/or Zoning Administrator and shall be open to public inspection.

**Section 906 Quorum and Voting**: A quorum for the Board of Adjustment shall be three (3) members. Action by the Board on any question other than an appeal from the decision of the Zoning Administrator or a variance application shall require a concurring vote of three (3) members of the Board. Action by the Board on an appeal to overturn a decision of the Zoning Administrator or for approval or denial of a variance application shall require the concurring vote of four (4) members.

**Section 907 Powers and Duties**: The Board of Adjustment shall have the following powers and ONLY the following powers:

A. Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is an error in order, requirement, decision or refusal made by the Zoning Administrator or official based on or made in the enforcement of this Resolution or any regulation relating to the location of structures.

B. Zoning Map Interpretation: To hear and decide, in accordance with the provisions of this Resolution,

requests for interpretation of Official Zoning Map of the County.

C. Variances: To hear applications for and authorize, in specific cases, a variance from the specific terms of this Resolution which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship, and provided that the spirit of this Resolution shall be observed, public safety and welfare secured and substantial justice done. A variance shall not be granted by the Board of Adjustment unless and until the Board shall have made written findings that all of the following conditions exist or have been met:

1. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of this Resolution, or by reason of exceptional topography conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of particular requirements of this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on the owner of such property, the Board of Adjustment, upon an appeal relating to such property, shall have the power to authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Resolution, but no variance shall be authorized by the Board of Adjustment unless the Board finds that:

   a. The strict application of the regulations would produce undue hardship;

   b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

   c. The authorization of such variance shall not be of substantial detriment to adjacent properties and the character of the district will not be changed by the granting of such variance;

   d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of the owner's convenience, profit or caprice.

2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this Resolution.

3. Requirement for Written Application and Conditions: A variance from the terms of this Resolution shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator on an application form prescribed by the Board of Adjustment and payment of an applicable fee and such application shall demonstrate that special conditions and circumstances exist which are peculiar to the land, building or structure involved and that said special conditions and circumstances are not applicable to other lands, building, or structures in the same zoning district and vicinity, that the literal enforcement of the provisions of this Resolution would deprive the applicant, and that granting of the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, buildings or structures in the same zoning district and vicinity.

4. Effect of Non-Conformance: Non-conformance use of lands, buildings or structures in the same zoning district and vicinity and permitted or non-conforming use of lands, buildings or structures in other zoning districts shall not be considered grounds for a determination that the applicant would be deprived of rights enjoyed by other properties and shall not be grounds for granting a variance.

5. Findings of the Board of Adjustment on Variances: Prior to taking any action to authorize or deny a variance application, the Board of Adjustment shall:

   a. Make a finding that the application for a variance is complete and in compliance with the requirements of this Resolution. Such finding shall be recorded in the minutes of the Board;

   b. Make findings that the particular reasons set forth in the application for a variance justify the

granting of the variance in accordance with the limitations for granting such variance as described in Section 907.03 of this Resolution and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structures involved and such findings shall be recorded in the minutes of the Board;

c. Make a finding that the granting of the variance will be in harmony with the purpose and intent of the and will not be injurious to adjacent lands or otherwise detrimental to the public welfare. Such finding shall be recorded in the minutes of the Board.

6. Conditions of Approval Imposed: In authorizing any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Resolution to assure continued acceptability of variance. Violations of such conditions or safeguards when made part of written terms under which the variance is authorized shall be deemed a violation of this Resolution and punishable as set forth in Section 1202 of this Resolution and any other applicable laws. In addition, the Board of Adjustment shall attach a condition to any variance authorized by the Board that such authorization shall be acted upon by the applicant within one (1) year from the date of authorization of such variance and that if such authorized variance has not been acted upon by the applicant within this time limitation such authorization shall automatically be revoked.

7. Use Variances: Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible in the zoning district involved or grant a variance for any use expressly or by implication prohibited by terms of this Resolution in the zoning district involved.

**Section 908 Public Hearing Required**: Prior to acting on any powers granted to it under this Resolution, the Board of Adjustment shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition or in the absence of a planning commission. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

**Section 909 Board Has Powers Of Administrative Official On Appeal**: In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partially, or modify the order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variance under this Resolution.

**Section 910 Appeals of Board of Adjustment Decisions**: Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board or bureau of the County, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen (15) days after the filing of the decision in the office of the Board of Adjustment. Upon the filing of such a petition a summons shall be issued and be served upon the Board of Adjustment together with a copy of the petition, and return of service shall be made within four (4) days after the issuance of the summons. Within ten (10) days after the return day of the summons, the County Board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgment according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the

determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the State regulating appeals in actions at law.

## Article 10 Conditional Uses

**Section 1001 General Powers**: The Antelope County Board of Supervisors may grant conditional uses to property owners for the use of their property in conformance and compliance with the limitations and procedures set forth herein. Granting of a conditional use shall only allow property owners to put their property to a conditional use if such use is listed among those uses specifically identified in the zoning district in which the subject property is located as a conditional use. The power to grant conditional uses shall be the exclusive authority of the Board of Supervisors and the Board of Supervisors has formally adopted and shall comply with the following standards and procedures:

**Section 1002 Application Requirements**: A written application and site plan for a conditional use shall be initiated by a property owner or authorized agent of such owner(s) and shall be submitted to the Zoning Administrator on forms prescribed by the Board of Supervisors. Said application shall be signed by the applicant or the applicant's authorized agent and the applicant shall pay any applicable application fee. Such application shall indicate the Section of this Resolution under which the conditional use is being sought and, at a minimum, shall indicate the following:

A. A legal description of the property on which the proposed conditional use is requested, including the specific size and dimension of the area on which the proposed conditional use would be located if less than the total property owned by the applicant;

B. The size and locations of all existing and proposed buildings and structures;

C. A detailed description of the use proposed and the activities involved in such use;

D. The location(s) of access to public roadway(s);

E. The type and locations of easements affecting the property;

F. A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;

G. The extent and location of parking, loading and refuse disposal and collection facilities;

H. The locations of residential dwellings and other non-agricultural land uses within two (2) miles of the property in question;

I. An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;

J. For industrial uses, confined or intensive animal feeding uses, and waste handling facilities, a description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, radiation or potential air, water or soil pollution or explosion hazards; (For confined and intensive animal feeding uses and waste handling facilities, refer to requirements in Section 501.05 of the this Resolution.)

K. Any areas on the property subject to flooding or considered to be a wetland.

L. Permits to be signed by applicant and/or landowner if not the same.

**Section 1003 Referral to the Planning Commission Required**: Prior to consideration of a conditional use application, the Board of Supervisors shall refer a conditional use application to the Antelope County Planning Commission for review, research and recommendation.

**Section 1004 Planning Commission Public Hearing Notice**: Prior to consideration of a conditional use application by the Planning Commission, the Zoning Administrator shall give public notice of a public hearing. Such notice shall be published in the official county newspapers as approved by the Board of Supervisors at their annual re-organization meeting one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

**Section 1005 Public Hearing, Consideration and Procedures**: At public hearing, the Planning Commission, shall hear the applicant's petition and all comments by the public in attendance and shall review the conditional use request in accordance with the requirements set forth in Section 1008 of this Resolution. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth in Section 1008 of this Resolution. If the Commission recommends disapproval of an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall immediately be forwarded in writing by the Zoning Administrator to the County Board of Supervisors for consideration and the Zoning Administrator shall provide the same written statement to the applicant within seven (7) calendar days of the date of action by the Planning Commission.

**Section 1006 County Board of Supervisors Public Hearing Notice**: Prior to consideration of a conditional use application by the Board of Supervisors, the Zoning Administrator or County Clerk shall give public notice of a public hearing. Such notice shall be published in the official county newspapers as approved by the Board of Supervisors at their annual re-organization meeting (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property effected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

**Section 1007 Public Hearing, Consideration and Procedures**: At public hearing, the Board of Supervisors, shall hear the applicant's petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the conditional request in accordance with the requirements set forth in Section 1008 of this Resolution. The Board of Supervisors shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in Section 1008 of this Resolution. Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven (7) calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven (7) calendar days of the date of such disapproval.

**Section 1008 Requirements Governing Review and Authorization of Conditional Uses**: In

reviewing any conditional use application, the Planning Commission and Board of Supervisors shall consider all aspects of the proposed use including, at a minimum, those aspects of use listed below to determine the acceptability of the proposed use and its location. At the option of the Planning Commission and/or the Board of Supervisors, the Planning Commission and/or Board of Supervisors may request technical support from any public or private agency or entity in the review of any conditional use application. Such technical support may take any form including, but not limited to technical data and advice, comments or recommendations. In authorizing any conditional use, the Board of Supervisors may attach specific conditions, requirements or limitations regarding each aspect of use listed below to assure continued acceptability of the conditional use. Such conditions shall be made either by reference to a site plan for the proposed use or by attaching specific written statements. At a minimum, the aspects of acceptability include:

A. Both ingress and egress to the property and conditional use thereon and the existing and proposed buildings and structures thereon is appropriate with particular reference to automobile and truck safety, traffic flow, site distance, roadway and bridge capacities, convenience and access in case of fire or catastrophe;

B. Off-street parking, including spaces for handicapped persons, is adequate for the use proposed and will not create any safety hazards relative to public roadways;

C. Refuse disposal or manure collection and disposal facilities and operations and other service facilities are appropriate relative to location, capacity and safety;

D. Water supply, sewage disposal facilities or manure collection, storage, treatment and land application methods are appropriate relative to size, capacity, topography, soil conditions, water table, flood hazard, location, surface water drainage and, where applicable, are located at least an acceptable distance from the ordinary high water mark of any river, stream or water course to avoid any potential surface water contamination;

E. The number, location, size and use of buildings and structures proposed is appropriate relative to the size of the site and protection of adjoining properties and scenic views.

F. Front, side and rear setbacks meet or exceed the minimum setback requirements of the zoning district in which the conditional use is located.

G. Provisions to avoid development within any area subject to flooding and / or to avoid modification of any wetlands.

H. For proposed commercial and industrial uses, the types of operations to be conducted on the site will not result in inappropriate levels of traffic, noise, dust, odor, or undue potentials for air, or surface or groundwater contamination or explosion hazards.

I. For confined and intensive animal feeding uses and waste handling facilities, the type of use to be conducted will not result in inappropriate levels of traffic, noise, dust, odor or undue potentials for air or surface or groundwater contamination, explosion hazards, and the requirements in Section 501.05 of this Resolution.

**Section 1009 Conditions, Safeguards and Limitations of Use**: In consideration of any conditional use application, the Board of Supervisors may prescribe any additional conditions, safeguards or limitations appropriate to assure the compatibility of the conditional use with adjacent lands, with the intent of the zoning district in which such use is to be located, and with the spirit of this Resolution.

**Section 1010 Expiration of Conditional Use Authorizations**: Any authorized conditional use shall be completed within two (2) years from the date of approval of such conditional use by the Board of Supervisors or such authorization is automatically revoked. Completion of any conditional use authorization that has been so revoked shall be permitted only after reapplication and approval of such conditional use application by the Board of Supervisors, in the manner herein described.

# Article 11 Amendments

**Section 1101 Authority To Amend**: The County Board of Supervisors may from time to time amend, supplement, modify the zoning district boundaries or repeal the regulations contained in this Resolution, provided no such amendment, supplement, modification, change of boundaries or repeal shall become effective until such proposed modification shall have been submitted to the Planning Commission for recommendation and report and after public notice has been provided and public hearing have been held by both the Planning Commission and Board of Supervisors. A proposal for modification or repeal may be initiated by the Planning Commission, the Board of Supervisors or upon application of any owner of property under the jurisdiction of this Resolution. A filing fee, as established by the County Board of Supervisors shall be paid for each application to modify this Resolution prior to action on such application by the Planning Commission and Board of Supervisors, provided that such fee shall be waived where the proposed modifications is initiated by the Planning Commission or the Board of Supervisors.

**Section 1102 Public Notice and Public Hearings Required**: Prior to consideration of amending, supplementing, changing, modifying or repealing of all or part of this Resolution, notice of public hearings by the Planning Commission and Board of Supervisors shall each be provided by the Zoning Administrator or County Clerk as follows:

A. Such notice shall be published in the legal newspaper of general circulation in the County one time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

B. If such proposed modification is not a general revision of an existing provision of this Resolution and will affect only a specific property, the public notice shall include the general location and a legal description of such specific property and, in addition, notice of the public hearing(s) shall be mailed by first class mail to the applicant and the owners of record of real estate that is located adjacent to or immediately across a road from the property affected by such modification at least ten (10) calendar days prior to such public hearings.

C. The provisions of this Section regarding notification by first class mail shall not apply to:

    1. A proposed modification of this Resolution where such modification will apply throughout the County or throughout an existing zoning district;

    2. Additional or different types of zoning districts are proposed, whether or not such additional or different zoning districts are made applicable to areas or parts of areas already within a zoning district of the County;

    3. In these instances only the publication of public notice in the newspaper, and notice to other planning commissions having jurisdiction over lands within three (3) miles of lands which will be effected by such modification and notification of local units of government, as set forth in Section 1102 above, shall be required.

## Section 1103 Amendment Consideration and Adoption of Amendments:

1. Planning Commission:

The procedure for the consideration and adoption of any proposed amendment to this Resolution shall be in like manner as that required for consideration and adoption of this Resolution.
For action on amendments to the text of this Resolution or the zoning district boundaries indicated on the Official Zoning Map, a quorum of the Planning Commission must be present at the required public hearing to approve or disapprove a proposed amendment action on any proposed amendment shall require an affirmative vote of a majority of all members of the Commission. The Commission's action on any

proposed amendment shall constitute a recommendation of approval or disapproval to the Board of Supervisors.

2. Board of Supervisors:

After public notice and public hearing as described above, may act to agree or disagree with said Planning Commission recommendation and shall act to approve or disapprove said amendment. Passage of a motion to adopt a resolution approving an amendment or passage of motion to disapprove an amendment, regardless of the recommendation of the Planning Commission shall require a simple majority vote of the Board of Supervisors, except for the provisions set forth in Section 1105 of this Resolution.

**Section 1104 Amending Antelope County Official Zoning Map**: Should any amendment adopted by resolution of the Board of Supervisors serve to modify the location of zoning district boundaries as set forth on the Antelope County Official Zoning Map, the Board of Supervisors shall cause the Official Zoning Map to immediately be modified to reflect the adopted amendment and such change shall be witnessed by the signature of the Chairperson of the Board of Supervisors. Adoption of any resolution to amend the Official Zoning Map shall become effective only after such amendment is reflected on such Official Zoning Map and such change has been witnessed by the signature of the Chairperson of the County Board of Supervisors and attested to by the County Clerk.

**Section 1105 Protests Regarding Amendments**: Regardless of whether or not the Planning Commission approves or disapproves a proposed amendment, if a protest against any amendment, signed by the owners of twenty percent (20%) or more of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, is filed, such amendment shall not become effective except by the favorable vote of two-thirds majority of the County Board of Supervisors.

## Article 12 Complaints, Violations, Remedies and Penalties

**Section 1201 Complaints Regarding Violations**: Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint, immediately investigate the complaint and take appropriate action thereon in accordance with the regulations and requirements of this Resolution.

**1202 Penalties for Violation of This Resolution**: Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with approval of variance and conditional uses, shall constitute a misdemeanor. Any person, partnership, limited liability company, association, club, or corporation violating this Resolution or fails to comply with any of its requirements or conditions and safeguards established in connection with approvals of variances and conditional uses shall be guilty of Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the County Board or other proper local authority of the County, as well as any owner(s) of property within the district affected by the regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, business or use in or about the premises. Any taxpayer or taxpayers in the County may institute proceedings to compel specific performance by the proper official or officials of any duty imposed by such sections or in resolutions adopted pursuant to such sections of this Resolution. Nothing contained herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation of this Resolution.

**Section 1203 Remedies**: In case any building or structure is erected, constructed, reconstructed, altered, repaired, moved, converted or maintained, or any building, structure or land is used in violation of this Resolution or the conditions and safeguards established in connection with approval of any variance or conditional use, the Zoning Administrator, County Attorney or other duly appointed official shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, movement, conversion,

maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## Article 13 Schedule of Fees

**Section 1301 Authority**: The County Board of Supervisors shall establish a schedule of fees for Zoning Permits, Certificates of Zoning Compliance, Appeals, Rezoning Applications, Conditional Use Applications, Variance Applications and other matters pertaining to the effective administration of this Resolution. The schedule of fees shall be posted in the office of the Zoning Administrator and County Clerk at all times. Said schedule of fees may be altered or amended from time to time by action of the Board of Supervisors.

**Section 1302 Non-payment of Fees**: Until all applicable fees have been paid in full by the applicant, no action shall be taken on any application or permit.

## Article 14 Legal Status Provisions

**Section 1401 Severability**: Should any Article, Section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**Section 1402 Purpose of Catch Heads**: The catch head titles appearing in connection with the Articles and Sections contained within this Resolution are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing and interpreting the terms and provisions of this Resolution.

**Section 1403 Repeal of Conflicting Resolutions**: All resolutions and regulations in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

**Section 1404 Effective Date**: This Resolution shall take effect and be in force from and after its passage and publication according to law.
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## Article 15 Antelope County Wind Tower Regulations

### Section 1501 Wind Energy Installation

In any zoning district, a zoning permit may be granted to allow wind energy conversion systems, including such devices as wind charger or wind turbine; subject to the regulations established in this section.

### Section 1502 Small Wind Energy Systems

**1502.01 Purpose:** It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

**1502.03 Definitions**: The following are defined for the specific use of this section.

1. Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a

tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

2. Tower Height shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

**Section 1503 Requirements:** Small wind energy systems may be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height

a. For all property sizes the tower height shall be limited to 80 feet.

2. Setbacks

No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

3. Noise

a. Small wind energy systems shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling unit.

b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

4. Approved Wind Turbines

Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

5. Compliance with Building and Zoning Codes

a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall also be submitted.

c. The manufacturer frequently supplies this analysis.

d. Wet stamps shall not be required.

6. Compliance with FAA Regulations

a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

7. Compliance with National Electrical Code

a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

b. The manufacturer frequently supplies this analysis.

8. Utility Notification

a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator,

b. Off-grid systems shall be exempt from this requirement.

9. Permit fees: Applicant(s) shall remit and application fee of $25 per tower.

## Section 1504 Commercial/Utility Grade Wind Energy Systems

**1504.01 Purpose:** It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Antelope County.

**1504.02 Definitions:** The following are defined for the specific use of this section.

1. Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

2. Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

3. Fall Zone shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

4. Feeder Line shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

5. Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to citing a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions

6. Public Conservation Lands shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
7. Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades shown in Figure 1.

8. Small Wind Energy System shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

9. Substations shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35 kV) for interconnection with high voltage transmission lines.

10. Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

11. Tower shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

12. Tower Height shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

13. Transmission Line shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

14. Wind Energy Conversion System (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

15. Wind Turbines shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

**1504.03 Requirements:** Commercial/Utility Grade wind energy systems shall be permitted as a Conditional use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.

2. The name of the project owner.

3. The legal description and address of the project.

4. A description of the project including; Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.

5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.

6. Certification by an Engineer competent in disciplines of WECS.

7. Documentation of land ownership or legal control of the property.

8. The latitude and longitude of individual wind turbines. Included in the submitted permit will be an area or zone in close proximity and meets setbacks.

9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System not owned by the applicant, within 10 rotor distances of the proposed Wind Energy Conversion System.

10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System (see table below)

11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.

12. FAA and FCC permit: Applicant shall submit permits from the appropriate agency prior to any power being produced

13. Location of and evidence that there will be no interference with any commercial and/or public safety communication towers within two miles of the proposed Wind Energy Conversion System.

14. Decommissioning Plan as required by this regulation.

15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.

## 1504.04 Aggregated Projects

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.

2. Permits may be issued and recorded separately.

3. Joint projects will be assessed fees as one project.

4. Setbacks to property lines, not road rights- of- way, may be less when adjoining property owners are within the same aggregate project.

## 1504.05 Setbacks

All towers shall adhere to the setbacks established in the following table: turbines shall be 1000 feet from a participating landowner's home.

| | Wind Turbine –Non Commercial WECS | Wind Turbine –Commercial/Utility WECS | Meteorological Towers |
|---|---|---|---|
| Property Lines | 1.1 times the total height | 1.1 x length of a rotor blade | 1.1 times the total height. |
| Neighboring Dwelling Units* | | 2000 ft. | 1.1 times the total height |
| Road Rights-of-Way** | 1.1 times the height | 1.1 x length of a rotor blade | 1.1 times the total height. |
| Other Rights-of-Way | 1.1 times the height | 1.1 x length of a rotor blade | 1.1 times the total height |
| Public Conservation Lands including Wildlife Management Areas and State Recreation Areas | Same setback as accessory buildings | 1.1 x Length of a rotor blade plus 100 ft. | 600 ft. |
| Wetlands, USFW Types III, IV, and V | NA | 600 feet | 600 feet |
| Other structures and cemeteries not on the applicant's site | NA | 1.1 times the height. | 1.1 times the total height |
| River Bluffs of over 15' | | Diameter of rotor | |

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known. SEE FIGURE 2

**1504.06 Special Safety and Design Standards:** All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of twenty-five (25) feet of clearance between their lowest point and the ground.

2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.

3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.

4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.

5. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate decking; Finishes shall be matte or non-reflective.

6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

7. Other signage: All other signage shall comply with the sign regulations found in these regulations.

8. Feeder Lines: All communications and feeder lines installed as part of a WECS shall be buried, where

feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.

9. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal rules and regulations.

10. Discontinuation and Decommissioning: A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within 180 days of the discontinuation of use. This period may be extended by the Board of Supervisors following a written request by an agent of the owner of the WECS if proof of weather delays and non availability of equipment is provided.

    Each Commercial/Utility WECS shall have a Decommissioning plan out lining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued. The cost estimates shall be made by a competent party, such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

11. Noise: No Commercial/Utility WECS shall not exceed 50 dBA at the nearest existing inhabited dwelling. Exception: a Commercial/Utility WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service or during shut down or restart for normal maintenance.

12. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

13. Roads: Applicants shall:

    a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.

    b. Conduct a per-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.

    c. Be responsible for restoring the road(s) and bridges to per-construction conditions.

14. Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

15. Permit Fees: Applicant(s) shall remit an application fee of $1000 per tower in the proposed WECS with a maximum limit of $10,000 per proposed wind farm site

## Section 16 Floodplain Regulations

**1601 Floodplain Regulations:** A Resolution designed to meet state and federal requirements for

participation in the National Flood Insurance Program for communities identified as flood prone, but have not received detailed flood insurance study information.

**1602 Statutory Authorization:** The legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety, and general welfare. Therefore, the Board of Supervisors of Antelope County Nebraska ordains as follows:

**1603 Findings of Fact:** *Flood Losses Resulting from Periodic Inundation*: The flood hazard areas of Antelope County, Nebraska, are subject to inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by:

1. The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

## 1604 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare and to minimize those losses described in Section 1603 by applying the provisions of these regulations.

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

4. Assure that eligibility is maintained for property owners in the county to purchase flood insurance in the National Flood Insurance Program.

## 1605 Local Administrator Responsibilities

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of these regulations and specifically the Floodplain Regulations and all other Regulations of Antelope County now in force or hereafter adopted, related to zoning regulations.

## 1606 Local Administrator Additional Responsibilities

The Zoning Administrator shall be appointed to these additional responsibilities by resolution of the County Board of Supervisors and this appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Zoning Administrator, the County Board of Supervisors shall designate an acting administrator.

## 1607 Designation of Current FIRM

The Antelope County Board of Supervisors hereby designates the current Flood Insurance Rate Map dated 8-1-2009 as the official map to be used in determining those areas of special flood hazard and any revisions thereto, as the official map to be used in determining those areas of special flood hazard. FHBM was converted to FIRM on 8-1-2009.

## 1608 Permits Required

*Permits Required:* No person, firm or corporation shall initiate any flood plain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in these regulations.

1. Within special flood hazard areas on the official map, separate flood plain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
2. Application: To obtain a flood plain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:

3. Identify and describe the development to be covered by the floodplain development permit for which application is made.

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

5. Indicate the use or occupancy for which the proposed development is intended.

6. Be accompanied by plans and specifications for proposed construction.

7. Be signed by the permittee or authorized agent who may be required to submit evidence to indicate such authority.

8. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in case of flood proofed non-residential structures, the elevation to which it shall be flood proofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.

9. Give such other information as reasonably may be required by the Zoning Administrator (i.e: require a statement from the applicant that they are aware that elevating or flood proofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential flood proofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

## 1609 Development Permit Application Review

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal and State law.

## 1610 All Applications Review

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) will:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and flood way data available from Federal, state or other sources, until such other data is provided by the Federal insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:

    a. That until a flood way has been designated – No development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100- year flood or more than one (1) foot at any location.

b. Residential Construction – New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation.

c. Nonresidential construction – New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of this subsection are satisfied. Such certification shall be provided to the local administrator.

d. Require for all new construction and substantial improvements – That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may
be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

2. Require the use of construction materials that are resistant to flood damage.

3. Require the use of construction methods and practices that will minimize flood damage.

4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. Assure that all manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

   a. Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than fifty feet (50') long requiring one additional tie per side.

   b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty feet (50') long requiring four additional ties preside.

   c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

   d. Any additions to manufactured homes shall be similarly anchored.

7. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the county's official map on sites:

   a. Outside of a manufactured home park or subdivision.

   b. In a new manufactured home park or subdivision.

   c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot (1') above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.

8. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the county's official map that are not subject to the provisions of Paragraph 6 of this section. Be elevated so that either:

   a. The lowest floor of the manufactured home is at least one foot (1') above the base flood elevation, or

   b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.

9. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the county's official map either (i) be on the site for fewer than one-hundred-eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of these regulations. A recreational vehicle is ready for highway use if it is on wheels or a jacking system, and is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

## 1611 Subdivision Applications

The County Board of Supervisors shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.

2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.

3. Adequate drainage is provided so as to reduce exposure to flood hazards.

4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

## 1612 Water and Sewer Systems

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into flood waters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

## 1613 Storage of Material and Equipment

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after flood warning.

## 1614 Flood-Carrying Capacity within any Watercourse

The County Board of Supervisors will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The County Board of Supervisors will notify, in riverine situations, adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency. Moreover, the County Board of Supervisors will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

## 1615 Variance Procedure

1. The Board of Adjustment as established by the Antelope County Board of Supervisors shall hear and decide appeals and requests for variances from the requirements of this regulation/resolution.

2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of these regulations.

3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 23-168.04, R.R.S. 1943.

4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of these regulations, and;

   a. The danger that materials may be swept onto other lands to the injury of others;

   b. The danger to life and property due to flooding or erosion damage;

   c. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

   d. The importance of the services provided by the proposed facility to the county;

   e. The necessity to the facility of a waterfront location, where applicable;

   f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

   g. The compatibility of the proposed use with existing and anticipated development;

   h The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

   i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

   j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

   k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

## 1616 Conditions for Variances

1. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 2, 3, 4, and 5 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local Regulations.

5. The applicant shall be given a written notice over the signature of a county official that (i) the issuance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by these regulations.

## 1617 Non-Conforming Use

A structure of the use of a structure or premises which was lawful before the passage or amendment of these regulations, but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to these regulations. The Utility Department shall notify the Zoning Administrator in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.

2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of these regulations. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

## 1620 Penalties for Violation

Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 or be sentenced up to 30 days in jail. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the County of Antelope or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## 1621 Abrogation and Greater Restrictions

It is not intended by these regulations to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where these regulations impose greater restrictions, the provision of these regulations shall prevail. All other Regulations inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.

## 1622 Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

## 1623 Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. These regulations shall not create liability on the part of the County of Antelope or any officer or employee thereof for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made there-under.

## 1624 Severability

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

## 1625 Appeal

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

## 1626 Conflicting Regulations

These regulations shall take precedence over conflicting Regulations or parts of Regulations. The Antelope County Board of Supervisors may, from time to time, amend these regulations to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of these regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code Federal Regulations and the 1983 Nebraska Floodplain Management Act.

## 1627 Definitions

Unless specifically defined below, words or phrases used in the Floodplain Section of these regulations shall be interpreted so as to give them the same meaning as they have in common usage and so as to give these regulations it's most reasonable application.

1. **Base Flood**: The flood having one percent chance of being equaled or exceeded in any given year.

2. **Basement**: means any area of the building having its floor sub-grade on all sides.

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

4. **Existing Manufactured Home Park or Subdivision**: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a county.

5. **Expansion of Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

6. **Flood:** A general and temporary condition of partial or complete inundation of normally dry land areas from:
   (a) the overflow of inland or tidal waters.
   (b) The usual and rapid accumulation of runoff of surface waters from any source.

7. **Flood Insurance Rate Map (FIRM):** An official map of a county, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the county.

8. **Floodplain**: Any land area susceptible to being inundated by water from any source (see "flooding").

9. **Flood proofing**: Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

10. **Flood way**: The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

11. **Historic Structure**: Any structure that is: (i) Listed individually in the National Register of Historic Places ( a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (iv) Individually listed
    on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    (1) By an approved state program as determined by the Secretary of the Interior or
    (2) Directly by the Secretary of the Interior in states without approved programs.

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

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

14. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

15. **New Construction:** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a county and includes any subsequent improvements to such structures.

16. **New Manufactured Home Park or Subdivision**: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a county.

17. **100-Year Flood:** The condition of flooding having one percent (1%) chance of annual occurrence.

18. **Principally Above Ground:** That at least fifty-one percent (51%) of the actual cash value of the structure is above ground.

19. **Recreational Vehicle**: A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

20. **Regulatory Flood Elevation:** The water surface elevation of the 100-year flood.

21. **Special Flood Hazard Area**: The land in the floodplain within a county subject to one percent (1%) or greater chance of flooding in any given year.

22. **Start of Construction**: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it
include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

23. **Structure**: A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

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

25. **Substantial Improvement**: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of

construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alternation of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

26. **Variance:** A grant of relief to a person from the terms of a floodplain management ordinance.

27. **Violation**: The failure of a structure or other development to be fully compliant with the county's floodplain regulations.

## Section 17 AH Airport Hazard Area District

**1701 Intent:** The intent of this district is be appended and to overlay any of the primary zoning districts as described in this Resolution to protect the safe use of public airports and their Airport Hazard Area, in Antelope County, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are registered with the Nebraska Department of Aeronautics, as designated on the Official Zoning Map of Antelope County, Nebraska.

**1702 Designated Public Airport:** The designated public airports for which these regulations have been prepared is the Neligh Antelope County Airport located in Section 29 Township 25N Range 6W and the Creighton Municipal Airport located in Section 22 Township 29 Range 5W.

**1703 Airport Hazard Area Description:** In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted a comprehensive plan and zoning regulations, and has an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

**1704 Definitions**

Airport shall mean an area of land or water designed and set aside that is used or intended to be used for the landing and taking off takeoff of aircraft and utilized or to be utilized in the interest of the public for such purposes; includes any related buildings and facilities. Airport includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

Airport hazard shall mean any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; that penetrates any approach, operation, transition, or turning zone.

Airport hazard area shall mean any area of land or water upon which an airport hazard might be established if not prevented as provided in the act, but such area shall not extend in any direction a distance in excess of three miles from the adjacent boundary of an airport; the limits provided for approach, operation, transition, and turning zones.

Airport layout plan shall mean a scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

Approach zone shall mean a zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

Electric facility shall mean an overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in section 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

Existing runway shall mean an instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

Instrument runway shall mean an existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this act, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

Operation zone shall mean a zone that is longitudinally centered on each existing or proposed runway.

Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

Political subdivision shall mean any municipality, city, village, or county.

Proposed runway shall mean an instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway shall mean a defined area at an airport that is prepared for the landing and takeoff of aircraft along its length;

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Transition zone shall mean a zone that extends outward at a right angle to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of one hundred fifty feet above the highest elevation on the existing or proposed runway.

Tree shall mean any object of natural growth.

Turning zone's outer limit shall mean the area located at a distance of three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is one hundred fifty feet above the highest elevation on the existing or proposed runway.

Visual runway shall mean a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

**1705 Airport Zones**

The following are intended for use with this specific overlay zoning district.

Airport Hazard Area consists of Operation Zones, Approach Zones, Turning Zones, and Transition Zones.

Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. The zones' dimensions are:

1. Instrument Runways:
   A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 1,000 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline 10 miles from the operation zone where it is 16,840 feet wide.
   B. Height Limit: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 50 feet horizontally (50:1) up to a maximum of 150 feet above the nearest existing or

proposed runway end. At three miles from such operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the 10-mile limit.

2. Visual Runways:
   A. Length and Width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 500 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide.
   B. Height: The height limit of the approach zones begins at the elevation of the operation zone and rises one foot vertically for every 40 feet horizontally (40:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.

Operation Zones are longitudinally centered on each existing or proposed runway:

1. Length:
   A. For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway.
   B. For existing and proposed turf runways, the operation zones begin and end at the runway ends.
   C. For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 hundred feet on either side of the runway centerline.
   D. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline;
2. Height: The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

Transition Zones extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.

Turning Zones extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

**1706 Height Restrictions:**

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in subsection 1705 above.

**1707 Airport Zoning Map and Location**

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Airport Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Airport Zoning Map shall at all times be on file in the office of the Zoning Administrator and County Clerk.

**1708 Permit Requirements, Exceptions, Application Forms, and Fees**

1. Anyone wishing to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character; or to plant or replant any tree or other object of natural growth which, when mature, would not violate the requirements of Section 1705 above, within the Airport Hazard Area must first obtain a permit from Zoning Administrator.

2. Exception:
   Within the Turning Zones, no permit shall be required for any construction, reconstruction, repair, or planting of anything which, when completed, or, in the case of natural growth, when mature, does not exceed seventy-five 75 feet above the nearest existing or proposed runway end.

3. Application Form:
   Application for a permit as required under these regulations shall be made on a form to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the end of the

nearest runway or landing strip and height of the proposed structure or planting. (Mean Sea Level Elevation)

4. Permit Fee:
   The fee for each permit issued shall be established by the County Board as a separate Resolution to the Zoning Resolution.

**1709 Non-Conforming Structures**

1. Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth; and no such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of 12 months or more; shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.
2. Except as provided in subsection (3) of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.
3. An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

**1710 Marking of Non-Conforming Structures**

Whenever the Zoning Administrator determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and/or the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Zoning Administrator. The owner(s) and lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object. The Zoning Administrator shall specify the required marking and lighting, consistent with these regulations entitled “Marking and Lighting of Structures”. The cost of marking or lighting shall not be assessed against the owner or lessor of said premises.

**1711 Administrative Agency; Enforcement**

The Zoning Administrator shall administer and enforce these regulations and shall be the administrative agency provided for in Neb. Rev. Stat. § 3-319, and shall have all the powers and perform all the duties of the administrative agency as provided in the Airport Zoning Act.

**1712 Variance from Regulations**

1. Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in subsection Section 23-168.03, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any

variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.

2. In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

**1713 Zoning Board of Adjustment**

The Antelope County Board of Adjustment shall be the board of adjustment with respect to these regulations. Said board shall have and exercise the powers conferred by Neb. Rev. Stat. §3-320 et. seq. and such other powers and duties as are conferred and imposed by law.

**1714 Permitted Principal Uses and Structures**

Any use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 1705 above.

**1715 Conditional Uses**

Any conditional use that is permitted in the primary zoning district where this district is overlain where such conditional use has been duly authorized by the County Board in accordance with the requirements and procedures specified in this Resolution, provided all buildings, structures and other obstacles comply with the height restrictions set forth in Section 1705 above.

**1716 Accessory Structures**

Any accessory use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 1705 above.

**1717 Conflicting Regulations**

In the event of any conflict between any airport zoning regulations adopted under this regulation and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern.