

ARTICLE 1 - GENERAL PROVISIONS

SECTION 101 - TITLE

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

SECTION 102 - JURISDICTION

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

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 Webster County and for implementation of the duly adopted Webster County Comprehensive Plan. This Resolution is also enacted to preserve and protect the customs and culture of the people of the County and the following specific purposes:

- 1) Developing both urban and non-urban areas;
- 2) Lessening congestion in the streets or roads and reducing the waste of excessive amounts of roads;
- 3) Securing safety from fire and other dangers;
- 4) Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
- 5) Providing adequate light and air;
- 6) Preventing excessive concentration of population and excessive and wasteful scattering or population or settlement;
- 7) 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;
- 8) Protecting the tax base and protecting property against blight and depreciation;
- 9) Securing economy in governmental expenditures;
- 10) Fostering the state's agriculture, recreation, and other industries;
- 11) Encouraging the most appropriate use of land in the County, and;
- 12) Preserving, protecting, and enhancing historic buildings, places and districts.

ARTICLE 2 - APPLICATION OF REGULATIONS

SECTION 201 - GENERAL

The regulations set forth within each zoning district of this Resolution shall be minimum regulations and shall apply uniformly to each class or kind of structure or land within each zoning district, except as hereinafter provided.

SECTION 202 - ZONING EFFECTS EVERY BUILDING AND USE

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 except in conformity with all regulations herein specified for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution, provided that non-residential farm buildings shall be exempt from the requirements of this Resolution if such farm buildings shall house an agricultural use under the definitions and terms 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 requirements of this Resolution. Any building located on a parcel of land, which does not qualify as a farm, as defined in Section 303.32 of this Resolution, shall be subject to the requirements of this Resolution. 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 the requirements of this Resolution.

SECTION 203 - SETBACK AND LOT SIZE REDUCTION PROHIBITED

No setback, lot or tract existing at the time of adoption of this Resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Setbacks, lots or tracts created after the effective date of the Resolution shall meet or exceed the minimum requirements established by 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, or general welfare.

SECTION 205 - DISCLAIMER OF BUILDING AND OTHER CODES AND COUNTY LIABILITY

This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or other code 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 of this Resolution are solely for purpose of assuring compliance with the land usage regulations set forth in this Resolution for the purposes set forth in Section 103 of this Resolution. Webster County 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, certificate of compliance or other form of land usage approval may have been issued nor shall Webster County assume any liability for any non-compliance 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 context of this Resolution:

- 301.01 TENSE:** Words used in the present tense include the future tense.
- 301.02 NUMBER:** Words used in the singular include the plural, and words used in the plural include the singular.
- 301.03 SHALL AND MAY:** The word “shall” is mandatory and the word “may” is permissive.
- 301.04 GENDER:** The masculine shall include the feminine and the neuter.
- 301.05 HEADINGS:** In the event that there is any conflict or inconsistency between the heading of an Article, Section, or paragraph of this Resolution and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

SECTION 302 - GENERAL TERMINOLOGY

The word “County” shall mean the County of Webster, Nebraska. The words “County Board” shall mean the Webster County Board of Commissioners. The words “Planning Commission” shall mean the Webster County Planning Commission, duly appointed by the Webster County Board of Commissioners. The words “Board of Adjustment” and Board shall mean the Webster County Board of Adjustment duly appointed by the Webster County Board of Commissioners in accordance with this Resolution. The words “Zoning Administrator” shall mean that person duly appointed by the Webster County Board of Commissioners to administer and enforce these zoning regulations with the assistance of the Webster County Attorney.

SECTION 303 - DEFINITIONS

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

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

- 303.02 ACCESSORY USE OF BUILDING:** A building or use, which is subordinate and incidental to that of the main or principal building or use on the same lot or tract.
- 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, as defined in Sections 303.24 and 303.44 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 one hundred eighty (180) days in any calendar year in lots or pens normally used for crop production or vegetation, provided that such use shall not include any waste handling facilities, as defined in Section 303.89 of this Resolution, which are associated with any confined or intensive animal feeding use.
- 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, chloride, 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 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.
- 303.07 ANIMAL HUSBANDRY:** The care and raising of animals.
- 303.08 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:

<u>Type of Animal</u>	<u>Animal Unit(s)</u>
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.....	2.00
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

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

- 303.10 ANIMAL WASTE WATER:** 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 303.89 of this Resolution, or any spillage or overflow from animal watering systems where such spillage or overflow comes in contact with any animal excrement, manure, litter, bedding or other waste product, 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.
- 303.11 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.
- 303.12 BED AND BREAKFAST, BOARDING OR LODGING HOUSE:** a building, other than a hotel or motel, where for compensation and by arrangement for definite short-term periods, meals and / or lodging are provided for customers.
- 303.13 BUILDABLE AREA:** The portion of a lot or tract of land remaining after the front, side and rear setbacks, as defined in this Resolution, have been provided.
- 303.14 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 structure shall be considered a separate building. (Refer to Section 303.33, Farm Building and Section 303.62, Non-Farm Building.)
- 303.15 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 or highest point of the structure, excluding chimneys, antennas or other similar appurtenances.
- 303.16 CAMPGROUND:** Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used or 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 upon a change in the use of land or building, and 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 land 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 COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the County, recommended by the County Planning Commission and adopted by the County Board of Commissioners.

- 303.22 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.
- 303.23 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 Commissioners. Such zoning 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 Commissioners.
- 303.24 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, if such a permit is not required, such determination shall be by written declaration of the owner of such use of the one-time animal unit capacity of such use to the Zoning Administrator. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the number of animal capacity units by the Zoning Administrator or other duly appointed official at the time of such dispute. Any waste handling facilities, as defined in Section 303.89 of this Resolution, associated with any confined animal feeding use shall be considered a separate waste handling facility use and shall be subject to the requirements of this Resolution. For purposes of this Resolution, waste handling facilities associated with any confined animal feeding uses shall be classified and regulated with regard to the number of animal units served by such waste handling facility in accordance with the following classes of size, as well as the type of waste handling facilities utilized, in accordance with the category of waste handling facility as defined in Section 303.89 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 and one (1,001) to five thousand (5,000) animal units.
- Class III - A confined animal feeding use with a one-time capacity of five thousand and one (5,001) to twenty thousand (20,000) animal units.
- Class IV - A confined animal feeding use with a one-time capacity of twenty thousand and one (20,001) or more animal units.
- 303.25 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.
- 303.26 DWELLING, SINGLE-FAMILY:** A dwelling unit having independent accommodations for and occupied by one family.
- 303.27 DWELLING, TWO-FAMILY (DUPLEX):** A dwelling unit having independent accommodations for and occupied by two families.
- 303.28 DWELLING UNIT:** One room or combination of rooms which constitute a separate and independent housekeeping establishment containing independent cooking, sleeping and restroom facilities.

- 303.29 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.
- 303.30 FACULTATIVE DIGESTION:** 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.
- 303.31 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.
- 303.32 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.
- 303.33 FARM BUILDING:** Any non-residential building located on a farm, as defined in Section 303.32 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 303.89 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.
- 303.34 FLOOD PLAIN:** Those lands within the zoning jurisdiction of Webster 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.
- 303.35 FLOOR:** A level or story in a building.
- 303.36 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.
- 303.37 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.
- 303.38 GROUP DAY CARE CENTER / NURSERY SCHOOL:** An establishment, other than public, private non-religious or parochial school, which provides day care, play groups, nursery school or education for five (5) or more unrelated children.
- 303.39 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 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.

- 303.40 HOME OCCUPATION:** An occupation or business enterprise conducted in a dwelling unit or accessory building, where such occupation or business enterprise is operated by persons occupying the dwelling unit and a limited number of other persons, as regulated in this Resolution.
- 303.41 IMPACT EASEMENT (DEED RESTRICTION):** An easement or deed restriction, recorded in the office of the Webster 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 agreed 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.
- 303.42 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.
- 303.43 INDUSTRIAL USE:** A use, other than an agricultural or commercial use, in which products or goods are manufactured from raw materials by hand or by machines
- 303.44 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 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 animal unit capacity of such use to the Zoning Administrator. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the number of animal capacity units by the Zoning Administrator or other duly appointed official at the time of such dispute. Waste handling facilities, as defined in Section 303.89 of this Resolution, associated with any intensive animal feeding use, shall be considered a separate waste handling facility use and shall be subject to the requirements of this Resolution. For purposes of this Resolution, waste handling facilities associated with any intensive animal feeding uses shall be categorized as an ANC (anaerobic) facility, as defined in Section 303.89 of this Resolution, and classified with regard to the number of animals 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 five thousand (5,000) animal units.
- Class III - An intensive animal feeding use with a one-time capacity of five thousand and one (5,001) to twenty thousand (20,000) animal units.
- Class IV - An intensive animal feeding use with a one-time capacity of twenty thousand and one (20,001) or more animal units.
- 303.45 JUNK YARD:** See Salvage Yard.
- 303.46 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 or permitted by said Department.

- 303.47 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 or use and its accessory buildings or structures. A lot may consist of a single lot record, a portion of a lot of record, a combination or complete lots or record, a combination of complete lots of record and portions of lots of record, or portions of lots of record.
- 303.48 LOT AREA:** The total horizontal area of a lot, excluding all street or alley rights-of-way.
- 303.49 LOT, CORNER:** A lot which has frontage on two (2) or more streets or roads at the intersection of said streets or roads.
- 303.50 LOT DEPTH:** The average horizontal distance between the front and rear lot lines of any lot.
- 303.51 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 Webster County, Nebraska prior to the effective date of this Resolution.
- 303.52 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 prescribed in the various zoning districts set forth in this Resolution.
- 303.53 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 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.
- 303.54 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.
- 303.55 MOBILE HOME LOT:** A lot or parcel of land for the placement of one (1) mobile home.
- 303.56 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.
- 303.57 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.

- 303.58 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 agency.
- 303.59 NON-CONFORMING LOT OF RECORD:** A lawfully existing lot in existence, as evidenced by recordation of such lot in the Webster County Registrar of Deeds office 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.
- 303.60 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.
- 303.61 NON-CONFORMING USE:** A lawfully established use of land in existence as of the effective date of this Resolution, which does not comply with the regulations of this Resolution.
- 303.62 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 303.32 of this Resolution, which is 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 303.32 of this Resolution and any building associated with a waste handling facility use, as defined in Section 303.89 of this Resolution.
- 303.63 ODOR:** That characteristic of a substance which makes it offensive to the human sense of smell, as determined by the majority of any three (3) or more persons where such persons shall include the Zoning Administrator, a representative of the use being investigated for odor and one or more neutral persons agreed upon by the Zoning Administrator and the representative of the use being investigated for odor.
- 303.64 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.
- 303.65 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.
- 303.66 PREMISES:** The land area containing a land use, which is contiguous with and under the same ownership as the land use.
- 303.67 PREVAILING WINDS:** Prevailing winds in Webster 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
- 303.68 PRINCIPAL BUILDING:** A building in which the principal use on the lot is situated.
- 303.69 PRIVATE ROADWAY:** A privately owned, open, unoccupied space, other than a public road, reserved as the principal means of access to abutting property.

- 303.70 PUBLIC USE AREA:** An area of land or water, whether publicly or privately owned, which is designed for and use 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 or biking trails or privately owned land used for hunting and/or fishing.
- 303.71 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.
- 303.72 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.
- 303.73 RESIDENTIAL USE:** A land use wherein one or more persons resides in a building containing one room or combination of rooms which are used for living, cooking, sleeping purposes.
- 303.74 ROAD / ROADWAY:** A public right-of-way set aside for public travel which affords the principal means of access to abutting property.
- 303.75 ROAD CENTERLINE:** A line extending down the center of a road or street right-of-way.
- 303.76 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.
- 303.77 SALVAGE YARD:** Land where waste, discarded 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.
- 303.78 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.
- 303.79 SETBACK (YARD):** A horizontal distance, as prescribed in the various zoning districts established in this Resolution, measured from the centerline of the roadway on which a 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:
- A. **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.
 - B. **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.
 - C. **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.
 - D. **SETBACK, TRANSITIONAL:** An open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.

- 303.80 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.
- 303.81 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 and waste produced by living swine, poultry or other non-ruminant animals which contains not less than twenty five percent (25%) solids by weight.
- 303.82 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 303.89 of this Resolution.
- 303.83 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 shall be counted as a story if more than four (4) feet of said basement is above the average finished grade of the adjoining ground.
- 303.84 STREET:** See ROAD
- 303.85 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.
- 303.86 STRUCTURAL ALTERATIONS:** Any change in the supporting members of a structure, including, but not limited to bearing walls, partitions, columns, and beams or girders.
- 303.87 USE:** The purpose or activity for which land and buildings thereon is designed, arranged, intended, or for which it is occupied or maintained.
- 303.88 VARIANCE:** A relaxation of the height, lot area, size of structure or buildings or size of yards and open space requirements of this Resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the land and not the result of actions or desires of the owner, a literal enforcement of the requirements of this Resolution would result in unnecessary and undue hardship.
- 303.89 WASTE HANDLING FACILITY:** Any facility including:
- A. any and all structures, combination of structures, under-floor pits, holding ponds, waste or manure catch basins, lots or pens where animal waste is accumulated, diversion terraces, liquid manure storage pits, lagoons, manure or other waste composting sites or other facility used to hold, store, process, digest, control or otherwise dispose of dead animals, animal waste, animal waste water or other waste materials, other than solid waste as defined in Section 303.82 of this Resolution, generated by any industrial use, any municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.24 and 303.44 of this Resolution, whether on the same or different premises as the use generating said waste; and
 - B. any above ground pipelines for transporting of wastes other than solid wastes, as defined in Section 303.82 of this Resolution, any irrigation or other device, equipment, or mechanism used to transport and/or land apply or otherwise dispose of such wastes, whether on the same or different premises than the industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.24 and 303.44 of this Resolution; and

- C. any land on which animal waste, animal waste water or other waste, excluding solid waste as defined in Section 303.82 of this Resolution, generated by any industrial use, municipal waste treatment facility or other use, including animal waste and animal waste water generated by any confined or intensive animal feeding use, as defined in Section 303.24 and 303.44 of this Resolution, is applied; and
- D. any facilities, apparatus, or mechanism used to ventilate, exhaust, process, or treat gases, odor, dust, smoke or other waste product emanating from any building or structure associated with any, industrial use, municipal waste treatment facility or other use, including any confined or intensive animal feeding use, as defined in Section 303.24 and 303.44 of this Resolution.

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 or injection of liquid manure, liquid waste or waste water 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. odors and dust, 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): 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. odors and dust, 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 of lagoon capacity 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.

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. odors and dust, 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
3. 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
4. odors and dust, 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.

303.90 ZONING ADMINISTRATOR: The person duly designated by the Webster County Board of Commissioners to administer and enforce the regulations established under this Resolution.

303.91 ZONING DISTRICT: One of several sets of zoning regulations designed for a particular class of land uses which establishes uniform regulations governing the use, building and structure height, area, size, intensity of use and other standards of land use within the unincorporated areas 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 original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report to the Board of Commissioners, and the Board of Commissioners shall not hold its public hearing or take final action on such recommendations until it has received the final report of the Planning Commission.

SECTION 402 - DISTRICTS CREATED

For the purposes of this Resolution the following zoning districts for Webster County, Nebraska, as named and described in Article 5 of this Resolution, are created:

AG - G	General Agricultural District
AG - T	Transitional Agricultural District
AG - R	River Corridor Agricultural District
AH	Airport 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 Commissioners and attested by the County Clerk under the following words: "This is to certify that this is the Official Zoning Map of Webster County, Nebraska referred to in Section 403 of Resolution No. ____ of the County of Webster, 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 County Clerk for the use and benefit of the public.

SECTION 404 - OFFICIAL ZONING MAP CHANGES

- 404.01 CHANGES ON 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 Commissioners, 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 Commissioners 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 entry on such Official Zoning Map have been made.
- 404.02 CHANGES IN CONFORMITY WITH 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 this Resolution.
- 404.03 PENALTIES FOR UNAUTHORIZED CHANGES:** Any unauthorized change of any kind on the Official Zoning Map by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law.
- 404.04 FINAL AUTHORITY OF 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 County Clerk, shall be the final authority as to the current zoning status of land within Webster 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 Commissioners 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 Commissioners 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 Webster County, Nebraska Board of County Commissioners.” 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 / INTERPOLATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of zoning districts shown on the Official Zoning Map the following rules shall apply:

- 406.01** Boundaries indicated as approximately following the centerlines of roads, streets, or highways shall be construed to follow such centerlines.
- 406.02** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines and boundaries indicated as approximately following the corporate limit boundaries of any municipality shall be construed to follow such corporate limit boundaries.
- 406.03** Boundaries indicated as following railroad lines shall be construed to follow a line midway between the tracks of the main railroad track.
- 406.04** Boundaries indicated as following shorelines of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such shorelines and in the event of change in the shorelines shall be construed as moving with the shorelines. Boundaries indicated as following the centerline of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such centerline.
- 406.05** Boundaries indicated as parallel to or extensions of features indicated in Items 406.01 through 406.04 immediately above shall be so construed.
- 406.05** Distances not specified set forth on the Official Zoning Map shall be determined by measurement according to the scale of the Official Zoning Map.
- 406.07** Where a district boundary line divides a lot 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.
- 406.08** In circumstances not covered by Items 406.01 through 406.07 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 to any incorporated municipality within or adjoining Webster County, Nebraska shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any such municipality shall 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 promote and facilitate agricultural crop production, livestock production which is in balance with the existing environment, and 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 existing 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 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 Webster County.

501.02 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 303.33 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. Signs, including permanent on-site and outdoor advertising signs, provided the number of such permanent on-site signs shall not exceed three (3) per premises and that permanent outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. Temporary signs, including but not limited to crop seed signs, yard sale, real estate for sale or lease signs, political campaign signs, shall be exempt from regulation. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).
6. Stockpiling of animal waste or manure or municipal sewage or other sludge on any parcel of land where such waste is to be applied to the land contained within such parcel or for multiple parcels of land, provided such stockpiling shall meet all of the following conditions:
 - A. The amount of solid manure or sludge stockpiled for any parcel shall not exceed the amount of waste which can be applied on such parcel at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality for a calendar year. Any manure or sludge stockpile shall be located at least one-half(1/2) mile south or ¼ mile East, West or North from the nearest wall of any functional church, active school or occupied 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 unless the owner of such church, school or

residential dwelling shall grant permission by notarized written statement for a stockpile to be located at a closer distance.

OR

The amount of solid manure or sludge stockpiled for multiple parcels shall not exceed the amount of waste which can be applied on the multiple parcels at agronomic rates in compliance with the requirements of the Nebraska Department of Environmental Quality for a calendar year. Any manure or sludge stockpile shall be located at least three-fourths (3/4) mile South of one-half (1/2) mile East, West or North from the nearest wall of any functional church, active school or occupied 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 unless the owner of such church, school or residential dwelling shall grant permission by notarized written statement for a stockpile to be located at a closer distance.

- B. The stockpiled manure or sludge shall be spread on the land by the end of the following February of the crop season year during which the stockpile was created.
- C. Stockpiling on land and application of sludges from municipal waste treatment facilities shall be permitted, provided such stockpiling shall comply with the requirements of Paragraphs A and B immediately above and that the municipality generating said sludges shall provide written evidence to the County Board of Commissioners that the sludges do not contain contaminants at levels higher than the maximum contaminant levels established by the Environmental Protection Agency and further provided that the municipality generating such sludges provides written evidence to the County Board of Commissioners that said sludges are being applied at agronomic rates.

501.03 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. 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. If 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 501.05 of this Resolution, such use may be expanded in any direction provided that such expansion complies with all requirements of Paragraph B, Parts 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 501.05 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 303.41 of this Resolution.
 - B. If the waste handling facility associated with an animal feeding use is located closer than the minimum separation distances from neighboring uses, as set forth in Table 501.05 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 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 and associated waste handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 501.05, 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 303.41 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 501.05 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 303.41 of this Resolution.
- 3) Any physical expansion of the waste handling facility shall be immediately contiguous with the existing waste handling facilities.
- 4) Such expansion may occur over time, but such expansion(s) shall not result in a waste handling facility which would serve a one-time animal unit capacity which is more than fifty (50) percent greater than the one-time animal unit capacity which existed as of the effective date of this Resolution or such expansion shall not result in a waste handling facility which would serve a one-time animal unit capacity exceeding the animal unit limitation of the Class of such use which existed as of the effective date of this Resolution, whichever is less, Expansion beyond these limits may only be authorized as a conditional use in accordance with the procedures and requirements of this Resolution.
- 5) No minimum separation distance shall be applicable to any site where any composted animal waste or solid manure, as defined in Section 303.80 of this Resolution, is applied to the surface of the land or any site where liquid or slurry animal waste is injected into the soil.
- 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 501.05, 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 Commissioners 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 and associated waste handling facility 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 its present assessed valuation to make such dwelling habitable.

2. Waste handling facilities, as defined in Section 303.89 of this Resolution, associated with a Class I confined and intensive animal feeding uses, as defined in Sections 303.24 and 303.44 of this Resolution, when in compliance with the following restrictions:
 - A. A waste handling facility associated with a Class I confined or intensive animal feeding use shall not be located closer the minimum separation distances set forth in Table 501.05 of this Resolution to any church, school, public use area or any dwelling unit not of the same ownership and not on the same premises as the animal feeding use and waste handling facility, provided that no minimum separation distances shall be applicable to any site on which animal waste is surface applied as composted waste or as solid manure, as defined in Section 303.81 of this Resolution, or where liquid animal waste is injected into the soil. Measurement of this distance shall be from the point of lot, pen, building or waste handling facility nearest to said church, school, public use area or dwelling unit not of the same ownership and not on the same premises as the animal feeding use and waste handling facility to the nearest wall of a church, school or dwelling unit not of the same ownership and not on the same premises with the waste handling facility or the nearest boundary of a public use area. If one or more impact easement(s), as defined in Section 303.41 of this Resolution, shall have been granted to the owner of the animal feeding use and waste handling facility, any dwellings or other uses associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the intensive animal feeding 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 its present assessed valuation to make such dwelling habitable.
 - B. Utilizing a 25 year storm as an engineering basis, surface runoff or other drainage from such animal feeding use and associated waste handling facility shall not flow directly or indirectly into any river, stream or other drainageway which would allow any waste to contaminate ground or surface water. Further no such use shall be located within an area which is subject to flooding on a one-hundred (100) year basis.
 - C. The total capacity of any waste handling facility serving a confined or intensive animal feeding use shall not exceed one thousand (1,000) animal units per half section of land, except when a conditional use for a waste handling facility serving a larger number of animals units has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.
 - D. Development of a waste handling facility associated with a Class I confined or intensive animal feeding use shall require preparation of a Comprehensive Nutrient Management Plan (CNMP), following the same information as required by the Nebraska Department of Environmental Quality, and submission of said (CNMP) to the Zoning Administrator. Such Plan shall be reviewed for consistency with the requirements of the Nebraska Department of Environmental Quality by said Department or such other agency or entity, as determined by the County Board of Commissioners. Such Plan shall address, at a minimum, the amount, form, method of application, location of application and timing of animal waste and animal waste water so that such Plan is in accordance with state and federal requirements. The owner of the waste handling facility shall also submit proof of ownership or lease of a sufficient amount of land, as specified in the CNMP, for application of such wastes. Loss of land for such waste application shall require written submission of the availability of additional land, either through ownership or lease. Failure to maintain the ability to provide sufficient land on which to apply such wastes shall result in the County requiring the removal of a sufficient number of animals from the animal feeding use to maintain the levels of waste application per unit of land as specified in the CNMP and the County Board of Commissioners 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 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 Commissioners.

- E. Animals shall not be introduced into the facility until any permit required to be issued by the Nebraska Department of Environmental Quality, or successor agency, shall have been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and the requirements of this Resolution.
 - F. Exceptions to the minimum separation requirements, as set forth in said Table 501.05, 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 Commissioners that reduction of the separation distance will not interfere with the value, use and enjoyment of neighboring properties.
- 3. Notwithstanding other waste handling facility regulations of this Resolution, land application of sludges from municipal waste treatment facilities shall be permitted, provided that the municipality generating said sludges shall provide written evidence that the sludges do not contain contaminants at levels higher than the maximum contaminant levels established by the Environmental Protection Agency and further provided that the municipal generating such sludges provides written evidence to the County that said sludges are being applied at agronomic rates.
 - 4. Public service facilities, including public, parochial, private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
 - 5. Churches, cemeteries and related uses.
 - 6. 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.
 - 7. Radio, television, microwave and other types of erected towers, subject to applicable airport zoning restrictions set forth in this Resolution.
 - 8. Day care and child care uses.
 - 9. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following restrictions:
 - A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, shall be separated from such use by the minimum distance specified in Table 501.05 of this Resolution for the class of the animal feeding use and the category of waste handling facility, provided that if one or more impact easement(s), as defined in Section 303.41 of this Resolution, shall have been granted to the owner of the animal feeding use and associated waste handling facility use, any dwelling unit or other use associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding use or associated waste handling facility, to the nearest wall of such dwelling or other use. Any site where

there is surface application of composted animal waste or solid manure, as defined in Section 303.81 of this Resolution, or injection of liquid animal waste into the soil, shall not be subject to any minimum separation distance.

- 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 Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use and any associated waste handling facility.
 - C. Such dwelling shall be located on a lot with an area of not less than two (2) acres, as set forth in Section 501.07 of this Resolution, and such lot shall have a minimum lot width as set forth in Section 501.08 of this Resolution, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system indicate that a larger lot is appropriate.
 - D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Webster County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Webster County shall not construct or improve such roadway or any drainage structures thereon and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road 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 separate ownership as of the effective date of this Resolution shall not exceed more than one (1) additional dwelling over the number of dwellings existing on said parcel as of the effective date of this Resolution, unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.
 - F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use and associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such confined or intensive animal feeding use and 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 303.41 of this Resolution, is effective at the time of such subdivision and sale. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 501.05 of this Resolution.
10. On-site wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.

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

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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 Commissioners may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG -G, Agricultural District:

1. Expansion of waste handling facilities associated with confined or intensive animal feeding uses in existence as of the effective date of this Resolution, beyond the limits set forth in Section 501.03 of this Resolution, and development of new waste handling facilities associated with Class II, III and IV confined and intensive animal feeding uses, provided such waste handling facility uses shall meet or exceed the requirements set forth below and provided such uses shall meet or exceed the minimum separation distances set forth in Table 501.05 of this Resolution, for the class of the animal feeding use being served by the waste handling facility and the category of waste handling facility:
 - A. The developer of a waste handling facility use shall submit a plan for the proper and timely disposal of dead animals within thirty six (36) hours of knowledge of death. Such plan shall comply with the requirements of law or regulations of the State of Nebraska and shall be subject to the approval of the County Board of Commissioners 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; 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.
 - B. For all categories of waste handling facility 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 Commissioners who, in establishing such requirements, may consult with the applicable Natural Resource District, the Natural Resources Conservation Service, the University of Nebraska Extension Service, the Nebraska Department of Environmental Quality, their successor agencies, geologists, soil scientists, agronomist, biological engineers, civil engineers and any other entity with environmental protection expertise and shall have a permit from the Nebraska Department of Environmental Quality if a permit is so required by said Department.

- C. Any waste handling facility use, which proposes to dispose of any waste through application of said waste on crop or other land, shall prepare and present a waste handling a Comprehensive Nutrient Management Plan (CNMP), following the same information as required by the Nebraska Department of Environmental Quality, and submission of said (CNMP) to the Zoning Administrator. Such Plan shall address, at a minimum, the amount, form, method of application, location of application and timing of animal waste and animal waste water so that such Plan is in accordance with state and federal requirements. The owner of the waste handling facility shall also submit proof of ownership or lease of a sufficient amount of land, as specified in the CNMP, for application of such wastes. Loss of land for such waste application shall require written submission of the availability of additional land, either through ownership or lease. Failure to maintain the ability to provide sufficient land on which to apply such wastes shall result in the County requiring the removal of a sufficient number of animals from the animal feeding use to maintain the levels of waste application per unit of land as specified in the CNMP. The County Board of Commissioners 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 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 Commissioners.
- D. All locations, which are used by any authorized waste handling facility use for stockpiling or composting of waste and/or dead animals, shall be subject to authorization by the County Board of Commissioners as part of the authorization of any 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. Any composting shall be aerobic composting and the maximum amount of waste which may be stockpiled shall not exceed the waste produced by the animal feeding use the facility is serving in twelve (12) consecutive months and such stockpile shall be removed within said twelve (12) month period.
- E. The owner / operator of any waste handling facility use authorized by the County Board of Commissioners shall agree to permit access to the waste handling facilities and sufficient access to the animal feeding use to verify animal unit capacity within twenty four (24) hours of notification of a proposed inspection, to allow inspection of said facilities by the Zoning Administrator or other person(s) designated by the County Board of Commissioners to assure compliance with all conditions established in the authorization of such use. Such inspections shall be conducted on a written complaint basis only 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 Commissioners in authorizing such use. In making such inspections, the Zoning Administrator or other authorized person shall follow all bio-hazard procedures required by the operator of the animal feeding use. Such inspections shall be considered a general function of the Zoning Administrator and the cost of such inspection(s) 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 or other authorized person 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 Commissioners 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) of such conditions. The owner / operator of such use 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 any and all actions authorized under this Resolution to require compliance with the conditions of use approved by the County Board of Commissioners, 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 shall agree to comply with any written order of the County Board of Commissioners, 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 Commissioners that additional time to comply with any order of the Zoning Administrator is needed, the County Board of Commissioners may authorize an extension of time up to, but not exceeding Ninety (90) calendar 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 and compliance set forth in this Section (Section E) shall not apply to any waste handling facility use which was in existence as of the effective date of this Resolution, except to verify compliance with the expansion limitations of this Resolution or unless such use has been expanded in its capacity beyond that which existed as of the effective date of this Resolution.

- F. Any waste handling facility use 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 Commissioners that the geology, soil permeability, depth to water table, drainage patterns and other natural characteristics will minimize the potential for surface and ground water contamination. In making a determination regarding the appropriateness of the site, the County Board of Commissioners may utilize the advice and recommendations of the Natural Resource District, the Natural Resources Conservation Service, geologist and any other entities with applicable environmental protection expertise. Where it is determined that the geology, soil permeability, depth to water table, drainage patterns or other environmental characteristic would present a reasonable potential for contamination of groundwater through leakage from a lagoon or waste holding pond, the County Board of Commissioners may require the use of above ground waste storage tanks or not authorize such use.
- G. 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.
- H. In authorizing any waste handling facility use, the County Board of Commissioners may attach any additional requirement or condition of design or operation of such use 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, which may include recommendations by the Natural Resource District, the Natural Resources Conservation Service, the University of Nebraska

Extension Service, the Nebraska Department of Environmental Quality, their successor agencies, geologists, biological engineers, civil engineers and any other entities with applicable environmental protection expertise and not here say, unfounded public remonstrance or other reason not based on reasonable finding or fact.

- I. In authorizing any waste handling facility use, the County Board of Commissioners may, after consultation with the applicable Natural Resources District, the Department of Environmental Quality and/or other qualified entity with groundwater contamination expertise, 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 Commissioners 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 upgradient of the ground water flow direction, with the remaining wells located downgradient. 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 Commissioners shall take into account any such wells required by the Nebraska Department of Environmental Quality in its permitting process.
- J. 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 Commissioners 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.
- K. Residential dwellings existing on the same premises and under the same ownership as a waste handling facility use, as defined in Section 303.89 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such facility and shall not be subdivided or otherwise sold off as a separate parcel unless the waste handling facility use has been discontinued or an impact easement, as defined in Section 303.41 of this Resolution, is effective at the time of such subdivision and sale. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 501.05 of this Resolution.
- L. 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 Commissioners that reduction of this minimum spacing distance will not unreasonably interfere with the value, use and enjoyment of adjoining and neighboring properties.
- M. Any conditional use application for a waste handling facility use, which is determined by the County Board of Commissioners to be in compliance with all requirements of Items A through L of this Section and for which there is agreement by the owner of such proposed use to comply with any additional requirement or condition established by the Board of Commissioners, as set forth in Subsection H above, shall be authorized.

2. Application of animal manure or other waste from sources outside the boundaries of the County on land within the County, except surface application of solid manure as defined in Section 303.81 of this Resolution at agronomic rates, or injection of liquid animal waste into the soil at agronomic rates. Any authorization of surface application of liquid animal waste shall require that the site(s) for such application be approved as a conditional use and that such sites shall comply with the minimum separation distances to neighboring uses, within or adjoining the County, as set forth in Table 501.05 of this Resolution.
3. General welding and agricultural equipment repair businesses, automobile repair and body shop businesses, livestock auction barns and yards, and other commercial business and industrial uses, determined by the Board of Commissioners 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 hazards, and the capacity of the roadways, bridges and drainage structures on such roadways which would serve such uses.
4. Crop dusting businesses and related aircraft landing strips and airports.
5. Commercial fuel and fertilizer bulk plants, provided such uses shall be separated at least one half (1/2) mile from any neighboring dwelling unit, church, school or public use area.
6. Solid waste landfills, recycling facilities and transfer stations when in compliance with all requirements established by the Board of Commissioners in granting a conditional use and in compliance with all requirements of the Nebraska Department of Environmental Quality.
7. Residential subdivisions in excess of the 4 dwelling units per quarter section limit, established in Section 501.03 of this Resolution.
8. Salvage (junk) yards, provided such uses shall be separated at least one-half (1/2) mile from any neighboring dwelling unit, church, school or public use area.
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.
10. Mineral extraction and sand and gravel extraction facilities and operations.
11. Public service facilities not allowable as permitted uses in Section 501.03 of this Resolution.
12. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.
13. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent statement of this zoning district.

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**TABLE 501.05
MINIMUM SEPARATION DISTANCES BETWEEN WASTE HANDLING FACILITIES
AND ABUTTING AND NEIGHBORING USES**

<u>WASTE HANDLING FACILITY USES by Category and by Class of Use Served:</u>	<u>MINIMUM DISTANCE FROM A WASTE HANDLING FACILITY TO A NEIGHBORING DWELLING UNIT, CHURCH, SCHOOL, OR PUBLIC USE AREA*</u>	
	<u>North / South**</u>	<u>East / West**</u>
<u>Category A (Aerobic) serving a:</u>		
Class I confined animal feeding use.....	0.5 mile.....	0.25 mile
Class II confined animal feeding use.....	0.5 mile.....	0.25 mile
Class III confined animal feeding use.....	0.75 mile.....	0.5 mile
Class IV confined animal feeding use.....	1.0 mile.....	0.75 mile
<u>Category ANC (Covered Anaerobic) serving a:</u>		
Class I confined animal feeding use.....	1.0 mile.....	0.5 mile
Class II confined animal feeding use.....	1.5 miles.....	0.75 mile
Class III confined animal feeding use.....	1.75 miles.....	1.0 mile
Class IV confined animal feeding use.....	2.0 miles.....	1.25 miles
<u>Category FAC (Facultative) serving a:</u>		
Class I confined animal feeding use.....	1.0 mile.....	0.5 mile
Class II confined animal feeding use.....	1.5 miles.....	0.75 mile
Class III confined animal feeding use.....	1.75 miles.....	1.0 mile
Class IV confined animal feeding use.....	2.0 miles.....	1.25 miles
<u>Category AN (Anaerobic)*** serving a:</u>		
Class I confined or intensive animal feeding use.....	1.0 mile.....	0.75 mile
Class II confined or intensive animal feeding use.....	1.5 miles.....	1.0 mile
Class III confined or intensive animal feeding use.....	2.0 miles.....	1.5 miles
Class IV confined or intensive animal feeding use.....	2.5 miles.....	2.0 miles
<u>Category A (Aerobic) serving a:</u>		
Municipal Sanitary Sewer System.....	0.5 mile.....	0.5 mile

Footnotes:

- * Measurement of this distance shall be from the point of the waste handling facility associated with a confined or intensive animal feeding use, 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 303.41 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 303.81 of this Resolution, is spread on the surface of the land 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 its present assessed valuation to make such dwelling habitable.

- ** Separation distances are based upon compass directions of prevailing winds and shall be applied as defined in Section 303.67 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 handling facility is appropriate.

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 two (2) acres.
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 uses in accordance with Article 10 of this Resolution, provided that no lot shall be less than two (2) 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 three hundred (300) feet and the minimum lot frontage shall be sixty six (66) feet.
2. 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 Commissioners in authorizing 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.

501.09 MINIMUM SETBACK REQUIREMENTS: The following shall be the minimum setback requirements for uses located within this district:

1. Front Setback - Eighty three (83) feet, measured from the centerline of a road other than a Federal or State Highway, in which case the front setback shall be one-half (1/2) the width of the right-of-way of the highway, plus fifty (50) feet.
2. Side Setback - Fifty (50) feet
3. Rear Setback - Fifty (50) feet

501.10 MAXIMUM HEIGHT: No limitation, except for buildings designed for human habitation, which shall be a height limitation of Forty (40) feet and all structures within any airport hazard zoning district shall be subject to applicable height restrictions. Any building or structure over one hundred fifty (150) feet in height shall be subject to permitting requirements of the Nebraska Department of Aeronautics.

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SECTION 502 AG - T TRANSITIONAL AGRICULTURAL DISTRICT

502.01 INTENT: The intent of this district is to preserve land for and encourage residential, commercial and industrial developments in a compatible relationship to each other and the agricultural uses located near the incorporated municipalities in the County and provide protection of these urban areas from encroachment of incompatible land uses while allowing agricultural uses which will not negatively impact non-agricultural uses in the zoning district or the urban areas around which this zoning district is applied.

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 303.33 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use and excluding any waste handling facility use, as defined in Section 303.89 of this Resolution.
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. Signs, including permanent on-site and outdoor advertising signs, provided the number of such permanent on-site signs shall not exceed three (3) per premises and that permanent outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. Temporary signs, including but not limited to crop seed signs, yard sale, real estate for sale or lease signs, political campaign signs, shall be exempt from regulation. (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. 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. If 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 501.05 of this Resolution, such use may be expanded in any direction except closer to any municipality around which this zoning district is applied and provided that such expansion complies with all requirements of Paragraph B, Parts 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 501.05 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 303.41 of this Resolution.

- B. If the waste handling facility associated with an animal feeding use is located closer than the minimum separation distances from neighboring uses, as set forth in Table 501.05 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 waste handling facility may not be expanded closer to any municipality around which this zoning district is applied and 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 and associated waste handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 501.05, 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 303.41 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 501.05 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 303.41 of this Resolution.
 - 3) Any physical expansion of the waste handling facility shall be immediately contiguous with the existing waste handling facilities.
 - 4) Such expansion may occur over time, but such expansion(s) shall not result in a waste handling facility which would serve a one-time animal unit capacity which is more than fifty (50) percent greater than the one-time animal unit capacity which existed as of the effective date of this Resolution or such expansion shall not result in a waste handling facility which would serve a one-time animal unit capacity exceeding the animal unit limitation of the Class of such use which existed as of the effective date of this Resolution, whichever is less, Expansion beyond these limits may only be authorized as a conditional use in accordance with the procedures and requirements of this Resolution.
 - 5) No minimum separation distance shall be applicable to any site where any composted animal waste or solid manure, as defined in Section 303.80 of this Resolution, is applied to the surface of the land or any site where liquid or slurry animal waste is injected into the soil.
 - 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 501.05, 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 Commissioners 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 and associated waste handling facility 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 its present assessed valuation to make such dwelling habitable.
2. Notwithstanding other waste handling facility regulations of this Resolution, land application of sludges from municipal waste treatment facilities shall be permitted, provided that the municipality generating said sludges shall provide written evidence that the sludges do not contain contaminants at levels higher than the maximum contaminant levels established by the Environmental Protection Agency and further provided that the municipal generating such sludges provides written evidence to the County that said sludges are being applied at agronomic rates.
 3. Public service facilities, including public, parochial, private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
 4. Churches, cemeteries and related uses.
 5. 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.
 6. Radio, television, microwave and other types of erected towers, subject to applicable airport zoning restrictions set forth in this Resolution.
 7. Day care and child care uses.
 8. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following restrictions:
 - A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, shall be separated from such use by the minimum distance specified in Table 501.05 of this Resolution for the class of the animal feeding use and the category of waste handling facility, provided that if one or more impact easement(s), as defined in Section 303.41 of this Resolution, shall have been granted to the owner of the animal feeding use and associated waste handling facility use, any dwelling unit or other use associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding use or associated waste handling facility, to the nearest wall of such dwelling or other use. Any site where there is surface application of composted animal waste or solid manure, as defined in Section 303.81 of this Resolution, or injection of liquid animal waste into the soil, shall not be subject to any minimum separation distance.
 - 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 Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use and any associated waste handling facility.

- C. Such dwelling shall be located on a lot with an area of not less than two (2) acres, if a septic tank and tile field sewage disposal system is used, or not less than ten thousand (10,000) square feet, if a public or semi-public sanitary sewer is to be used, and such lot shall have a minimum lot width as set forth in Section 502.08 of this Resolution, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system.
 - D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Webster County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Webster County shall not construct or improve such roadway or any drainage structures thereon and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road 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 separate ownership as of the effective date of this Resolution shall not exceed more than one (1) additional dwelling over the number of dwellings existing on said parcel as of the effective date of this Resolution, unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.
 - F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use and associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such confined or intensive animal feeding use and 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 303.41 of this Resolution, is effective at the time of such subdivision and sale. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 501.05 of this Resolution.
9. On-site wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.

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.

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502.05 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 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.
3. Public service facilities not allowable as permitted principal uses in Section 502.02 of this Resolution.
4. Mineral extraction and sand and gravel extraction facilities and operations.
5. Nursing home facilities, and group homes
6. Commercial and industrial uses, determined by the Board of Commissioners to be compatible with adjoining land uses.
7. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.
8. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated 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 specifically allowed in this District as permitted uses and consistent with the Intent statement of this zoning district. This prohibition shall specifically include all new waste handling facility uses associated with any new confined or intensive animal feeding, as defined in Sections 303.24, 303.44 and 303.89 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 two (2) acres, if an on-site septic tank and tile field sewage disposal system is used on the same lot that has a domestic drinking water well, or not less than one (1) acre if an on-site septic tank and tile field sewage system is used on the lot that has no domestic drinking water well, or not less than ten thousand (10,000) square feet, if a public or semi-public sanitary system if a sewer collection and treatment system is to be used, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system.
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 Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than ten thousand (10,000) square feet 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:

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1. The minimum lot width for any lot utilizing an on-site sewage disposal system shall be three hundred (300) feet and the minimum lot width for lots utilizing a public or semi-public sanitary sewer collection and treatment system shall be sixty (60) feet. The minimum lot frontage for any lot utilizing an on-site sewage disposal system shall be sixty six (66) feet and the minimum lot frontage for lots utilizing a public or semi-public sanitary sewer collection and treatment system shall be sixty (50) 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 Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than sixty (60) feet and a minimum frontage less than fifty (50) feet.

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

For lots utilizing an on-site sewage disposal system:

1. Front Setback - Eighty three (83) feet, measured from the centerline of a road other than a Federal or State Highway, in which case the front setback shall be one-half (1/2) the width of the right-of-way of the highway plus, fifty (50) feet.
2. Side Setback - Fifty (50) feet
3. Rear Setback - Fifty (50) feet

For lot utilizing a public or semi-public sewer collection and treatment system:

1. Front Setback - Fifty eight (58) feet, measured from the centerline of a road other than a Federal or State Highway, in which case the front setback shall be one-half (1/2) the width of the right-of-way of the highway plus twenty five (25) feet.
2. Side Setback - Five (5) feet
3. 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 and all structures within any airport hazard zoning district shall be subject to applicable height restrictions. Any building or structure over one hundred fifty (150) feet in height shall be subject to permitting requirements of the Nebraska Department of Aeronautics.

SECTION 503 AG - R RIVER CORRIDOR AGRICULTURAL DISTRICT

503.01 INTENT: The intent of this district is to protect the environmentally sensitive lands along the major waterways in the County, to preserve the scenic quality of the Republican River corridor by restricting the types agricultural and other uses which can be developed in the corridor in the future, and to allow the development of non-agricultural land uses which are compatible with maintaining the water quality and scenic quality of the river corridor and which are compatible with the agricultural uses permitted in the corridor areas.

503.02 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 303.33 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use and excluding any waste handling facility use, as defined in Section 303.89 of this Resolution.
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. Signs, including permanent on-site and outdoor advertising signs, provided the number of such permanent on-site signs shall not exceed three (3) per premises and that permanent outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. Temporary signs, including but not limited to crop seed signs, yard sale, real estate for sale or lease signs, political campaign signs, shall be exempt from regulation. (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. 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. If 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 501.05 of this Resolution, such use may be expanded in any direction except in any area subject to flooding on a one hundred (100) year basis and provided that such expansion complies with all requirements of Paragraph B, Parts 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 501.05 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 303.41 of this Resolution.

- B. If the waste handling facility associated with an animal feeding use is located closer than the minimum separation distances from neighboring uses, as set forth in Table 501.05 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 waste handling facility may not be expanded in any area subject to flooding on a one hundred (100) year basis and 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 and associated waste handling facility to which the waste handling facility is already less than the minimum distances specified in said Table 501.05, 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 303.41 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 501.05 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 303.41 of this Resolution.
 - 3) Any physical expansion of the waste handling facility shall be immediately contiguous with the existing waste handling facilities.
 - 4) Such expansion may occur over time, but such expansion(s) shall not result in a waste handling facility which would serve a one-time animal unit capacity which is more than fifty (50) percent greater than the one-time animal unit capacity which existed as of the effective date of this Resolution or such expansion shall not result in a waste handling facility which would serve a one-time animal unit capacity exceeding the animal unit limitation of the Class of such use which existed as of the effective date of this Resolution, whichever is less, Expansion beyond these limits may only be authorized as a conditional use in accordance with the procedures and requirements of this Resolution.
 - 5) No minimum separation distance shall be applicable to any site where any composted animal waste or solid manure, as defined in Section 303.80 of this Resolution, is applied to the surface of the land or any site where liquid or slurry animal waste is injected into the soil.
 - 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 501.05, 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 Commissioners 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 and associated waste handling facility 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 its present assessed valuation to make such dwelling habitable.
2. Notwithstanding other waste handling facility regulations of this Resolution, land application of sludges from municipal waste treatment facilities shall be permitted, provided that the municipality generating said sludges shall provide written evidence that the sludges do not contain contaminants at levels higher than the maximum contaminant levels established by the Environmental Protection Agency and further provided that the municipal generating such sludges provides written evidence to the County that said sludges are being applied at agronomic rates.
 3. Public service facilities, including public, parochial, private schools, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.
 4. Churches, cemeteries and related uses.
 5. 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.
 6. Radio, television, microwave and other types of erected towers, subject to applicable airport zoning restrictions set forth in this Resolution.
 7. Day care and child care uses.
 8. Single-Family dwellings, including manufactured housing, modular housing and mobile homes, provided such dwellings comply with all of the following restrictions:
 - A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined or intensive animal feeding use or associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, shall be separated from such use by the minimum distance specified in Table 501.05 of this Resolution for the class of the animal feeding use and the category of waste handling facility, provided that if one or more impact easement(s), as defined in Section 303.41 of this Resolution, shall have been granted to the owner of the animal feeding use and associated waste handling facility use, any dwelling unit or other use associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding use or associated waste handling facility, to the nearest wall of such dwelling or other use. Any site where there is surface application of composted animal waste or solid manure, as defined in Section 303.81 of this Resolution, or injection of liquid animal waste into the soil, shall not be subject to any minimum separation distance.
 - 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 Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use and any associated waste handling facility.

- C. Such dwelling shall be located on a lot with an area of not less than five (5) acres, if a septic tank and tile field sewage disposal system is used, or not less than ten thousand (10,000) square feet, if a public or semi-public sanitary sewer is to be used, and such lot shall have a minimum lot width as set forth in Section 502.08 of this Resolution, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system.
 - D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Webster County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Webster County shall not construct or improve such roadway or any drainage structures thereon and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road 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 separate ownership as of the effective date of this Resolution shall not exceed more than one (1) additional dwelling over the number of dwellings existing on said parcel as of the effective date of this Resolution, unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.
 - F. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use and associated waste handling facility, as defined in Sections 303.24, 303.44 and 303.89 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such confined or intensive animal feeding use and 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 303.41 of this Resolution, is effective at the time of such subdivision and sale. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum separation distance requirements from such waste handling facility use as set forth in Table 501.05 of this Resolution.
9. On-site wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.

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.

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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 Commissioners 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. 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 503.02 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 Commissioners to be compatible with adjoining land uses.
6. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 609, Supplemental Regulations, of this zoning resolution.
7. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent 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 new waste handling facility uses associated with any new confined or intensive animal feeding, as defined in Sections 303.24, 303.44 and 303.89 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 two (2) acres.
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 uses in accordance with Article 10 of this Resolution, provided that no lot shall be less than two (2) acres in area.

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. The minimum lot width shall be three hundred (300) feet and the minimum lot frontage shall be sixty six (66) feet.

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2. 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 Commissioners in authorizing 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.

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

1. Front Setback - Eighty three (83) feet, measured from the centerline of a road other than a Federal or State Highway, in which case the front setback shall be one-half (1/2) the width of the right-of-way of the highway plus fifty (50) feet.
2. Side Setback - Fifty (50) feet
3. Rear Setback - Fifty (50) feet

503.10 MAXIMUM HEIGHT: No limitation, except for buildings designed for human habitation, which shall be a height limitation of Forty (40) feet and all structures within any airport hazard zoning district shall be subject to applicable height restrictions. Any building or structure over one hundred fifty (150) feet in height shall be subject to permitting requirements of the Nebraska Department of Aeronautics.

SECTION 504 AH AIRPORT HAZARD DISTRICT

504.01 INTENT: The intent of this district is that it is to overlay any of the primary zoning districts as described in Sections 501, 502 or 503 of this Resolution to protect the safe use of airports in the 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 Webster County, Nebraska and detailed on the Red Cloud Municipal Airport Zoning Map (Drawing No. ZN-RC-77), which is attached as an appendix to this Resolution and incorporated by reference into this Resolution.

504.02 ZONE DESCRIPTIONS: The various areas around an airport are described as follows:

1. **Operation Zone:** An operation zone shall be located along each existing or proposed runway, landing strip, or other portion of the air field used regularly for landing and take off of airplanes and shall begin or end at each end of each landing strip and two hundred (200) feet beyond the end of each runway and shall be one thousand (1,000) feet in width for each instrument runway or landing strip and five hundred (500) feet in width for all other runways and landing strips.
2. **Approach Zone:** An Approach Zone shall begin at the ends of the respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of thirty (30) feet in width for each one hundred (100) feet of horizontal length for the instrument runway or landing strip and twenty (20) feet in width for each one hundred (100) feet of horizontal length of all other runways.

The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane one hundred fifty (150) feet above the highest elevation of the end of the respective runway or landing strip.

The Outer Area of each Approach Zone shall be the area between the outer limits of the Inner Area of the Approach Zone and the outer limits of the Approach Zone.

3. **Transition Zone:** A Transitional Zone shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of the contiguous inner areas of Approach Zones and the outer limits of the Transitional Zones; said outer limits of the Transition Zones being the intersections, at elevations of one hundred fifty (150) feet above the highest elevation at the ends or edges or the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the Hazard Area and the edges of adjacent inner areas of Approach Zones; said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one (1) foot vertically to Seven (7) feet horizontally to the lines of intersection previously referred to.
4. **Turning Zone:** A Turning Zone shall be comprised of all portions of the Hazard Area not contained in the Operation, Approach or Transition Zones. The outer limits of the Turning Zone shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport / airstrip property lines.

- 504.03 ALLOWABLE, PERMITTED AND ACCESSORY USES AND STRUCTURES:** Any use or structure indicated as an allowable use, a permitted use, or an accessory use in the primary zoning district on which this airport hazard district is overlain, shall be allowed or permitted in accordance with the zoning permit requirements of the primary zoning district, provided all buildings, structures and other obstacles comply with the height restrictions established in Section 504.09 below.
- 504.04 CONDITIONAL USES:** Any use listed as a conditional use in the primary zoning district on this district is overlain may be authorized as a conditional use by the County Board of Commissioners 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 504.09 below.
- 504.05 PROHIBITED USES AND STRUCTURES:** Uses, which are listed as prohibited uses and structures according to the location of each primary zoning district, shall be as prohibited in each such primary zoning district.
- 504.06 MINIMUM LOT AREA REQUIREMENTS:** The minimum lot area shall be as set forth in each primary zoning district according to the location of each such primary zoning district..
- 504.07 MINIMUM LOT WIDTH AND FRONTAGE:** The minimum lot width and frontage shall be as set forth in each primary zoning district according to the location of each such primary zoning district.
- 504.08 MINIMUM SETBACK REQUIREMENTS:** The minimum setback requirements shall be as set forth in each primary zoning district according to the location of each such primary zoning district.
- 504.09 HEIGHT RESTRICTIONS:** No building, transmission line, communications line, pole, tree, smoke-stack, chimney, wires, tower, or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, or established, nor shall any tree or other object of natural growth be allowed to grow:
1. In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of an instrument runway or landing strip in excess of one-fiftieth (1/50), and all other runways or landing strips, in excess of one-fortieth (1/40) of the distance from the end of the approach zone (the end nearest the runway or landing strip) to said structure or object.
 2. In the Outer Areas of Approach Zones and in Turning Zones to a height in excess of one hundred fifty (150) feet above the elevation at the end of the nearest runway or landing strip.
 3. In the Transition Zones to a height above the planes forming the transition slopes, and
 4. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runways or landing strips or surface of the ground.

SECTION 506 AG – WP WELLHEAD PROTECTION OVERLAY DISTRICT

506.01 INTENT: The intent of this district is that it is to overlay any of the primary zoning districts as described in Sections 501, 502 or 503 of this Resolution, to assist municipalities which maintain and operate public water wells in the County which serve municipalities within or adjoining the County and to assist any rural water districts which may maintain and operate water wells in the County serving rural areas and municipalities within Webster County and neighboring counties in providing protection for such wells through the 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 agricultural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of the public and semi-public water wells located within this district.

506.02 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT: Prior to the application of this district to any lands in Webster County, the municipality or rural water district which maintains and operates water supply wells within the County shall make application to the County seeking application of this overlay district to specified lands within the County. Prior to making such application and prior to approval of any application of this district to any lands within the County by the County Board of Commissioners, the municipality or rural water district making such application shall have first complied with all other requirements of the Wellhead Protection Areas Act (Neb. Rev. Stat. 46-1501 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area.
5. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area,
7. Willingness to execute an interlocal agreement with Webster County for the administration and enforcement of the regulations of this Wellhead Protection Agricultural Districts, willingness to accept the regulations set forth in this District, willingness to pay any administrative fees to the County which the parties involved agree, willingness to provide legal council to address any legal question or legal challenge to the Wellhead Protection Agricultural District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.

506.3 LIMITATION ON APPLICATION OF THIS DISTRICT: This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of such officially approved Wellhead Protection Area do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or

quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-the-field determination of such boundaries.

- 506.04 AMENDMENT OF OFFICIAL ZONING MAP:** Whenever the requirements of Section 506.02 of the Resolution have been complied with and the County Board of Commissioners has approved the application of this overlay zoning district on land with the County, in accordance with the procedures for amendment of the Official Zoning Map set forth in the Resolution, the boundaries of such overlay district shall be indicated on said Official Zoning Map.
- 506.05 ALLOWABLE , PERMITTED AND ACCESSORY USES AND STRUCTURES:** Any use or structure indicated as an allowable use, a permitted use, or an accessory use in the primary zoning district on which this well protection district is overlain, shall be allowed or permitted in accordance with the zoning permit requirements of the primary zoning district, except when specifically prohibited in Section 506.07 of this Resolution, and provided all such uses comply with the additional well head protection restrictions set forth in Section 506.08 of this Resolution.
- 506.06 CONDITIONAL USES:** Any use listed as a conditional use in the primary zoning district over which this district is overlain, except those uses specifically prohibited in Section 506.07 of this Resolution, may be authorized as a conditional use by the County Board of Commissioners in accordance with the requirements and procedures specified in the Resolution, provided all uses comply with the additional well head protection restrictions set forth in Section 506.08 of this Resolution.
- 506.07 PROHIBITED USES AND STRUCTURES:** Uses, which are listed as prohibited uses and structures according to the location of each primary zoning district, shall be as prohibited in each such primary zoning district. In addition, the following uses are specifically prohibited in any area on which this well protection overlay district is applied:
1. Confined or intensive animal feeding uses and associated waste handling facilities.
 2. Other types of waste handling facilities and landfills.
 3. Commercial and industrial uses, which utilize or produce any hazardous materials, as Determined by United States Environmental Protection Agency, including commercial uses which maintain anhydrous ammonia, agricultural chemicals, other fertilizers, or bulk storage of gasoline, kerosene, or diesel fuel for resale.
- 506.08 WELL HEAD PROTECTION RESTRICTIONS:** The following restrictions shall apply to uses within any area of land on which this Well Head Protection Overlay District is applied:
1. On farm storage of gasoline or diesel fuel in excess of one thousand on hundred (1,100) gallons shall be prohibited.
 2. Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30.
 3. No fuel storage, except when associated with Item 3 (above), shall be permitted within one thousand (1,000) feet of any well protected under this zoning district.
 4. No septic tank or tile field associated with any residential, commercial, industrial or other type of use shall be permitted within one thousand (1,000) feet of any well protected under this overlay district.
 5. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet to any water well protected in under this overlay district.

- 506.09 MINIMUM LOT AREA REQUIREMENTS:** The minimum lot area shall be as set forth in each primary zoning district according to the location of each such primary zoning district.
- 506.10 MINIMUM LOT WIDTH AND FRONTAGE:** The minimum lot width and frontage shall be as set forth in each primary zoning district according to the location of each such primary zoning district.
- 506.11 MINIMUM SETBACK REQUIREMENTS:** The minimum setback requirements shall be as set forth in each primary zoning district according to the location of each such primary zoning district.
- 506.12 HEIGHT RESTRICTIONS:** The maximum height of any building or structure shall be as set forth in each primary zoning district on which this district is overlain.

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 and all lot lines 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:

602.01 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.

602.02 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 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 604 SETBACK EXEMPTIONS

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 605 DIVISION OF LOTS

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, except as provided for in Section 707.03 of this Resolution.

SECTION 607 ACCESSORY USES

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

607.01 Any accessory use shall be incidental to, subordinate to and commonly associated with the primary use of the lot.

607.02 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.

607.03 Any accessory use shall be clearly subordinate to the primary use of the lot in height, area, bulk and extent.

607.04 Any accessory use shall be permitted only after the development 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 allowed without permit to accompany residential (agricultural or non-agricultural) use:

608.01 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.

608.02 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.

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 WIND ENERGY SYSTEMS

A. INTENT:

According to the research conducted by the Michigan Department of Labor and Economic Development, Energy Office, generation of electricity in the United States is responsible for 36% of carbon dioxide pollution, 64% of sulfur dioxide pollution, 26% of nitrogen oxide pollution and 34% of mercury pollution.

Development of facilities to generate clean, renewable energy will reduce air pollution, increase the fuel diversity of our electric system, save natural resources and provide a hedge against increases in the price of fossil fuels used for electric generation.

The intent of these regulations is to strike an appropriate balance between our Nation's need and our State's need to develop clean, renewable energy resources and the necessity to protect the public health, safety and welfare within the zoning jurisdiction of Webster County, Nebraska.

B. DEFINITIONS: The following definitions shall be applicable to this Section.

1. **AGGREGATE WIND ENERGY CONVERSION SYSTEM (WECS) PROJECT:** A utility grid wind energy conversion system project (WECS) or projects that is / are developed and operated in a coordinated fashion, but which have multiple entities separately owning one (1) or more of the individual WECS(s) 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 aggregate project.
2. **AMBIENT:** The sound pressure level exceeded ninety percent (90%) of the time.
3. **ANSI:** American National Standards Institute.
4. **APPLICANT:** An applicant may be the developer, utility, owner or operator of a proposed wind energy project. The applicant is the person, entity, agency or other group that submits the application to the County for review and action.
5. **dB(A):** The sound pressure level in decibels utilizing the "a" weighted scale defined by ANSI for weighting the frequency spectrum to mimic the human ear.
6. **DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.

7. **FALL ZONE:** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
8. **FEEDER LINE:** Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, 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.
9. **IMPACT EASEMENT:** An easement or deed restriction, recorded in the office of the Webster 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, a wind energy conversion system 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, noise, visual 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.
10. **METEOROLOGICAL or SCADA TOWER:** A temporary or permanent tower associated with a utility grid WECS, not provided for in Section 502.03, base plate, anchors, guy wires, hardware, anemometers, wind direction vanes, booms to hold equipment, data loggers, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed, direction and flow characteristics over a period of time at a given location or free-standing monopole or guyed tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
11. **MODIFICATION:** Any change to the on-site WECS that materially alters the size, type, capacity or location of the WECS. Like-kind replacement and normal repairs shall not be construed to be a modification.
12. **NET METERING:** The difference between the electricity supplied to a customer over the electric grid system and the electricity generated by the customer's WECS that is fed back into the grid system over a billing period.
13. **OCCUPIED BUILDING:** A residential dwelling, school, hospital, church, public library or other building used for public gathering that is occupied by or used by human beings for its intended purpose. Occupied building shall not include barns, outbuildings, storage buildings, machine shops or other similar buildings.
14. **ON-SITE WIND ENERGY CONVERSION SYSTEM:** An on-site wind energy system with no or one (1) tower, intended to primarily serve the needs of the use on the premises where such system is located. Such system may be connected to the electric grid through net metering, but the primary use shall be to generate electricity to serve the needs of the use on the premises where such system is located.
15. **OPERATOR:** The entity responsible for the day-to-day operation and maintenance of any WECS, WECS project of substation, including any third-party subcontractors.
16. **OWNER:** The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean 1) the property owner from whom land is leased for locating the WECS(s) unless the property owner has an equity interest in the WECS(s) or 2) any person holding a security interest in the WECS(s) solely to secure an extension of credit or person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS(s) at the earliest practicable date.

17. **NOISE SENSITIVE RECEPTOR:** Any land area, building or facility which could experience interference with its common and normal use due to excess noise levels including, but not limited to, occupied buildings, as herein defined, hotels, motels, outdoor amphitheater, outdoor sports fields, parks, playgrounds, golf courses, water oriented recreation areas, riding stables and cemeteries.
18. **PROJECT BOUNDARY:** All leased landowners and non-leased land owners that are surrounded by leased land for wind energy purposes.
19. **PUBLIC CONSERVATION LANDS:** Land owned in fee title by State or Federal Government agencies and managed specifically for conservation purposes, including but not limited to wildlife management areas, parks, 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 and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
20. **PURE TONE:** A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty five (125) Hz.
21. **ROTOR:** A component of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
22. **SHADOW FLICKER:** Alternating changes in light intensity caused by the moving blades of a wind energy system which cast a repeating pattern of shadows on the ground and stationary objects, such as a window of a dwelling.
23. **SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of sound measured at the receiver.
24. **SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
25. **SUBSTATION:** The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection to the utility grid transmission lines.
26. **SYSTEM HEIGHT:** The vertical distance from ground level to the tip of the wind generator blade when at its highest point from the ground.
27. **TOWER HEIGHT:** The height above grade of the fixed portion of the tower, excluding the wind generator.
28. **TRANSMISSION LINE:** The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
29. **UTILITY GRID WIND ENERGY SYSTEM:** A wind energy conversion system which is designed and constructed to provide electricity to an electric utility grid.
30. **WIND ENERGY CONVERSION SYSTEM (WECS):** A system with all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation and transformer, in any.

31. WIND ENERGY CONVERSION SYSTEM PROJECT (WECS Project): The WECS(s) and associated support facilities including, but not limited to, roads, transformers, electrical cabling, substations, operation and maintenance buildings, SCADA towers within the boundaries of the project site.
 32. WIND GENERATOR: The blades and associated mechanical and electrical conversion components mounted on top of a tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.
 33. WIND SITE ASSESSMENT: An assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.
- C. ZONING PERMIT REQUIRED: Issuance of a zoning permit shall be required prior to construction of any on-site or utility grid WECS. Failure to comply with the permitting requirement or any requirement or standard of this section shall constitute a violation of this Resolution.

D. ON-SITE WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:

1. Application Requirements: Applications for an on-site WECS shall contain a scaled site plan containing the following information together with attachments which provide non-map data indicated:
 - a. Property lines and physical dimensions of the property where the on-site WECS is proposed, including the right-of-way lines of any public road that is contiguous to the property.
 - b. Location, dimensions and types of existing major structures on the property and height to the top of the canopy of any tree(s) or other obstruction within three hundred feet (300') of the proposed WECS location.
 - c. Location of the proposed WECS, foundation, guy wire anchors and associated equipment.
 - d. Setback distances of the WECS as set forth in the regulation.
 - e. Location of overhead utility lines.
 - f. WECS specifications, including manufacturer, model, rotor diameter, tower height, tower type and nameplate generation capacity.
 - g. Sound level analysis prepared by the manufacturer or qualified engineer.
 - h. Electrical components in sufficient detail to allow for determination of compliance with applicable electrical codes.
 - i. Evidence of compliance or non-applicability with the Federal Aviation Administration requirements.
 - j. For on-site WECS which will be connected to the power grid, a copy of the application for interconnection with the electric utility provider.
2. Standard and Requirements: On-site WECS shall be permitted in the applicable zoning district when in compliance with the following standards and requirements:
 - a. SETBACKS: The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road rights-of-way or nearest wall of an

occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district, except that guy wire anchors shall have a minimum setback from property lines of ten (10) feet.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	1.5	1.1	1.1

In the event any owner of abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner’s property and / or occupied buildings thereon shall be as set forth in said impact easement.

- b. **SYSTEM HEIGHT:** The maximum system height shall be forty (40) feet above the highest tree canopy of other obstruction within three hundred feet (300’) of the WECS, provided that no system height shall exceed one hundred twenty feet (120’).
- c. **SOUND LEVEL:** The on-site WECS shall not exceed sixty (60) decibels using the “A” scale (dBA), as measured at the property lines, except during short-term events such as severe wind storms and utility outages.
- d. **SHADOW FLICKER:** The on-site WECS shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide a map of such shadow flicker impacts based upon high and low sun angles for the proposed site.
- e. **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification.
- f. **AVIATION:** Any on-site WECS proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
- g. **VISUAL IMPACTS:**
 - 1) Screening of ground mounted electrical and control equipment from public roads and occupied buildings on abutting properties shall be provided by means of fencing and /or landscaping or a combination thereof.
 - 2) The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
 - 3) The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
- h. **ACCESS:** The WECS tower shall be designed and installed so as not to provide step bolts, ladders or other means of access for a minimum height of eight feet (8’) from ground level and the applicant shall provided evidence as to how all ground mounted equipment shall be secured to prevent unauthorized access.
- i. **DESIGN SAFETY:** On-site WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National

Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.

- j. **CONTROLS AND BRAKES:** Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with these requirements shall be provided by the manufacturer.
- k. **CODE COMPLIANCE:** On-site WECS(s) shall comply with the electrical codes applicable in the County and / or the National Electrical Code.
- l. **UTILITY CONNECTION:** If the on-site WECS is to be connected to the utility grid, the applicant shall submit written verification that the utility serving the site of the proposed WECS has been notified and that the proposed interconnection complies with the requirements of said utility.
- m. **ABANDONMENT:**
 - 1) At such time that an on-site WECS is scheduled to be abandoned or discontinued, the owner of said WECS shall notify the Zoning Administrator of the proposed date of abandonment or discontinuance of operation.
 - 2) Upon abandonment or discontinuation of use, the owner of the on-site WECS shall physically dismantle all above ground components of the WECS within ninety (90) days from the date of abandonment or discontinuation of use.
 - 3) In the event that an owner of an on-site WECS fails to give notice of abandonment or discontinuation of use, the WECS shall be considered to be abandoned or discontinued if the system is out-of-service for a twelve (12) consecutive months. After such twelve (12) consecutive months the Zoning Administrator shall issue a written Notice of Abandonment by certified mail to the owner of the WECS at the address indicated for the site of the WECS in the County Treasurers Office. The owner of the WECS shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date of receipt of such notice to present evidence that the WECS has not been abandoned or discontinued. The Zoning Administrator shall review any such response to determine if the WECS has been abandoned or discontinued. If it is determined that said WECS has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to the owner of said WECS. If, after review of the owner's response, it is determined that said WECS has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the owner of the WECS.

If the owner of said WECS fails to respond to the Notice of Abandonment or, after review of any response from the owner, the Zoning Administrator determines that the WECS has been abandoned or discontinued for twelve (12) consecutive months, the owner shall have ninety (90) days from the date of receipt of such notice to dismantle all above ground components of said WECS. If the owner of said WECS fails to dismantle said WECS within the prescribed time period, such shall be considered a violation of the Resolution and shall be subject to the penalties set forth in Section 15 of this Resolution.

- n. **PRIOR EXISTING USES:** On-site WECS(s) installed prior to the effective date of these regulations shall be exempt from the requirements of these regulations, except when modification of the WECS is proposed. Any on-site WECS which was abandoned or the use of which has been discontinued for a period of twelve (12) consecutive months prior to the effective date of these regulations shall be subject to the notice and dismantling requirements set forth in Item 13 immediately above.

E. UTILITY GRID WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:

1. Application Requirements:

- a. **Preliminary Project Application:** At the option of the applicant, a preliminary project application may be filed. Such application shall be intended to consider the proposed project from a local land use perspective without submission of the required studies, detailed site plan and formal details of the project. Such application shall place local citizens, neighboring property owners and the general public on notice that a property or series of properties is under consideration for a utility grid wind energy conversion system project and shall give the applicant some awareness of the potential issues associated with the proposed project without having to incur all of the costs associated with a Final Project Application.

The process for review and action on any Preliminary Project Application shall be the same as prescribed for a conditional use application as set forth in Section 12 of this Resolution.

Action to approve any Preliminary Project does not indicate a final approval of the proposed project, but shall be interpreted to mean that such project may be approved in final form after the studies required in the Final Project Application have been completed and effective measures have been implemented to avoid or minimize impacts based on the wind energy facilities.

An applicant for a utility grid WECS project may, at their option, skip the preliminary project application process and proceed directly to a Final Project Application.

- b. **Preliminary Project Application Requirements:** The following mapped information and other data and exhibits shall be required in a Preliminary Project Application:
 - 1) The name(s), address(es) and telephone number(s) of the project applicant(s) and operator(s).
 - 2) A general site plan of the project area indicating:
 - a) The proposed project boundary.
 - b) The probable number, tower heights, diameter of rotors and location of such towers.
 - c) The public roadways included in or on the border of the project boundary and all roadways which shall be used to bring materials to the project boundary including any proposed improvements to such roadways and associated drainage structures boundary.
 - d) The existing or proposed location of any meteorological tower(s) on or to be constructed to evaluate the proposed project area.
- c. **Preliminary Project Application Fee:** The applicant shall pay a preliminary application fee of three hundred dollars (\$300) to cover the cost of advertising the required public hearings.

- d. Preliminary Project Application Review: In reviewing and acting on a preliminary utility grid wind energy conversion system project proposal, the Planning Commission and County Board of Commissioners shall consider the following:
- 1) The likelihood of the proposed project meeting or exceeding the minimum standards and requirements set forth under the Final Project Application section of this regulation. The applicant may submit a written statement or additional documentation indicating that the proposed project will comply with such final application standards and requirements.
 - 2) With regard to visual impacts of the proposed project and the typical human reaction of “not in my back yard”, the Planning Commission and County Board of Commissioners shall consider the historic impacts, or lack thereof, of the development of previously popular television reception towers and antennae, satellite dishes, and the current impacts, or lack thereof, of cellular and other communication towers, pivot irrigation systems and electrical transmission towers and lines when considering whether the potential visual impacts of the proposed WECS project on neighboring properties would be any different or less acceptable than the cellular and other communications towers, pivot irrigation systems and electrical transmission towers and line which already exist in the County.
 - 3) Identifying the particular issues of concern with regard to final action on the proposed utility grid WECS project that the applicant should address in greater detail in a final application.
- e. Final Project Application: Application for a final Utility Grid WECS Project approval shall include the following information:
- 1) The name(s), address(es) and telephone number(s) of the project applicant(s).
 - 2) The name, address and telephone number of the project owner.
 - 3) The legal description and address of the project.
 - 4) A written narrative describing the proposed Utility Grid WECS Project, including an overview of the project, the generating capacity of the WECS Project, the number, type, height or range of heights of the wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers and a description of ancillary buildings, structures and facilities.
 - 5) A signed letter from the leased property owner(s) indicating that the WECS Project applicant has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the WECS Project or copies of recorded wind energy lease agreements.
 - 6) A scaled site plan map or maps of the proposed Utility Grid WECS Project indicating:
 - a) The boundary of the proposed WECS Project indicating all leased and non-leased properties within and abutting such boundary.
 - b) The location of each wind turbine and associated meteorological tower within the proposed WECS project together with setback distances from occupied buildings, utility lines, and public roads including an attached list of GPS coordinates for latitude and longitude.
 - c) The location of County and State roads within and bordering the proposed WECS Project together with access roads and turnout locations proposed within the project

and all County roadways which shall be used to bring materials to the project boundaries including any proposed improvements to such roadways and associated drainage structures

- d) The location of all proposed substations and the location of electrical cabling within the project area.
- e) The location, size, height and type of all ancillary equipment, buildings and structures proposed within the project area.
- 7) Visual simulations, in color, by either photograph, video or artistic drawing showing the probable WECS wind turbines from at least four (4) viewable angles within two (2) miles of the boundary perimeter.
- 8) A decommissioning plan complying with the requirements of this regulation.
- 9) A shadow flicker analysis in accordance with the requirements of this regulation.
- 10) If any WECS included within the proposed boundary are located within five (5) miles of any existing fixed broadcast, retransmission or reception antennae for radio, television or wireless telephone communication systems, the application shall be accompanied by a copy of the National Telecommunications and Information Administration letter informing all federal telecommunications owners/operators of the proposed project.
- 11) Environmental Analysis in accordance with the requirements of this regulation.
- f. Final Project Application Fee: The applicant shall pay a final project application fee of five hundred dollars (\$500) per wind generator tower proposed in the WCES project with a maximum fee of three thousand dollars (\$3,000) to cover costs of legal advertising and review of the final application.
- g. Standard and Requirements: Utility Grid WECS projects may be approved as a conditional use in the applicable zoning district when in compliance with the following standards and requirements:
 - 1) SETBACKS: Except as specified in the table below, the setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to public road right-of-way lines or the nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district. In the event any owner of an occupied building on the same premises or abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner's property and / or occupied buildings thereon shall be as set forth in said impact easement.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS	
From occupied buildings on the same premises as a wind energy conversion tower	0 feet
From occupied buildings on abutting properties	2 times the system height or minimum of 1,000 feet
From property lines to the south, east and west, as defined in Section 303.67 of this Resolution	2 times the turbine blade length
From property lines to the north, as defined in Section 303.67 of	1.1 times the system height

this Resolution, when owner of abutting property is not compensated through a wind energy lease agreement	
From property lines to the north, as defined in Section 303.67 of this Resolution, when owner of abutting property is compensated through a wind energy lease agreement	2 times the turbine blade length
From public road rights-of-way and utility lines	2 times the turbine blade length
From wildlife management areas, State recreation areas and wetlands, USFW types III, IV and V	600 feet

- 2) **SYSTEM HEIGHT:** No limitation.
- 3) **SOUND LEVEL:** The utility grid WECS sound levels shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at any occupied building or noise sensitive receptor within the project boundary and on non-leased lands with the project boundary and on lands within one-half mile of the project boundary. In the event audible noise from the operation of the WCES contains a pure steady tone, the maximum sound level shall be reduced by five (5) dBA. The applicant shall provide modeling and analysis that will confirm that the utility grid WECS project will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613.
- 4) **SHADOW FLICKER:** The utility grid WECS towers shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building or noise sensitive receptor within one thousand feet (1,000') of any wind turbine. In instances where an occupied building within one thousand (1,000') is not covered through an impact easement of compensation through a wind energy lease agreement, the applicant shall provide an analysis which shall identify the location(s) of shadow flicker for each wind turbine from sun-rise to sun-set over the course of a year which would impact occupied buildings or noise sensitive receptor within one thousand feet (1,000') of such wind turbines to verify that the standard set forth herein shall be complied with.
- 5) **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification. Visible high voltage warning signs shall be placed on all pad-mounted transformers and substations. Emergency contact signs shall be placed at or near the project main operation and maintenance building and the primary entrance to the project area. The sign at the primary entrance shall also warn of the potential for falling ice.
- 6) **AVIATION:** Any utility grid WECS project proposed shall comply with applicable Federal Aviation Administration regulations. In addition, any utility grid WCES shall comply with the following:
 - a) The applicant shall provide written notification to all property owners within and within one-half mile of the proposed WECS project boundary regarding potential impacts on the ability to utilize aerial application of herbicides and pesticides on crop and pasture land.
 - b) Any meteorological or SCADA tower associated with a utility grid WCES, whether or not taller than two hundred (200) feet, if not lighted shall be red and white in color and, if guy wires are used to stabilize the tower, each guy wire shall be marked with two (2) visible warning spheres spaced uniformly and highly visible sleeves at the

lower end of the guy wires. In addition the applicant shall provide information on the tower height and location coordinates to the Nebraska Department of Aeronautics.

7) VISUAL IMPACTS:

- a) All WECS towers shall be of monopole design.
 - b) The color of the WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
 - c) The WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights or reduced intensity strobe lights shall be used during nighttime illumination to reduce impacts on abutting properties.
 - d) All wind turbine blades shall have a mat finish or other non-reflective surface to minimize blade glint.
- 8) ACCESS: Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface and all access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- 9) DESIGN SAFETY: Utility grid WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
- 10) CONTROLS AND BRAKES: Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with these requirements shall be provided by the manufacturer.
- 11) CODE COMPLIANCE: All WECS(s) shall comply with the electrical codes applicable in the county and/or applicable State Codes and/or the National Electrical Code.
- 12) ELECTROMAGNETIC INTERFERENCE: If any WECS included within the proposed boundaries are located within five (5) miles of any existing fixed broadcast, retransmission or reception antennae for radio, television or wireless telephone communication systems, the application shall be accompanied by a copy of the National Telecommunications and Information Administration letter informing all federal telecommunications owners/operators of the proposed project.
- 13) ENVIRONMENTAL IMPACT: The applicant shall provide an environmental impact report to identify and assess any potential impacts on wildlife and endangered species and public conservation lands. Said report shall state that the applicant will comply

with all federal and state regulations in regard to national and state parks, wetlands, recreation areas and wildlife or game management areas.

- 14) DECOMMISSION PLAN: The applicant shall submit a decommissioning plan, which shall include at a minimum:
 - a) The anticipated life of the project,
 - b) The estimated decommissioning costs of removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars. Such estimate shall be prepared by a qualified engineer or salvage contractor familiar with WECS decommissioning.
 - c) The method of ensuring that funds will be available for decommissioning, which may include a decommissioning bond, irrevocable letter of credit, escrow fund or other financial assurance acceptable to the County. If wind energy lease agreements provide for an acceptable level of decommissioning funding assurances, such may be accepted by the County.
 - d) The anticipated manner in which the project will be decommissioned, and
 - e) The time period in which the decommissioning shall be completed.
- 15) PUBLIC ROAD IMPACTS: The applicant shall, in coordination with representatives from Webster county and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and /or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The applicant and representatives of the appropriate local road jurisdictions shall prepare a road maintenance and improvement plan and agreement that include provisions for the improvement, maintenance and repair of said roadways, bridges and other drainage structures prior to, during operation and after decommissioning of the WECS project.
- 16) EMERGENCY SERVICES: The applicant shall provide a copy of the project description and site plan to the local fire department(s) and rescue service(s) having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.
- 17) PUBLIC INQUIRIES: The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries.

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 removed, 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 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:

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

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

704.03 A zoning permit shall be required for any such enlargement or reconstruction.

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:

705.01 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.

705.02 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.

705.03 Where a lawfully established lot, tract or parcel 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 waste handling facility, a residential use may be established on said lot, tract or parcel.

705.04 Where a lawfully established lot, tract or parcel 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 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 waste handling facility.

SECTION 706 NON-CONFORMING USES 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.

706.01 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.

706.02 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.

706.03 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.

706.04 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 USES 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:

707.01 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.

707.02 With the exceptions set forth in Sections 704 and 707.03 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.

- 707.03** 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.
- 707.04** 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 Commissioners, 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 Commissioners may set conditions for such proposed use to assure that such use will remain appropriate for location in the zoning district.
- 707.05** Any building or structure or building or structure and land in combination , in or on which a non-conforming 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.
- 707.06** When a non-conforming use of a building or structure or building or structure and land in combination is 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.
- 707.07** Where non-conforming use status applies to a building or structure, a building or structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction, for the purposes of this Resolution, is defined as damage to an extent of more than seventy-five percent (75%) of the replacement cost at the time of destruction. Where destruction to the non-conforming use is greater than seventy-five percent (75%) of replacement cost, such use may be re-established, but only if such use can comply with all applicable requirements 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.

SECTION 709 USES UNDER CONDITIONAL USE

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 Commissioners, 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 Webster County Planning Commission, the Webster County Board of Adjustment, the Webster County Board of Commissioners, the Zoning Administrator designated by the Board of Commissioners, the Webster County Attorney and such other persons as may be designated by the Board of Commissioners.

SECTION 802 AUTHORITIES

Planning Commission:

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

- 802.01** Hear and recommend action by the Board of Commissioners regarding all applications for amendments to the text of this Resolution and / or changes (rezoning) to the Webster County Official Zoning Map.
- 802.02** Hear and recommend action by the Board of Commissioners regarding all applications for conditional uses, as set forth in this Resolution.
- 802.03** Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.
- 802.04** Periodically review the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.
- 802.05** Invoke any authorized remedy for the enforcement of this Resolution.

Board of Adjustment:

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

- 802.06** 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.
- 802.07** Hear and authorize specific appeals at variance with the requirements of this Resolution that would not be contrary to the public interest, where owing to special conditions demonstrated and after written findings of legitimate hardship, as defined and specified in Section 907.03 of this Resolution, a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship and not merely an inconvenience.
- 802.08** 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.
- 802.09** Prescribe uniform rules of procedure pertaining to investigations, findings of fact, applications, appeals and public hearings.
- 802.10** Invoke any legal remedy for the enforcement of this Resolution including full power to order discontinuance of any use and stays or work (stop work orders) on any premises in violation of the requirements of this Resolution.

Board of Commissioners:

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

- 802.11** 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.
- 802.12** Consider and adopt amendments to the text of this Resolution and / or changes (rezonings) to the Webster County Official Zoning Map, after review and recommendation by the Planning Commission.
- 802.13** Consider and adopt a schedule of permit and application fees for administration of this Resolution.
- 802.14** 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 Commissioners, the Zoning Administrator, the County Attorney and any other persons designated by the Board of Commissioners to carry out the responsibilities assigned to them by adoption of this Resolution.

Zoning Administrator:

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

- 802.15** 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 Commissioners 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.
- 802.16** Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution and take actions appropriate for the enforcement of this Resolution in accordance with Sections 803.03 and 803.04 of this Resolution.
- 802.17** 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 Commissioners may require.
- 802.18** 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.
- 802.19** 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:

- 803.01** 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 district court, as prescribed by law.

- 803.02** It is further the intent of this Resolution that the duties of the Board of Commissioners relative to this Resolution shall be limited to those specified in Section 802.11 through 802.14 herein 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.
- 803.03** 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 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 and prevent violation of the provisions of this Resolution.
- 803.04** The Zoning Administrator, operating through the County or other designated Attorney, shall have express authority to initiate and carry out 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 Commissioners. Adoption of this provision by the County Board of Commissioners 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 are applicable under the laws 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 Commissioners in the form of an approved conditional, 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:

- 805.01** All applications for a zoning permit shall be made on forms prescribed for such application by the Board of Commissioners 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.
- 805.02** 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 such other information as may be necessary to determine conformance with the requirements of the Resolution and enforcement thereof.

- 805.03** 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. 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.
- 805.04** 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 Webster County Assessor.
- 805.05** 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 LIMITATION OF ISSUANCE OF ZONING PERMIT

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 Commissioners 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.

SECTION 807 EXPIRATION OF ZONING PERMIT

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):

- 807.01** 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
- 807.02** 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 Commissioners in the form of an approved conditional use, as provided for in this Resolution.

807.03 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 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.

807.04 A Certificate of Zoning 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 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 Webster County Board of Adjustment. The Board of Adjustment shall be appointed by the Board of Commissioners 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 is unable to attend for any reason. One (1) member of the Board of Adjustment shall be appointed from the membership of the Webster County Planning Commission by the Board of Commissioners 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 Commissioners. No member of the Board of Commissioners 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 Commissioners 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 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:

907.01 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.

907.02 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.

907.03 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.

907.04 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.

907.05 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.

907.06 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:

1. 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;
2. 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;
3. Make a finding that the granting of the variance will be in harmony with the purpose and intent of the Resolution 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.

907.08 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.

907.08 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 HEARINGS

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 effected 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 APPEALS

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

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 Webster County Board of Commissioners 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 Commissioners and the Board of Commissioners 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 Commissioners. Said application shall be signed by the applicant or the applicant's authorized agent and the owner of the property on which said conditional use is proposed. 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:

- 1002.01** 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;
- 1002.02** The size and locations of all existing and proposed buildings and structures;
- 1002.03** A detailed description of the use proposed and the activities involved in such use;
- 1002.04** The location(s) of access to public roadway(s);
- 1002.05** The type and locations of easements effecting the property;
- 1002.06** A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;
- 1002.07** The extent and location of parking, loading and refuse disposal and collection facilities;
- 1002.08** The locations of residential dwellings and other non-agricultural land uses within two (2) miles of the property in question;
- 1002.09** An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;
- 1002.10** For commercial, industrial, and waste handling facility uses, 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 waste handling facilities associated with confined and intensive animal feeding uses, refer to requirements in Section 501.05 of the this Resolution.)
- 1002.11** Any areas on the property subject to flooding or considered to be a wetland.

SECTION 1003 REFERRAL TO PLANNING COMMISSION

Prior to consideration of a conditional use application, the Board of Commissioners shall refer a conditional use application to the Webster County Planning Commission for review, research and recommendation.

SECTION 1004 PLANNING COMMISSION PUBLIC NOTICE

Prior to consideration of a conditional use application by the Planning Commission, 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 effected 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 disapproves 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 Commissioners for it 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 COMMISSIONERS PUBLIC NOTICE

Prior to consideration of a conditional use application, the Board of Commissioners 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 effected 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 Commissioners, 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 Commissioners 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 APPROVAL OF CONDITIONAL USES

In reviewing any conditional use application, the Planning Commission and Board of Commissioners 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 Commissioners, the Planning Commission and/or Board of Commissioners 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 Commissioners shall 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:

- 1008.01** 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;
- 1008.02** 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;
- 1008.03** Refuse disposal or manure collection and disposal facilities and operations and other service facilities are appropriate relative to location, capacity and safety;
- 1008.04** 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;
- 1008.05** 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.
- 1008.06** Front, side and rear setbacks meet or exceed the minimum setback requirements of the zoning district in which the conditional use is located.
- 1008.07** Provisions to avoid development within any area subject to flooding and / or to avoid modification of any wetlands.
- 1008.08** For proposed commercial, industrial and waste handling facility 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, water pollution or explosion hazards or negative impacts on adjoining and neighboring properties.

SECTION 1009 CONDITIONS, SAFEGUARDS AND LIMITATIONS OF USE

In consideration of any conditional use application, the Board of Commissioners 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

Development of any authorized conditional use shall be commenced within one (1) year of the date of approval of such conditional use by the Board of Commissioners and development of said authorized conditional use shall be completed within two (2) years from the date of approval of such conditional use by the Board of Commissioners or such authorization is automatically revoked. Development or completion of any conditional use authorization that has been so revoked shall be permitted only after re-application and approval of such conditional use application by the Board of Commissioners, in the manner herein described.

ARTICLE 11 - AMENDMENTS

SECTION 1101 AUTHORITY

The County Board of Commissioners 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 Commissioners. A proposal for modification or repeal may be initiated by the Planning Commission, the Board of Commissioners or upon application of any owner of property under the jurisdiction of this Resolution. A filing fee, as established by the County Board of Commissioners shall be paid for each application to modify this Resolution prior to action on such application by the Planning Commission and Board of Commissioners, provided that such fee shall be waived where the proposed modifications is initiated by the Planning Commission or the Board of Commissioners.

SECTION 1102 PUBLIC NOTICE AND PUBLIC HEARINGS

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 Commissioners shall each be provided as follows:

1102.01 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 effected 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.

1102.02 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.

1102.03 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

1103.01 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 Commissioners.

1103.02 Board of Commissioners: 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 Commissioners, except for the provisions set forth in Section 1105 of this Resolution.

SECTION 1104 AMENDING OFFICIAL ZONING MAP

Should any amendment adopted by resolution of the Board of Commissioners serve to modify the location of zoning district boundaries as set forth on the Webster County Official Zoning Map, the Board of Commissioners 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 Commissioners. 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 Commissioners and attested to by the County Clerk.

SECTION 1105 PROTESTS

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 therefrom, 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 Commissioners.

ARTICLE 12 - COMPLAINTS, VIOLATIONS, REMEDIES, 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.

SECTION 1202 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 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 a 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 Commissioners 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 Commissioners.

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. Public entities and political subdivisions shall be exempt from payment of any such application fees.

ARTICLE 14 - LEGAL STATUS PROVISIONS

SECTION 1401 SEPARABILITY

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.

APPENDIX 1 - Application and Permit Forms

APPENDIX 2 - Schedule of Fees

APPENDIX 3 - Airport Hazard Map

CONFINED AND INTENSIVE ANIMAL FEEDING CONDITIONAL USE CHECKLIST
Webster County, Nebraska

The following checklist is a guide to items and issues to be considered when the Webster County Planning Commission is reviewing and preparing recommendations to the County Board of Commissioners and when the County Board of Commissioners is deciding its action regarding any conditional use application for confined or intensive animal feeding uses:

CONFINED ANIMAL FEEDING USES:

<u>Issue / Topic</u>	<u>Source(s) of Information</u>
___ Is location of proposed use in 100 year floodplain?	Middle Republican NRD (308) 367-4281
___ Has disposal plan for dead animals submitted and is such plan workable and appropriate?	Department of Agriculture, State Veterinary (402) 471-2351 Department of Environmental Quality (402) 471-2186 (Legislation is being considered - contact Senator Cap Dierks @ (402) 471-2618)
___ What are the potentials for ground or surface water contamination associated with the proposed use	Middle Republican NRD (308) 367-4281 Natural Resources Conservation Service (308) 286-3297 University of Nebraska Extension Service (308) 286-3312 Department of Environmental Quality (402) 471-2186 Other biological engineers, soil scientist

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ZONING REGULATIONS

of

Webster County, Nebraska

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