

Lincoln City - Lancaster County

PLANNING COMMISSION AGENDA

PLANNING COMMISSION

Dennis Scheer: Chair
Tracy Corr: Vice-Chair
Thomas Beckius
Dick Campbell
Tracy Edgerton
Deane Finnegan
Maja V. Harris
Cristy Joy
Sandra Washington

PLANNING STAFF

David R. Cary: Director
Geri Rorabaugh: Administrative Officer
Amy Huffman: Office Specialist

October 24, 2018

NOTICE: The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, October 24, 2018, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

The Lincoln/Lancaster County Planning Commission will meet on Wednesday, October 24, 2018, immediately following the regular Planning Commission hearing, in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10th St., Lincoln, Nebraska, to discuss (1) Review County Wind Energy Zoning Regulations; and (2) Proposed City Text Amendments – Design Standards for Screening.

****PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of “FINAL ACTION”. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

AGENDA

WEDNESDAY, OCTOBER 24, 2018

Approval of minutes of the regular meeting held October 10, 2018.

1. CONSENT AGENDA
(Public Hearing and Administrative Action):

CHANGE OF ZONE:

- 1.1 Change of Zone 18029, from R-2 (Residential District) to O-2 (Suburban Office District), on property generally located at 4740 F Street.

Staff recommendation: Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

PERMITS:

- 1.2 Combined Special/Use Permit 19B, an amendment to allow the enclosure of an existing dock, on property generally located at 1710 South 70th Street.

****FINAL ACTION****

Staff recommendation: Conditional Approval

Staff Planner: George Wesselhoft, 402-441-6366, gwesselhoft@lincoln.ne.gov

- 1.3 Special Permit 18040, to allow for the sale of alcoholic beverages for consumption on the premises associated with a restaurant, on property generally located at North 70th Street and Vine Street (836 North 70th Street).

****FINAL ACTION****

Staff recommendation: Conditional Approval

Staff Planner: Brian Will, 402-441-6362, bwill@lincoln.ne.gov

2. REQUESTS AND FOR DEFERRAL:

2.1 _____

2.2 _____

**3. ITEMS REMOVED FROM CONSENT AGENDA
(Public Hearing and Administrative Action):**

3.1 _____

3.2 _____

4. PUBLIC HEARING AND ADMINISTRATIVE ACTION:

COUNTY TEXT AMENDMENTS:

- 4.1a Text Amendment 18012, to amend the Lancaster County Zoning Regulations by adding definitions; adding permitted uses, conditional uses or special permitted uses to the AG, AGR, R and B Districts; adding Article 24 for Historic Preservation; and making other minor changes throughout the zoning regulations.

Staff recommendation: Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

- 4.1b Text Amendment 18013, to amend the Lancaster County Subdivision Regulations by amending Chapters 2,3,4,5,7,8, and 9.

Staff recommendation: Approval

Staff Planner: Tom Cajka, 402-441-5662, tcajka@lincoln.ne.gov

**AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM
NOT ON THE AGENDA, MAY DO SO**

Adjournment:

PENDING LIST: *Annexation No. 18003, to annex approximately 24.1 acres, more or less, on property generally located at 7420 Yankee Hill Road.*

Change of Zone No. 18015, from AGR (Agricultural Residential District) to R-3 (Residential District), on property generally located at 7420 Yankee Hill Road.

*Special Permit No. 18022, for a 55 lot CUP (Community Unit Plan), with waivers to allow sanitary sewer to flow opposite street grades, block length, pedestrian easements, lot lines radial to streets, 2 to 1 side slope for detention embankments, and sidewalks along one side of a street, on property generally located at 7420 Yankee Hill Road. **FINAL ACTION***

Planning Department Staff Contacts:

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George Wesselhoft, <i>Planner</i>	402-441-6366		gwesselhoft@lincoln.ne.gov
Brian Will, <i>Planner</i>	402-441-6362		bwill@lincoln.ne.gov
Kellee Van Bruggen, <i>Transportation Planner</i>	402-441-6363		kvanbruggen@lincoln.ne.gov
Ed Zimmer, <i>Historic Preservation Planner</i> ..	402-441-6360		ezimmer@lincoln.ne.gov

* * * * *

**The Planning Commission meeting
which is broadcast live at 1:00 p.m. every other Wednesday
will be rebroadcast on Wednesdays at 7:00 p.m., Thursdays at 12:00 a.m. and
Sundays at 12:30 p.m. on 5 City TV, Cable Channel 5.**

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**The Planning Commission agenda may be accessed on the Internet at
<http://www.lincoln.ne.gov/city/plan/pcagenda/index.htm>**

ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Change of Zone 18029

FINAL ACTION?
No

OWNER
TDCJDC LLC

PLANNING COMMISSION HEARING DATE
October 24, 2018

RELATED APPLICATIONS
None

PROPERTY ADDRESS
4740 F Street

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a change of zone over a 0.29 acre property from R-2 Residential District to O-2 Suburban Office District for the property located at the northwest corner of S. 48th Street and F Street. This site has an office building which has been in existence since 1955. The change of zone is proposed so that the existing business, a dental office, may be allowed signage under the O-2 District instead of the existing R-2 District which is more restrictive. This proposed zoning is the same as the adjacent zoning for the offices to the north and south on the west side of S. 48th Street.



JUSTIFICATION FOR RECOMMENDATION

The proposed change of zone conforms to the Comprehensive Plan. The change of zone matches the long established existing use of the property as medical office. Changing the zoning from R-2 to O-2 for this property is consistent with the adjacent zoning pattern along the west side of S. 48th Street which is also zoned O-2 in the immediate vicinity.

APPLICATION CONTACT

Timothy D. Calkins, (402) 488-1661 or
drtim@yourlincolndentist.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or
gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The future land use map designates the property as commercial. The future land use is consistent with the existing uses in the immediate area along the west side of S. 48th Street.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.9 This site is shown as future commercial on the 2040 Lincoln Area Future Land Use Plan.

p. 5.1 Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.

p. 5.2 Strive for predictability for neighborhoods and developers.

p. 7.10 Figure 7.2 Detailed Strategies for Existing Neighborhoods: 1. Encourage a mix of compatible land uses in neighborhoods: a. Similar uses on the same block face.

ANALYSIS

1. This is a request for a change of zone from R-2 Residential District to O-2 Suburban Office District over one lot with an existing office building at the northwest corner of S. 48th Street and F Street. The applicant is requesting this change of zone so that his dental office may follow O-2 zoning for allowed signage instead of the more restrictive R-2 zoning. The O-2 zoning allows wall signs up to twenty five square feet per architectural elevation, and a freestanding sign of thirty two square feet up to eight feet tall as long as it is not in the front yard setback.
2. The property has a special permit for a health care facility approved in 1955 and most recently amended in 1982. Per 27.69.160 a special permitted use in a residential zoning district may have one sign only provided it does not exceed twenty square feet in area, is not located in any required yard, is not more than eight feet in height. So while there is signage allowed for the medical office use in the existing R-2 zoning, it is more limited than if the zoning were O-2.
3. The property has been used for commercial use since its construction in 1955 and has been a dental office since 2002. In the foreseeable future, the use of this site will continue as a dental office.
4. The future land use map in the 2040 Comprehensive Plan designates this property for commercial along with the properties to the north and south. The Plan identifies the west side of S. 48th Street from Randolph Street to Valley Road for commercial.
5. O-2 zoning is appropriate in this location as it is consistent with the adjacent zoning to the north and south. This zoning also matches the existing use of the property and is compatible with the neighborhood.

EXISTING LAND USE & ZONING: Office; R-2

SURROUNDING LAND USE & ZONING

North:	Office; O-2
South:	Office, O-2
East:	Single Family Detached; R-2
West:	Single Family Attached; R-2

APPLICATION HISTORY

September, 1955 The City Council approved Special Permit 65 for a health care facility.

August, 1982 The City Council approved Special Permit 65A to enlarge an existing medical clinic that was built in 1955 under Special Permit 65.

APPROXIMATE LAND AREA: 0.29 acres

LEGAL DESCRIPTION: Lot F, Lucas Subdivision

Prepared by

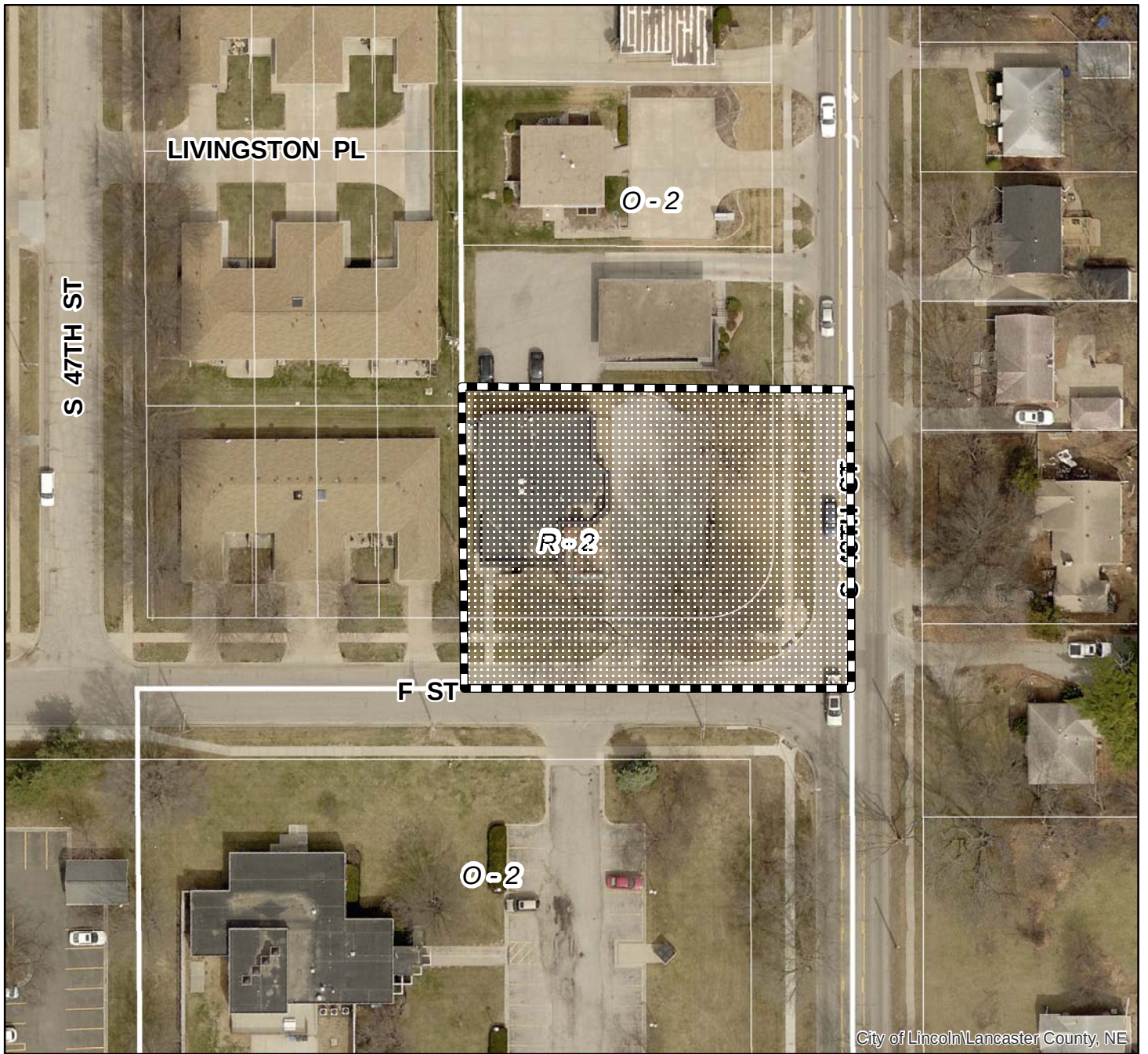
George Wesselhoft, Planner

Date: October 11, 2018

Applicant/Contact: Timothy D. Calkins
4740 F Street
Lincoln, NE 68510
402-488-1661
drtim@yourlincolndentist.com

Owner: TDCJDC LLC
4740 F Street
Lincoln, NE 68510
402-488-1661
drtim@yourlincolndentist.com

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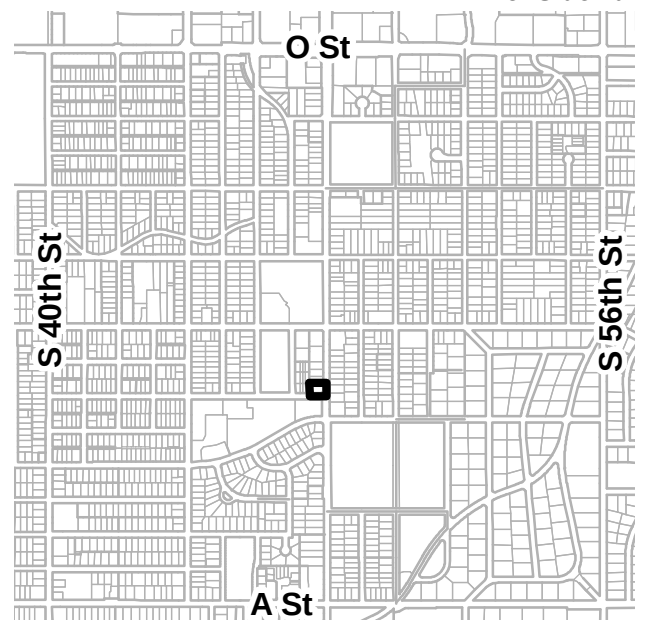
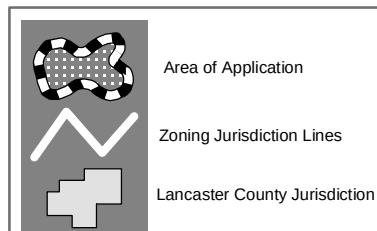
2018 aerial

Change of Zone #: CZ18029 (R-2 to O-2) S 48th St & F St

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile:
Sec.29 T10N R07E





TIMOTHY CALKINS, DDS
FAMILY DENTAL CARE

September 21, 2018

City of Lincoln Nebraska Planning Department
555 South 10th Street, Suite 213
Lincoln, Nebraska 68508

Dear Planning Department,

I am writing to request and to support my application for a zoning update from R2 to O2 for my property at 4740 F Street, Lincoln, Nebraska 68510. The legal description is LUCAS SUBDIVISION, Lot F; the PID is 17-29-307-007-000.

4740 F Street has been the location of my dental practice since 2002. Prior to my purchase in 2002, this building was in use as a medical office since its construction in 1955. This property has been in continuous commercial use for the past 63 years. Into the foreseeable future the use for this site will be to operate a dental practice.

Properties immediately to the north and south of 4740 F Street are zoned O2. Zoning R2 places this property under more restrictive signage codes than it's O2 zoned neighbors. I respectfully request an update of the zoning for my property from R2 to O2 to be consistent with the immediate surrounding properties as well as with it's past, current and future use.

Thank you for your consideration of this request and I welcome any questions you may have.

Yours Truly,

Timothy D. Calkins, DDS

Enc.

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
SPUP19B

FINAL ACTION?
Yes

OWNER
1710 LLC

PLANNING COMMISSION HEARING DATE
October 24, 2018

RELATED APPLICATIONS
None

PROPERTY ADDRESS
1710 South 70th Street

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for an amendment to a combined special permit/use permit consisting of approximately 5.55 acres located at the northeast corner of South 70th Street and Lincolnshire Road. This is the location of the Lincoln Surgical Hospital. The proposed special permit/use permit is to allow for the enclosure of the existing dock on the east side of the complex consisting of 228 square feet and to add 14,608 square feet of basement office space that is already in existence below the medical office portion of the development. The special permit/use permit is required because the current plan (AA18056 to SP/UP19A) requires that any future expansion be subject to the review of the Planning Commission.



JUSTIFICATION FOR RECOMMENDATION

The special permit/use permit proposal is appropriate as it is to allow for the enclosure of existing dock space and to include existing basement office space as part of the permit. This proposal will not negatively impact or change the character of the neighborhood as the use effectively is not expanding in terms of traffic or other external effects.

APPLICATION CONTACT

David Wiebe, (402) 486-3232 or
davidw@adalincoln.com

STAFF CONTACT

George Wesselhoft, (402) 441-6366 or
gwesselhoft@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The proposal subject to conditions is compatible with the Comprehensive Plan which identifies the property for commercial use and recognizes health care providers as a growing industry.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 1.9 - this site is shown as future commercial on the 2040 Lincoln Area Future Land Use Plan.

p. 5.2 - Strive for predictability for neighborhoods and developers.

p. 5.3 - Lincoln's health care providers serve a larger region than just the city. This is an industry that is growing nationally and is expected to grow locally as well, especially as the population ages. Expansions of existing locations are expected and a wide variety of new facilities will likely come forward over time.

ANALYSIS

1. This request is a proposed special permit/use permit that will allow for the enclosure of the existing dock on the east side of the complex, which is now already enclosed with a temporary canvas enclosure. This permanent enclosure will increase the floor area by 228 square feet. In addition, the special permit/use permit will add 14,608 square feet of basement office space that has been in existence but not identified in the current permit. The total building square footage is 91,609 square feet including a 5,100 square foot bank, 24,000 square feet of medical office, 14,608 square feet of medical office basement and 47,901 square feet of health care facility. The current zoning is O-3 Office Park District. The property is approximately 5.55 acres in size.
2. The applicant letter notes that the existing basement area of 14,608 square feet below the Existing Office portion of the development did not seem to be accounted for in the Parking Calculations table. This information has been added. The applicant indicates that this basement office area was previously permitted and built but just excluded from the parking table. However, at the time of writing this report, building permit history cannot be verified respective of this basement office space. It is not clear if the basement office space was converted from storage to office per a building permit or not.
3. The use permit is necessitated because while the proposed 228 square feet dock enclosure space is very small in size relative to the existing complex, a note on the current approved plans requires that any future expansion beyond Administrative Amendment 06109 shall be subject to review of the City of Lincoln Planning Commission. As part of the application preparation, the applicant also identified the 14,608 square feet of existing basement office.
4. The site has more parking than required under the Zoning Ordinance. 359 parking stalls are required. 411 parking stalls are provided, including 279 existing stalls on grade and 132 stalls in an underground parking garage. This includes the required parking for the medical office basement space.
5. Although not required as part of this permit, the applicant through separate building permit is replacing the existing mechanical equipment on the east side of the complex and will be screening and consolidating mechanical equipment in one location so as to improve the building aesthetics for the adjacent neighbors.
6. The proposed special permit/use permit complies with the Zoning Ordinance and is consistent with the Comprehensive Plan. The enclosure of the dock space and adding the basement office area to the permit will not have a negative impact on the neighborhood as the use in effect is not expanding or increasing in terms of land use intensity or traffic.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Medical Office; O-3

SURROUNDING LAND USE & ZONING

North: Office; O-3
South: Townhouses; R-1
East: Single Family Detached; R-1
West: Elementary School/Duplex; P, R-4

APPLICATION HISTORY: See attached.

APPROXIMATE LAND AREA: 5.55 acres, more or less

LEGAL DESCRIPTION:

A portion of Lot 8, Lincolnshire Square, Lot 93 I.T., and a portion of Lot 94 I.T., located in the NW 1/4 of Section 34-10-7, Lancaster County, Nebraska

Prepared by

George Wesselhoft, Planner

Date: October 11, 2018

Owner: 1710 LLC
1710 South 70th Street
Lincoln, NE 68506

Applicant: Architectural Design Associates
7501 O Street, #105
Lincoln, NE 68510
(402) 486-3232
davidw@adalincoln.com

Contact: David Wiebe
7501 O Street, #105
Lincoln, NE 68510
(402) 486-3232
davidw@adalincoln.com

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APPLICATION HISTORY - SPUP19B

Oct 1965	City Council approved Special Permit 328, which allowed an addition to an existing East Hills supper club.
Jan 1968	City Council approved Change of Zone 844, which changed the zoning at S. 70 th & Lincolnshire from A-1 Single Family Dwelling to F Restricted Commercial.
May 1973	City Council approved Change of Zone 1282, which changed the zoning in the area from A-1 Single Family Dwelling to F Restricted Commercial.
Feb 1975	City Council approve Special Permit 716, which permitted the addition of a cooler, a party room and a kitchen expansion for the restaurant.
May 1979	The area was changed from F Restricted Commercial to O-2 Suburban Office in the Zoning Update.
May 1991	Building & Safety Department issued a demolition permit for the supper club.
May 2002	Change of Zone 3359 from O-2 to R-3 was approved.
May 2002	Combined Use/Special Permit was approved allowing a 20-bed health care facility, 24,000 square feet of medical office floor area, and 5,100 square feet of floor area for a bank.
May 2004	Administrative Amendment 04038 was approved allowing the enclosure of an outdoor courtyard.
May 2007	Administrative Amendment 06109 was approved allowing an underground parking garage and addition to the hospital, but no increase in the number of beds or employees.
July, 2007	Use/Special Permit 19A was approved with requested adjustments to yards internal to the development.
July 2009	Administrative Amendment 09038 was approved reducing the clinic addition by 8,000 square feet and increasing the floor area of the surgery center by 8,000 square feet (or 20 beds).
Dec 2009	Administrative Amendment 09076 was approved revising the building layout by increasing the area of the overnight stay component by 5,000 square feet while reducing the area of the clinic addition by 5,000 square feet.
Mar 2010	Administrative Amendment 10012 was approved revising the building layout by relocating 3,000 square feet of floor area previously approved as "Clinic/Hospital Addition" at the west edge of the clinic/hospital to the northeast corner of the hospital and designating it as "Sterilization Area".
Oct 2018	Administrative Amendment 18056 was approved to revise the parking lot layout to convert two parking spaces into parking island for electrical equipment, and to convert a small parking island into a parking stall.

CONDITIONS OF APPROVAL - SPUP19B

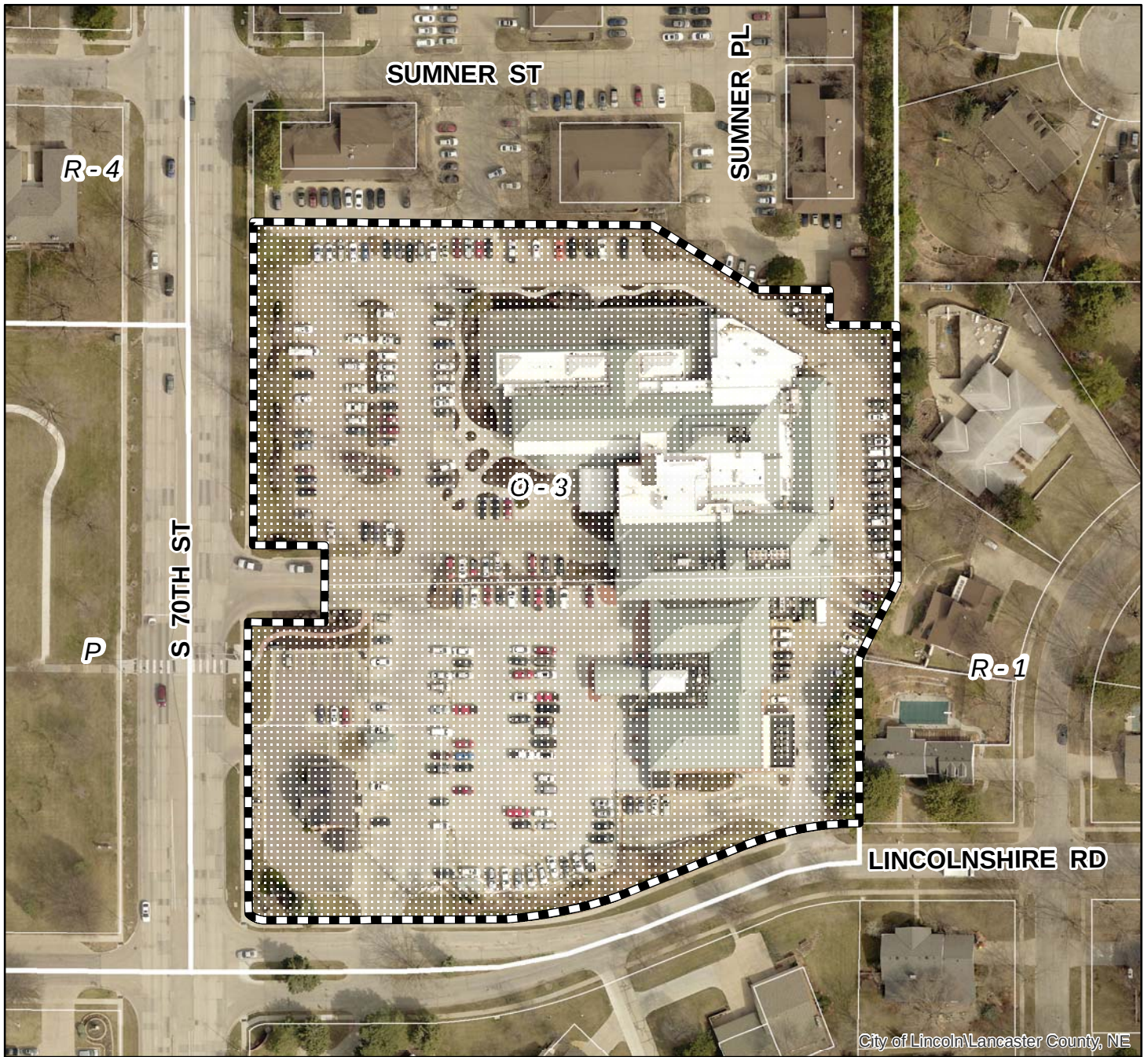
This approval permits a total of 91,609 square feet including 5,100 square feet for bank, 24,000 square feet for medical office, 14,608 square feet for medical office basement, and 47,901 square feet for health care facility within the boundaries of the special permit/use permit.

Site Specific Conditions:

1. The permittee shall cause to be prepared and submitted to the Planning Department a revised and reproducible final plot plan including **3** copies with all required revisions and documents as listed below upon approval before receiving building permits.
 - 1.1 Update title block to reflect SP/UP 19B.
 - 1.2 Update Note 1. to reflect SP/UP 19B.
 - 1.3 Update Note 2 by deleting “for Administrative Amendment 06019” part of text.
 - 1.4 Update IV. Setback Requirements to include enclosed dock area.

Standard Conditions:

2. The following conditions are applicable to all requests:
 - 2.1 Before occupying the buildings all development and construction is to substantially comply with the approved plans.
 - 2.2 The physical location of all setbacks and yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.
 - 2.5 The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions/ordinances approving previous permits remain in force unless specifically amended by this resolution.



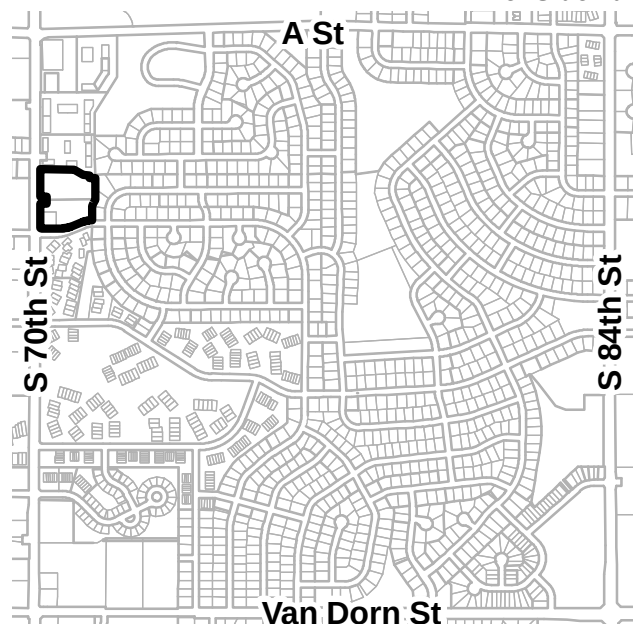
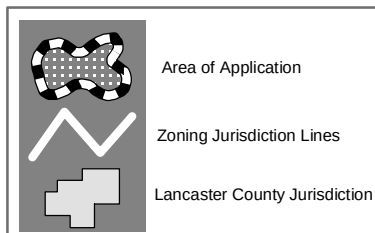
2018 aerial

Use Permit #: SPUP19B
Lincoln Surgical Hospital
S 70th St & Lincolnshire Rd

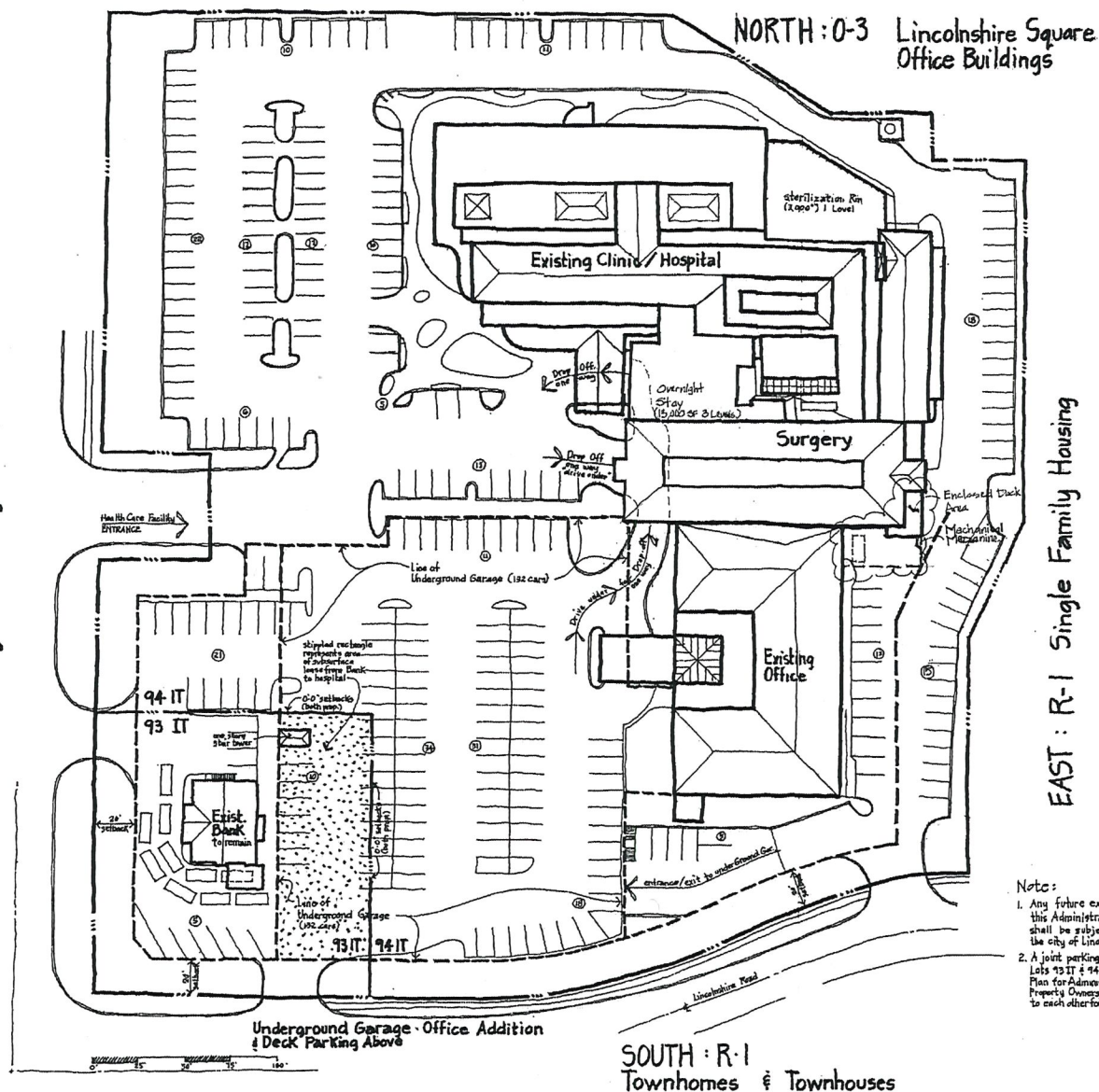
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile:
Sec.34 T10N R07E



WEST: P Morley Elementary School



EAST: R-1 Single Family Housing

SOUTH : R-1
Townhomes & Townhouses

SITE PLAN

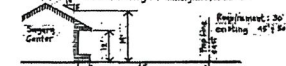
SCALE: 1" = 60'

Parking Calculations

- | | | |
|--|-----|--------------|
| I. Use Table Areas: | | |
| a. Bank | | 5,100 s.f. |
| b. Medical Office | | 24,000 s.f. |
| c. Medical Office basement | | 14,608 s.f. |
| d. Health Care Facility | | 47,901 s.f. |
| II. Required Parking: | | |
| a. Bank = $100 \times 150 + 300$ s.f./total | | 17 stalls |
| b. Medical Office = $24,000 \div 225$ s.f./total | | 107 stalls |
| c. Medical Office basement = $14,608 \div 225$ | | 65 stalls |
| d. Health Care Facility | | |
| 1. Surgery Center | | |
| Existing 20 Beds @ 2.5 beds/total | | 8 stalls |
| 35 staff @ max. wh/r/t 1 staff per emp. | | 35 stalls |
| Existing 20 Beds @ 2.5 beds/total | | 27 stalls |
| Existing 20 Beds @ 2.5 beds/total | | 8 stalls |
| 15 staff @ max. wh/r/t 1 staff per emp. | | 15 stalls |
| 2. Clinic Area | | |
| Existing 12-25 s.f. @ 225 s.f./total = | | 77 stalls |
| Existing 20 Beds @ 2.5 beds/total = | | 339 stalls |
| Existing Stalls on grade = | 279 | |
| Existing Under Ground Garage Stalls = | 132 | |
| Total Existing Stalls: | | 411 stalls |
| III. Percent of Building/ Land | | |
| a. Total Land Area | | 228,970 s.f. |
| b. Total Building Coverage | | 88,229 s.f. |
| c. Percent of Building / Land | | 38.58% |

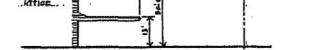
IV. Setback Requirements:

- a. Existing north yard setback
was required to be 0'-0"
Actual existing setback is 5'-0"
0'-0" required setback is 15'-0"
- b. Surgery Center
New yard abutting residential (east P.L.)
30'-0" 1'-0" for every 1'-0" in height over 20'-0"



C. Office Building:

- * Rear yard abutting residential (east P.L.)
Requirement: 30'-11" for every 1' in height over 20'-0"
-
- Requirement 30'-0"
existing 49'-7"



d. Underground Garage - Related setbacks

- Request adjustment west from line of lot 13 II to north from line of 15 II
calculated line of 14 II where it abuts 13 II. We request 0'-0" setbacks
at these 2 locations. All other setbacks remain the same. 0'-0" setbacks
relate to both properties.



Vicinity Map

- OWNER: 1730 LLC
ADDRESS: 1710 South 70th Street, Lincoln, NE
PHONE: 402.484.9032
ATTENTION: Gregory Sutton

Note:

- Any future expansion beyond this Administrative Amendment #06109 shall be subject to review of the city of Lincoln Planning Commission.
- A joint parking garage located on Lots 13 II & 14 II is depicted on site Plan for Administrative Amendment 06019. Property Owners will grant cross easements to each other for joint parking Garage.

ADA

SP/UP 19A
LINCOLN SURGERY CENTER
70th STREET MEDICAL COMPLEX

Architectural Design Associates

7501 'O' Street - Suite 105
Lincoln Nebraska 68510
tel 402 486 3232 www.aac

Project number
18-074

Date
09-27-2018

Revisions

© Copyright ADA 2018

•

Amendment

Parking Calculations

I. Use Table Areas:

a. Bank	5,100 s.f.
b. Medical Office	24,000 s.f.
c. Medical Office basement	14,608 s.f.
d. Health Care Facility	47,901 s.f.

II. Required Parking:

a. Bank = $5,100 \div 300$ s.f./stall	17 stalls
b. Medical Office = $24,000 \div 225$ s.f./stall	107 stalls
c. Medical Office basement = $14,608 \div 225$	65 stalls
d. Health Care Facility	

1. Surgery Center

• Existing 20 Beds @ 2.5 beds/stall	8 stalls
35 staff @ max. shift/1 stall per emp.	35 stalls
Basement area = $6,049$ s.f. $\div 225$ s.f./stall	27 stalls
• Existing 20 Beds @ 2.5 beds/stall	8 stalls
15 staff @ max. shift/1 stall per emp.	15 stalls
• Existing Sterilization Room for Hospital	0 stalls

2. Clinic Area

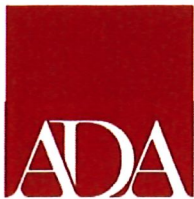
• Existing $12,215$ s.f. $\div 225$ s.f./stall =	77 stalls
--	-----------

Total Required Stalls: 359 stalls

Existing Stalls on grade = 279

Existing Under Ground Garage Stalls = 132

Total Existing Stalls: 411 stalls



September 27, 2018

George Wesselhoft
Lincoln/Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln, NE 68508

RE: Amendment to SP/UP19

George:

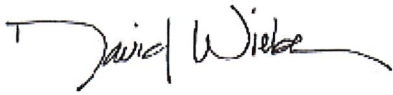
We hereby submit this application for an Amendment to the existing SP/UP 19 for the Lincoln Surgery Center. The reason for this request is to permanently enclose the existing dock on the east side of the complex, which now is enclosed with a temporary canvas enclosure. This will provide for a more permanent construction and finished look than what exists. This will increase the floor area by 228 square feet. We have adequate parking stalls for this area increase.

In addition, we want to note that the pending building permit also replaces the existing mechanical equipment on the east side of the complex. We will remove two exterior elevated equipment platforms (mezzanines), one at the southeast corner of the building and the other at the dock area. One larger, elevated equipment platform will be constructed by the dock area and cover the existing generator, trash container, and compactor. This platform will be visually screened with a horizontal louvered metal screen that blends in with the existing 'green' metal roofing and replaces the existing residential fencing screen on the existing platform. Removal of the southeast platform will clean up the building from a visual standpoint along Lincolnshire Road. The Lincoln Surgical Hospital is trying to enhance the building aesthetics for the adjacent neighbors by properly screening and consolidating the mechanical equipment in one location.

While reviewing the existing "Parking Calculations" table for this amendment, we also noticed that existing basement area below the Existing Office portion of the development does not seem to be accounted for. The existing basement below the Surgery Center at 6,049 square feet is listed but by our calculations there is a total of 20,657 square feet of basement area in the entire complex. Therefore, an additional number of stalls (65) is tabulated for the "extra" 14,608 square feet of existing area. That increase does still leave a net surplus of 52 parking stalls on site. To be clear, this is not a request for additional square footage on the site but merely a clarification to the SP/UP of previously permitted and built area.

No other changes are requested at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "David Wiebe". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Wiebe, AIA

Attachments: filing fee \$988.00 + \$907.50
Site plan – To be subsequently submitted electronically
Application Form

LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

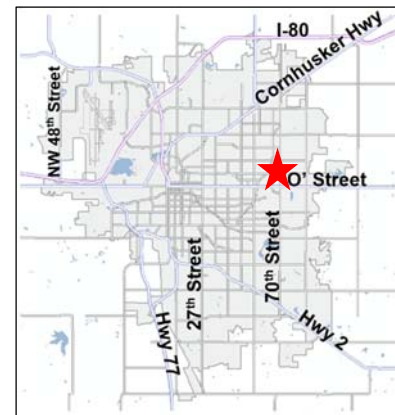
APPLICATION NUMBER Special Permit #18040	FINAL ACTION? Yes	DEVELOPER/OWNER Honest Abe's, LLC
PLANNING COMMISSION HEARING DATE October 24, 2018	RELATED APPLICATIONS None	PROPERTY ADDRESS/LOCATION 840 North 70 th Street Meadowlane Shopping Center

RECOMMENDATION: CONDITIONAL APPROVAL

BRIEF SUMMARY OF REQUEST

This is a request for a special permit to allow the consumption of alcohol on the premises associated with a restaurant. The proposed premises is Honest Abe's restaurant, located in the southern-most tenant bay of the main building in the Meadowlane Shopping Center. The center is zoned B-1, and is fully surrounded by R-2 zoning.

The sale of alcohol is allowed by special permit in the B-1 zoning district. Instead of the 100' separation that applies to most on-sale uses, a reduced separation of 25' is allowed for a restaurant.



JUSTIFICATION FOR RECOMMENDATION

This request complies with all applicable criteria for a special permit for the sale of alcohol for consumption on the premises in a restaurant.

APPLICATION CONTACT

Patrick Durkin
(402)-613-4401
patrick@eatgroup.com

STAFF CONTACT

Brian Will
(402) 441-6362
bwill@lincoln.ne.gov

COMPATIBILITY WITH THE COMPREHENSIVE PLAN

This allows a restaurant tenant in an older neighborhood shopping center to offer the same range of menu items found in other restaurants throughout the city. Helping the older commercial centers in the core of the city remain viable so they can continue to serve nearby residents with the goods and services they expect is consistent with the goals of the Comprehensive Plan.

KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

Pg 1.9 – The Future Land Use Map of the Comprehensive Plan designates commercial land uses for this site.

Pg. 5.14 - Strategies for Commercial Infill

- Discourage auto-oriented strip commercial development and seek opportunities for residential mixed use -- redevelopment and/ or transit oriented development of existing commercial strips.
- Develop infill commercial areas to be compatible with the character of the area.

- Maintain and encourage businesses that conveniently serve nearby residents, while ensuring compatibility with adjacent neighborhoods.
- Avoid encroachment into existing neighborhoods during expansion of existing commercial and industrial uses, and take steps to ensure expansions are in scale with the adjacent neighborhood, are properly screened, fulfill a demonstrated need and are beneficial to health and safety.
- Ensure the priority in older areas is on retaining areas for residential development. Prior to approving the removal of housing in order to provide for additional parking to support existing centers, alternatives such as reduced parking requirements, shared parking, additional on-street parking, or the removal of commercial structures should be explored.

ANALYSIS

1. On-sale alcohol is allowed in the B-1 zoning district by special permit, subject to the requirements of the special permit. Additionally, on-sale alcohol is allowed in in the B-1 zoning district in conjunction with a restaurant subject to a different set of criteria, including a reduced separation from 100' to 25' to a residential district. This use is evaluated against those criteria below from Lincoln Municipal Code (LMC) Section 27.63.280.

- (b) In addition, a special permit may be granted to allow alcoholic beverages to be sold for consumption on the premises of a restaurant in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2, and I-3 districts subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:**

The Permittee as the holder of any liquor license issued on the premises pursuant to a special permit for the sale of alcoholic beverages for consumption on the premises of a restaurant shall agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. If the Permittee is not the holder of the liquor license, the Permittee shall require such holder to agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. In addition, the City shall request that the Nebraska Liquor Control Commission issue the liquor license contingent upon the premises having such special permit.

The applicant has agreed to this requirement in the application letter. It is also included as a condition of approval.

-The restaurant shall be located at least 25 feet away from a residential zoning district.

The proposed licensed premises is located in the main building in the Meadowlane Shopping Center. The center is adjacent to R-2 zoning on the east, across Vine Street to the south, and across South 70th Street to the west. To the north, the northern two-thirds of the center's north parking lot is zoned R-2 as well.

The main building at its closest point to residential zoning is 30' away from the R-2 zoning to the east, and 36' away from the R-2 zoning to the north. The building narrows at the southern end, where the area of the licensed premises is approximately 70' away from the R-2 zoning to the east.

As the entire building meets the separation criteria for on-sale alcohol, this permit can be approved to allow future restaurant tenants to be approved by administrative amendment, provided they meet the other applicable criteria and the building footprint doesn't change. Compliance with those criteria would be reviewed as part of the administrative amendment.

-Gross sales from the sale of alcoholic beverages shall not exceed forty percent (40%) of the gross sales of food and beverages. Upon request of the City, the license holder/ operator shall provide sales receipts for the past six (6) months for the purpose of demonstrating that no more than 40% of the restaurant's gross sales are derived from the sale of alcohol.

The applicant has agreed to this in the application letter. It is also included as a condition of approval.

-The restaurant shall serve full-course meals as defined by *Neb. Rev. Stat. § 53- 123.04(c)(3)* during the hours of operation.

The restaurant features sit-down dining with the use of tableware, and includes ordering from a menu.

-Hours of operation must not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m.

The applicant states that the hours of operation are from 11:00 a.m. to 9:00 p.m.

-Hours of outdoor operation must not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m.

There is an outdoor seating area, but the store's hours of operation are from 11:00 a.m. to 9:00 p.m.

-The restaurant shall not have any gaming devices or self-serve vending. Gaming devices include pool tables, dart boards, keno. Self-serve vending includes candy machines and drink machines that use electricity.

No such gaming devices are proposed.

-No drive-through windows shall be allowed.

A drive-through window is not proposed.

-The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a separate special permit under Section 27.63.685 of this code.

This request is only for on-sale, and does not include off-sale.

For the purposes of this subsection (b), restaurant shall mean any place (i) which is kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served; (ii) which has no sleeping area; and (iii) which has adequate and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests.

2. The site plan shows the entire center, and adds shading to indicate the area of the proposed licensed premises. For clarity, the dimensions of the store should be added to the site plan so the exact location can be determined. This correction is added as a condition of approval.
3. Subject to the conditions of approval, this request complies with all the criteria for the sale of alcohol for consumption on the premises associated with a restaurant. Allowing future restaurants to be allowed by administrative amendment provided they comply with the applicable criteria is also consistent. This request complies with the Zoning Ordinance and the Comprehensive Plan, and is an appropriate use of land at this location.

CONDITIONS OF APPROVAL: See attached.

EXISTING LAND USE & ZONING: Commercial

B-1

SURROUNDING LAND USE & ZONING

North: Parking Lot (part of the shopping center)

R-2

South: Religious Assembly

R-2

East: Single-family Residential

R-2

West: Single-family Residential

R-2

LEGAL DESCRIPTION: Lots 1-14, Block 101 and adjacent vacated alley; Lots 1-7 and 11-14 and the vacated alley, and Lots 8-10 except the south 100 feet, Block 102, and vacated W Street; all in Bethany Heights, located in the NW 1/4 of Section 22-10-7, Lancaster County, Nebraska.

Prepared by

Brian Will

bwill@lincoln.ne.gov or at

402-441-6362

October 9, 2018

Applicant/

Contact: Patrick Durkin
Honest Abe's, LLC
840 North 70th Street
Lincoln, NE 68505
402-613-4401

Owner: Hampton Enterprises
3400 Plantation Drive, Ste 110
Lincoln, NE 68501
402-489-8858

F:\DevReview\SP\18000\SP18040 Honest Abe's On-sale.bjw.docx

CONDITIONS OF APPROVAL - SPECIAL PERMIT #18040

This approval permits the sale of alcohol for consumption on the premises associated with a restaurant per LMC Section 27.63.680, and allows future restaurants within the center that comply with the applicable criteria to be approved by administrative amendment.

Conditions:

Site Specific:

1. The permittee shall submit three copies of the revised site plan to the Planning Department which includes the following changes:
 - 1.1 Indicate the dimensions of the shaded area denoting the Licensed Premises.
 - 1.2 Add a note to the site plan that states: Additional restaurants in the center to be allowed on-sale alcohol by administrative amendment provided they meet the applicable criteria of LMC Section 27.63.680.
2. The applicant agrees:
 - 2.1 The Permittee as the holder of any liquor license issued on the premises pursuant to a special permit for the sale of alcoholic beverages for consumption on the premises of a restaurant agrees to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. If the Permittee is not the holder of the liquor license, the Permittee shall require such holder to agree in writing to voluntarily surrender and consent to the cancelling of the liquor license in the event the special permit is revoked by the City. Also, the City shall request that the Nebraska Liquor Control Commission issue the liquor license contingent upon the premises having such special permit.
 - 2.2 Gross sales from the sale of alcoholic beverages shall not exceed forty percent (40%) of the gross sales of food and beverages. Upon request of the City, the license holder/ operator shall provide sales receipts for the past six (6) months for the purpose of demonstrating that no more than 40% of the restaurant's gross sales are derived from the sale of alcohol.
 - 2.3 Hours of indoor operation must not commence prior to 8:00 a.m. and shall end no later than 11:00 p.m., and hours of outdoor operation must not commence prior to 8:00 a.m. and shall end no later than 10:00 p.m.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before the sale of alcohol for consumption on the premises, all development and construction is to substantially comply with the approved plans.
 - 3.2 The physical location of setbacks, yards, buildings, parking and circulation elements, and similar matters must be in substantial compliance with the location of said items as shown on the approved site plan.
 - 3.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

3.4 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. The sale of alcohol is not authorized unless the letter of acceptance has been filed.



2018 aerial

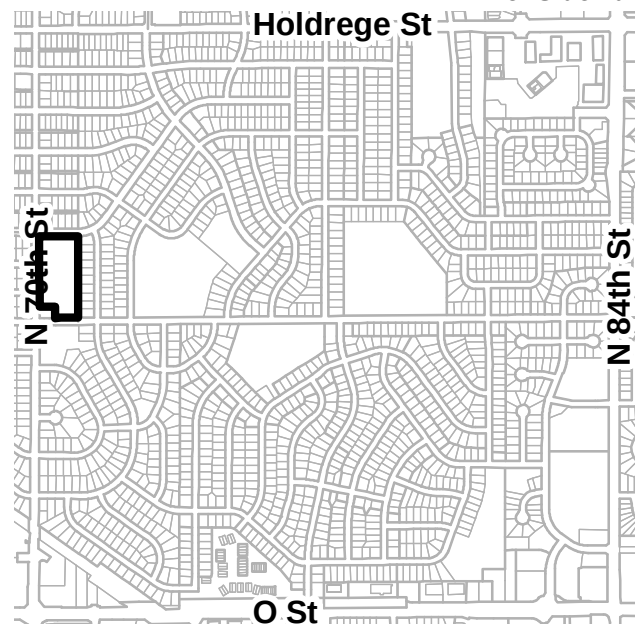
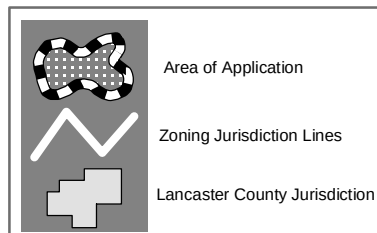
Special Permit #: SP18040
N 70th St & Vine St

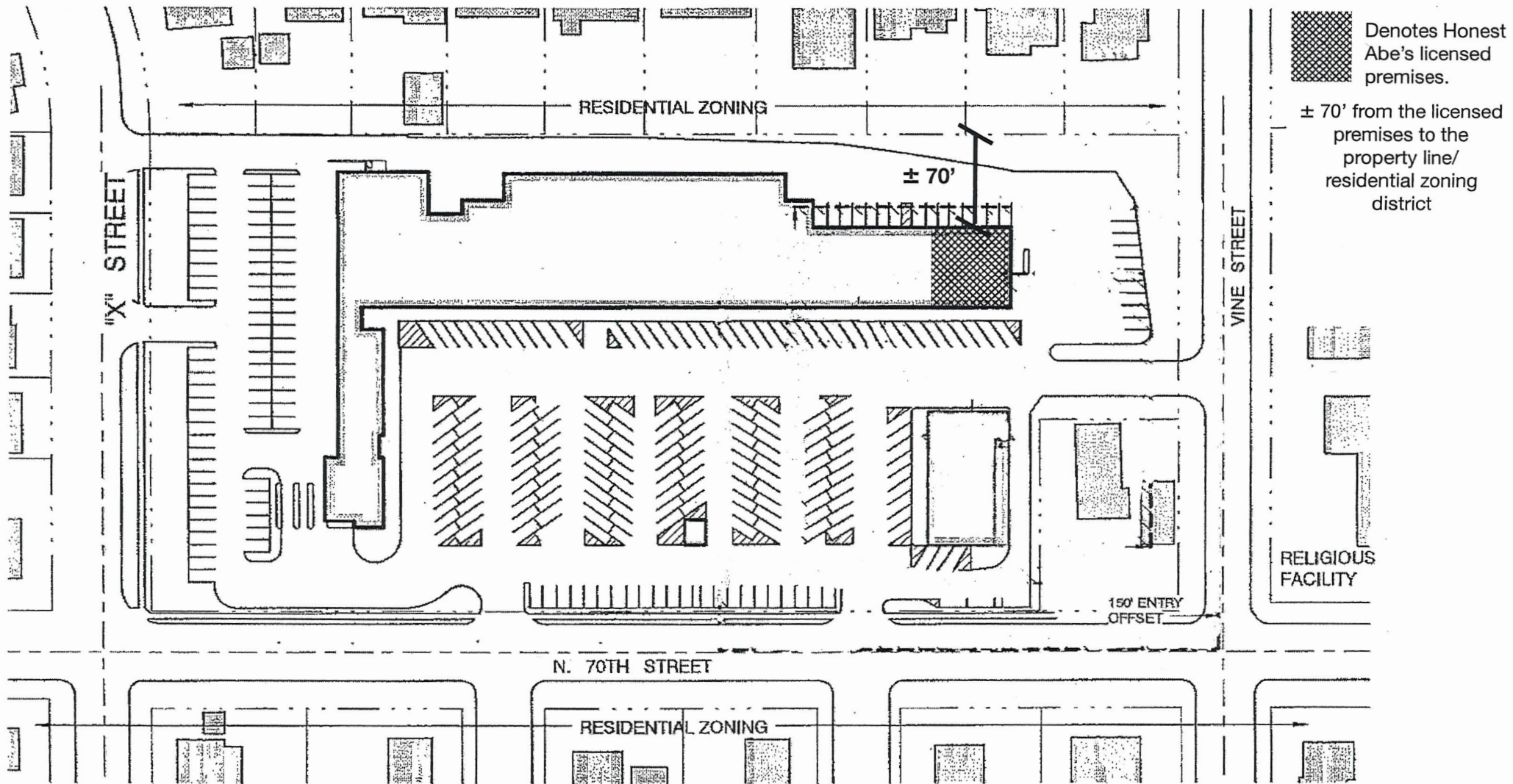
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

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One Square Mile:
 Sec.22 T10N R07E





VICINITY PLAN

Honest Abe's, LLC / 840 N. 70th St / Lincoln, NE 68505

October 11, 2018

Brian Will
City of Lincoln Planning Department
555 10th St. / Ste. 213
Lincoln, NE 68508

Good afternoon,

I am requesting a special permit for Honest Abe's in the Meadowlane Shopping Center for the sale of alcoholic beverages on site.

We are in the process of conforming all our locations to match the same blueprint when it comes to offerings and service. We want to ensure our guests' expectations are met regardless of which location where they choose to dine.

To do this, we have requested liquor licenses for three of our locations (the fourth already has a liquor license). This will allow our restaurants the ability to offer our guests the same items at all locations.

The alcohol being offered is a small selection of beers and "adult" milkshakes. These have proven to be successful at our Downtown location with many people requesting it at our other locations.

Due to the uniqueness of this license (compared to our other locations), we are aware there are certain criteria that must be met and maintained. I would like to assure you, there will be no issues with this:

1. If our permit is revoked for whatever reason, we will voluntarily surrender and consent to our license's cancellation.
2. Our restaurant is 70'+ from the nearest residential zoning district.
3. Our sales will not reach 40% of our gross sales. We can provide receipts from our Downtown location to show their sales. Be project equal or less at Meadowlane.
4. Our menu serves full-course meals as defined by the state.
5. All Honest Abe's Restaurants hours of operation are: 11am until 9pm, (Monday - Sunday)
6. We are a restaurant. We do not offer gaming or vending of any kind.
7. There is no drive-thru window and due to the construction/layout, no option for one would be viable.

We understand this is not a request to be taken lightly and appreciate the responsibility that comes with holding this permit. I am happy to answer any questions or concerns.

Thank you for your time and consideration,



Patrick D. Durkin
Food & Beverage Director
(402) 613-4401
patrick@eatgup.com



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Text Amendment #18012

FINAL ACTION?
No

PLANNING COMMISSION HEARING DATE
October 24, 2018

RELATED APPLICATIONS
None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

To amend the Lancaster County Zoning regulations by adding definitions, adding uses to the AG, AGR, R and B Districts; reorganizing AG Preservation in the AG District; adding special permits, adding a new chapter for Historic Preservation District and other miscellaneous minor changes.

JUSTIFICATION FOR RECOMMENDATION

The current zoning regulations are in need of some minor updating. The previous text amendment done in 2017 focused primarily on the special permit chapter. This amendment is a result of looking at the entire zoning regulations and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement.

APPLICANT

Tom Cajka, 402-441-5662

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

ANALYSIS

In May 2017 the County Zoning Regulations were amended. That amendment focused primarily on the special permit chapter. This proposed text amendment looks at the entire zoning regulations. The proposed text amendments are the result of input from Building and Safety Department, Lancaster County Engineer, Lincoln-Lancaster County Health Department and County Attorney. The following is a summary of the proposed amendments.

There are also numerous small corrections to spelling and format that do not change the regulations. These minor corrections are not listed in the analysis, but are in the proposed text.

The proposed text was emailed to the public for review on September 14, 2018. A briefing was done for the Planning Commission on October 10, 2018.

Definitions-Article 2

Add definitions for "Agricultural Attraction", "Contractor Services", "Early Childhood Care Facility", and "Mini-Warehouse."

These definitions are added for new uses to the zoning regulations and to clarify other uses. AG Attraction allows for a limited amount of area devoted to entertainment, but the main use shall be agriculture. Examples of agricultural attraction include pumpkin patch, corn maze, or apple orchard.

Contractor Service was added to clarify that this use is different than manufacturing or repair establishments.

Early Childhood Care Facilities was added because there is no reference to this use in the zoning regulations. Academies and private schools specifically exclude early childhood care facilities.

Mini-warehouse was added to differentiate it from storage warehouse. It was not clear if storage warehouse was just for businesses or included storage for private individuals.

Amend definition for "Campground"

Amend the definition for "campground" to allow cabins within campgrounds. Currently only tents and recreational vehicles are allowed. Modern campgrounds have more options in sleeping arrangements. Places like Mahoney Park have cabins to rent. Allowing cabins to be part of a campground allows for more options.

Amend the definition of "Dwelling"

By striking the word "exclusively" this removes a loophole that could allow a second dwelling on a lot. Currently if a dwelling is not used exclusively by someone living there for more than 30 consecutive days, then it is not considered a dwelling.

Amend definition of "Garden Center"

The definition is amended by changing "a building" to "one or more buildings." Garden centers often have more than one building on the site.

Amend the definition "Lot Buildable"

Language was added to this definition to clarify that a lot legally created in another jurisdiction and deemed buildable, would be buildable under Lancaster County zoning regulations even if it may not meet the area, width of frontage or any combination thereof.

Amend the definition for "Recreational Facilities"

Amend the definition by adding "outdoor shooting" and "archery" as a type of recreational facility. This also matched the definition of recreational facilities in the Lincoln zoning ordinance.

AG-Agricultural District-Article 4

Amend 4.005 -Permitted Conditional Uses by adding "temporary paving plants", "agricultural attraction", and "early childhood care facilities" as conditional uses. These uses are not allowed in any district per the current regulations. Temporary paving plants would be allowed only for federal, state or county road projects. These plant are only allowed during the project construction and then must be removed.

Agricultural attraction would be allowed on a parcel of 20 acres or larger to have uses such as a pumpkin patch, apple orchard or corn maze, but the primary use must be agricultural.

The current zoning regulations does not have a use for early childhood care facility. Academies and private schools specifically exclude early childhood care facilities. Prior to May 2017 (the last amendment) early childhood care facilities were considered a part of private schools. There was no definition of private schools. In May 2017 private schools were defined and excluded early childhood care facilities. This oversight is now being corrected.

Amend 4.007 -Permitted Special Uses by adding "early childhood care facilities." A special permit would be required if there are more than 15 kids or the provider does not live on site.

Add a new section 4.016 for AG Preservation. AG Preservation is not a new use, but it is being reorganized so that all information pertaining to AG Preservation will be in this section.

Amend 4.017(a)(1)(ix) by deleting part 2 that describes setbacks to a side yard for accessory buildings. This was in conflict with Section 17.005(a) which does not allow accessory buildings in the side yard setback.

AGR- Agricultural Residential District- Article 5

Amend 5.005-Permitted Conditional Uses by adding "temporary paving plants" and "early childhood care facilities" as conditional uses.

Amend 5.007-Permitted Special Uses by adding "early childhood care facilities."

R-Residential District-Article 6

Add new section 6.004-Permitted Conditional Uses for “group homes” and “early childhood care facilities.”

The “R” District has never had a conditional use section. These uses are allowed without a public hearing as long as they meet the conditions.

Amend 6.005-Permitted Special Uses to add “early childhood care facilities.”

B-Business District-Article 7

Amend 7.003 Use Regulations to change “shops” to “retail”, delete part of section “O” and to add “mini-warehouse”, “motor vehicle sales”, “early childhood care facilities” and “contractor services” as allowed uses.

Changing “shops” to “retail” removes confusion about what exactly is a shop. Retail is more all-inclusive. Adding the other uses also helps to clarify what is permitted in the “B” District.

Nonconforming and Nonstandard Uses-Article 12

Amend 12.001 Continuation of Nonconforming Use by deleting reference to Section 11.015 and 11.023.

Those sections do not apply to nonconforming uses.

Special Permit-Article 13

Throughout this chapter text was added to clarify that each special permit **may** be allowed. This will clarify that even if the conditions of the special permit are met, it does not guarantee approval of that special permit.

Amend 13.003 Appeal of Planning Commission Action to change that an appeal is to be filed with the Planning Department instead of the County Clerk.

Amend 13.019 Excavation to delete the requirement of a reclamation plan. The reclamation plan has routinely been waived and addressed through a note on the site plan. There is a requirement that the land disturbed by excavation must be restored and the land seeded. A surety is required to guarantee that the land is restored.

Amend 13.039 Expansion of Nonconforming by adding nonstandard uses. Nonstandard applies to an allowed use, but that the building may not meet setbacks or the lot area is too small. This clarifies that this special permit applies to both a nonconforming use or a nonconforming building.

Amend 13.041 Historic Preservation by allowing it in the I-Industrial District and adding language that the special permit applies to structures or sites approved as landmarks by the County Board in accordance with Article 24. New language was added that the Historic Preservation Commission shall review all proposals. 2

Amend 13.047 Race Tracks, Drag Strips and Motor Sports Facilities in the “AG” District by deleting “morals” in the last paragraph. No other special permit uses the term “morals”.

Add new section 13.049 Early Childhood Care Facilities for early childhood care facilities that have more than 15 children or the provider does not live on site.

Community Unit Plan-Article 14

Amend 14.005 Procedure to clarify that an appeal is to be filed with the Planning Department.

Amend 14.013 Form of Community Plan to revise the information required for water wells. This section now has a provision to waive test wells.

Delete 14.014 Design Standards; Density; There are no design standards in the zoning regulations The subdivision regulations has design standards, but they only reference CUP when discussing lots taking access off of a private road.

Additional Height and Area Regulations-Article 17

Amend 17.029 Enlargement and Alteration of Lots to change Section 4.017 h to c. There is no “H” in Section 4.017.

Board of Zoning Appeals-Article 19

Amend 19.005 to change that notice in a newspaper for an application is 5 days instead of 8 days. The 8 days was in conflict with Article 22.

Historic Preservation District-Article 24

This is a new chapter for Historic Preservation. The 2040 Comprehensive Plan includes as a Historic Preservation strategy in Chapter 4, “Expand the community’s historic preservation program to include Lancaster County... and widen the scope of the mission and membership of the Historic Preservation Commission to include all of Lancaster County. The proposed text would make Lancaster County eligible to become Nebraska’s first county-wide Certified Local Government.

Lancaster County had long included in its zoning regulations Special Permits for historic properties, by which uses not otherwise allowed in a zoning district may be permitted by the County Board. The proposed changes make available the expertise of the Historic Preservation Commission in identifying historic properties, and in reviewing proposed changes to those properties for consistency with any guidelines adopted by the County Board.

Prepared by

Tom Cajka, Planner

Date: October 8, 2018

Applicant: David Cary, Planning Director

Contact: Tom Cajka, County Planner

F:\DevReview\TX\18000\TX18012 County zoning.tjc.docx

**1979 ZONING RESOLUTION
OF
LANCASTER COUNTY, NEBRASKA**

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

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

ARTICLE 1
PURPOSE AND TITLE

1.01 Purpose.

This resolution has been made in accordance with a Comprehensive Plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; and to facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public requirements. These regulations have been made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for encouraging the most appropriate use of land throughout the prescribed unincorporated portions of Lancaster County, Nebraska.

1.02 Title.

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

ARTICLE 2 DEFINITIONS

Sections:

2.001 Definitions - General Provisions

2.002 A
2.003 B
2.004 C
2.005 D
2.006 E
2.007 F
2.008 G
2.009 H
2.010 I
2.011 J
2.012 K
2.013 L
2.014 M
2.015 N
2.016 O
2.017 P
2.018 Q
2.019 R
2.020 S
2.021 T
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2.023 V
2.024 W
2.025 X
2.026 Y
2.027 Z

2.001. Definitions - General Provisions.

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

2.002. A.

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

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

Agriculture. Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock, poultry, fish or honeybees; or for dairying, truck gardening, forestry, nurseries or orchards; for the non-commercial on-farm storage or processing of agricultural products produced on the premises; or for any other similar agricultural, horticultural, or silvicultural or aquacultural use. (Resolution No. 4921, June 30, 1987)

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

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

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

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

Airport. An area of land and/or water, open to the public which is designed and built for the

landing and takeoff of various aircraft, including but not limited to air carrier, commuter or general aviation aircraft, and normally would include passenger terminals and other aviation related facilities and buildings. The design and minimum standards for each airport shall conform to State and Federal regulations. (Resolution No. 5367, August 26, 1996)

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

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

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

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

Apartment House. See Dwelling, Multiple.

2.003. B.

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

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

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

Biosolids. Biosolids shall mean solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors. Biosolids shall include digestate resulting from the anaerobic digestion of organic materials. (Resolution No. R-17-0040, May 30, 2017)

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

district in which it is located.

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

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

2.004. C.

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

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

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

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

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

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

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

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

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

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

Contractor Services. Contractor services shall mean a business which provides a service which is primarily performed off-site. Few customers visit the site. Common examples of contractor services include plumbing, heating and air conditioning, electrical, exterminator, lawn and garden and construction. Outdoor storage, machinery, trucks, and service vehicle fleets are common accessory uses.

2.005. D.

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

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

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

Dwelling. Any building or portion thereof which is designed and used **exclusively** for residential purposes.

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

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

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

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

2.006. E.

Early Childhood Care Facility. Early childhood care facility shall mean a building for the provision of services in lieu of parental supervision for four or more children under thirteen years of age for compensation either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, child care home, child care center, before- and after-school child care program, or preschool or nursery school, but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or preschool or nursery school, or a preschool program conducted in a school approved pursuant to Nebraska State Statutes.

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

2.007. F.

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

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

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

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

Farm Winery. Farm Winery shall mean any enterprise which produces and sells wines produced from grapes, other fruit or suitable agricultural products of which seventy-five (75)

percent is grown in the State of Nebraska. (Resolution No. 5437, February 18, 1997)

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

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

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

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

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

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

2.008. G.

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

Garden Center. Garden center shall mean **a one or more buildings ~~or premises~~** used primarily for the retail sale of items useful in the culture, display or decoration of lawns, gardens or indoor plants; including books, appliances, and tools, but not including power tools or tractors.

Government Lot. A lot which was created by the original government survey to distribute errors in measurements while subdividing a township into section. All such lots are located only in closing sections, and are recorded in the surveyor's records of Lancaster County, although specific reference to them as Government Lots may or may not have appeared in original or subsequent deeds. Copies of the surveyor's records of Lancaster County are available for inspection at the County-City Building in the Department of Building and Safety and

the Planning Department, and also at the County Engineer's Office, 444 Cherrycreek Road. (Resolution No. 3478, June 24, 1980)

Grade. Grade shall mean:

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

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

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

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

2.009. H.

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

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

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

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

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

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

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

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

2.010. I.

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

2.011. J.

2.012. K.

2.013. L.

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

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

Lot, Buildable. Buildable lots shall mean:

- a) A parcel of land occupied or intended for occupancy by a use permitted in this resolution, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this resolution, and fronting upon a street, as herein defined, except for lots recorded in the Register of Deeds Office prior to the adoption of this resolution, which need not front on a public street. A lot may front upon a private roadway or have other frontage requirements if specifically provided in this title.

A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County at the time of the adoption of this resolution, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot described by a deed recorded with the Register of Deeds for Lancaster County at the time of passage of this resolution; provided that if a lot has less width or area as required by this resolution, and if the ownership of this lot is or has been common with any contiguous land, the lot is not a buildable lot.

A lot legally created under another jurisdiction and deemed buildable by that jurisdiction and subsequently converted to Lancaster County jurisdiction, shall be deemed buildable even though it may not meet the area, width or frontage or any combination thereof.

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

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

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

Lot of Record. Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds for Lancaster County on or before September 3, 1968, provided that said lot has a frontage of not less than forty (40) feet; or an irregular tract lot as described by a deed recorded with the Register of Deeds for Lancaster County on or before September 3, 1968, provided that such lot is numbered and described by the County Surveyor and is not greater in area than one (1) acre.

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

2.014. M.

Market Garden. Market garden shall mean a relatively small scale farming operation (twenty (20) to forty (40) acres in size) where the production of a diversity of fruits, vegetables, herbs and flowers is grown for sales primarily for direct human consumption rather than as feed for animals or for major processing before consumption. Market gardens are distinguished from other types of farming by the inclusion of accessory uses not typically found on farms. These accessory uses may include restaurants, agricultural education and training centers, agricultural tourism or sales of agricultural products not grown on site. (Resolution No. R-12-0023, March 20, 2012)

Mini-Warehouse. **Mini-warehouse shall mean a storage facility containing individual compartments or lockers designed to serve multiple persons and small businesses.**
Storage bays shall not be interconnected by interior doors or other interior means

providing access form one storage bay to another.

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

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

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

2.015. N.

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

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

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

2.016. O.

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

Outlot. A parcel of real property with a separate and distinct outlot designation shown on a final plat recorded in the Office of the Register of Deeds for Lancaster County, Nebraska, and which is reserved for future building or occupancy after replatting and subdivision, or reserved for

agricultural use, open space or common facilities. (Resolution No. R-13-0043, July 30, 2013)

2.017. P.

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

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

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

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

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

2.018. Q.

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

2.019. R.

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

Rooming House. — See Lodging House.

Row House. See Townhouse.

2.020. S.

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

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

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

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

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

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

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

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

Specified Anatomical Areas. Specified anatomical areas shall mean:

a) Less than completely and opaquely covered human genitals; pubic region; anus; or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.

b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device covering that, when worn, simulates male genitals in a discernibly turgid state.

(Resolution 00-129, October 13, 2000)

Specified Sexual Activities. Specified sexual activities shall mean any of the following:

a) Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

b) Sex acts normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.

c) Masturbation, actual or simulated.

d) Human genitals in a state of sexual stimulations, arousal or tumescence.

e) Excretory functions as part of or in connection with any of the activities set forth in (1), (2), (3) or (4) of this section. (Resolution 00-129, October 13, 2000)

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

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

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

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

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

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

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

2.021. T.

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

2.022. U.

2.023. V.

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

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

2.024. W.

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

2.025. X.

2.026. Y.

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

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

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

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

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

2.027. Z

ARTICLE 3 DISTRICTS AND BOUNDARIES

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

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

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

3.005. Interpretation of District Boundaries.

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

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

- 1) In cases where a boundary line is given a position within a street or alley or non-navigable stream, it shall be deemed to be in the center of the street, alley or stream, and if the actual location of such street, alley or stream varies slightly from the location as shown on the district map, then the actual location shall control.
- 2) In cases where a boundary line is shown as being located a specific distance from a street line or other physical features, this distance shall control.
- 3) In cases where a boundary line is shown adjoining or coincidental with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of the designated mainline track.

- 4) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the maps accompanying and made a part of this resolution are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by resolution.
- 5) In unsubdivided property, unless otherwise indicated, the district boundary line on the maps accompanying and made a part of this resolution shall be determined by the use of the scale contained on such maps.

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

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

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

3.013. Except as hereinafter provided:

- a) No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located;
- b) No building shall be erected, converted, enlarged, reconstructed or structurally altered in conformity with the area and parking regulations of the district in which the building is located;
- c) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area and parking regulations of the district in which the building is located;
- d) The minimum yards and other open spaces, including lot area per family, required by this resolution for each and every building at the time of passage of this resolution or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this resolution;

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

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

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

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

ARTICLE 4 "AG" AGRICULTURAL DISTRICT

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

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

4.003 Permitted Uses.

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

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

- a) Cemeteries, including mausoleums:
 - 1) Mausoleums shall be located at least two hundred (200) feet from every street and adjoining property line.
 - 2) Any cemetery established after the effective date of this title shall contain an area of twenty (20) acres or more.
- b) Roadside stands for the temporary or seasonal sale of produce:
 - 1) Such roadside stands shall be permitted in a required yard, however, no roadside stand shall be permitted in a right-of-way, nor closer than thirty (30) feet to the edge of a traveled roadway.
 - 2) Such roadside stands shall not be operated for more than **one hundred eighty** (180) days in any one year.
- c) Group homes:
 - 1) Group homes shall comply with all parking, sign, height and area regulations of the district and all provisions of the County Building Code.
 - 2) The distance between the proposed use and any existing group home

measured from lot line to lot line is not less than one-half mile.

3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

d) Wind energy conversion systems (WECS), over the district height, provided they meet the following conditions: (Resolution R-08-0008, February 24, 2009)

1) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The County Board may grant a reduction in the setback through appeal when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety, and general welfare. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-08-0090, October 15, 2008)

2) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distance figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS. (Resolution No. R-11-0023, March 29, 2011)

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

4) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations applicable to WECS. (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

e) Mobile Homes:

1) The mobile home has:

i. No less than an eight hundred (800) square foot floor area, excluding garages.

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

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

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

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

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

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

2) The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.

3) The towing bar and hitch, wheels and tires, and axles are removed.

4) The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.

5) The mobile home is securely and permanently attached to a permanent foundation complying with the building code.

- 6) The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983)
- f) Family Airfield, under the following conditions;
 - 1) The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.
 - 2) A minimum effective length of the runway shall be 300 feet if paved and 500' if turfed.
 - 3) The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.
 - 4) The approach surface to each end of each paved runway or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.
 - 5) The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.
 - 6) The runway shall be set back 50' from all lot lines.
 - 7) Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than 1/2 foot candle of illumination at the property line.
 - 8) A "bubble" of clearance of 200' over and around all buildings shall be maintained.
 - 9) Flight operations shall be prohibited from 10 PM to 5 AM.
 - 10) Abutting property/families may use the same runway provided there are no more than four (4) properties, each of which has at least 150' of frontage on the runway. (Resolution No. 5367, August 26, 1996)
- g) Domestic shelter:
 - 1) Parking shall be one space for every four residents based on the maximum occupancy allowed by the lot area and two spaces for every three employees on the largest shifts.
 - 2) The maximum number of residents occupying such a facility shall not exceed one person per 3,000 square feet of lot area.
 - 3) The distance between the proposed use of any existing domestic shelter measured from lot line shall not be less than one mile. (Resolution No. 5407, November 19, 1996)
- h) Farm Winery:
 - 1) No farm winery shall manufacture wine in excess of fifty thousand gallons per year.
 - 2) A farm winery must produce a minimum of fifteen percent of product from fruit or other agricultural products harvested from the premises following five

years business.

3) Wines produced at the farm winery may be sold on site at wholesale and retail and/or at off premise sites holding the appropriate license.

4) Wine samples and/or consumption on the licensed premises is permitted in reasonable amounts.

5) A farm winery may sell retail items as an accessory to wine sales through tasting or wine sales room. Retail space shall not exceed two thousand square feet.

6) A farm winery may only serve food prepared off site by a Health Department licensed establishment in association with sampling and/or consumption of wine. A farm winery may not act in the capacity of a retail food establishment. (Resolution No. 5437, February 18, 1997)

7) A farm winery shall produce a minimum of 500 gallons of wine on site per year on average over a consecutive 3-year period.

8) A farm winery shall only have a Class Y, YC or YK liquor license approved by the State of Nebraska.

9) The site for the farm winery may be on the same premises as the main residence of the owner or operator. (Resolution No. R-17-0040, May 30, 2017)

i) Temporary paving plants used for the paving of federal or state highways or county roads are allowed during the project construction period under the following conditions:

1) The plant shall be on premises abutting the specific construction project and have access to a paved road.

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

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

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

5) The plant shall be removed upon substantial completion of the construction project.

j) Agricultural Attraction is allowed in the AG zoning district under the following conditions:

(1) The premises contains twenty (20) acres or more of land, and the majority of the premises is in agriculture use for the purpose of raising and harvesting crops.

(2) The attraction has received an Amusement License from the Lancaster County Board.

k) Early childhood care facilities under the following conditions:

- 1. No more than a maximum of fifteen (15) children shall be present in the facility at any time;**
- 2. Such facility shall be used as the permanent residence of the licensed child care provider;**
- 3. If the facility is located in a mobile home, the facility shall have a severe weather emergency action plan approved by the Health Department. (Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.)**

i) **1)** Any use that the Lancaster County Board of Commissioners has approved by granting an amusement license for such use. Said conditional use is permitted on a premises for no more than one event per calendar year, except for Places of Religious Assembly. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-05-0058, May 25, 2005).

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

- a) Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
- b) Recreational facilities;
- c) Dwellings for members of religious orders;
- d) Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3958, August 21, 1984)
- e) Campgrounds;
- f) Veterinary facilities;
- g) Excavation; (Resolution No. R-17-0040, May 30, 2017)
- h) Sale barns;
- i) Garden centers;
- j) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
- k) Except as provided in Section 17.031, place of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)
- l) Expansion of non-conforming use;
- m) Historic Preservation;
- n) Pet cemeteries; minimum area shall be five (5) acres;
- o) Clubs; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981)
- p) Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3569, March 10, 1981)
- q) Non-commercial distillation and storage of fuel and fuel products produced in whole

or in part from agricultural products raised within the County; (Resolution No. 3501, July 29, 1980)

- r) Mobile homes; (Resolution No. R-17-0040, May 30, 2017)
- s) Heritage center; (Resolution No. 4277, April 28, 1987)
- t) Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5367, August 26, 1996)
- u) Storage of agricultural conservation construction equipment; (Resolution No. 5367, August 26, 1996)
- v) Race track, drag strip or motor sport facility; (Resolution No. R-07-0061, July 24, 2007)
- w) Expanded home occupations; (Resolution No. R-09-0076, September 29, 2009)
- x) Commercial Wind Energy Conversion Systems/Turbines; (Resolution No. R-11-0022, March 29, 2011)
- y) Market Garden; (Resolution No. R-12-0023, March 20, 2012)
- z) Commercial Composting Operation (Resolution No. R-14-0007, Jan. 28, 2014)
- aa) Commercial feedlot; (Resolution No. R-17-0040, May 30, 2017)
- bb) Community Unit Plan; (Resolution No. R-17-0040, May 30, 2017)
- cc) Health Care Facilities Non-Residential; (Resolution No. R-17-0040, May 30, 2017)
- dd) Private Recreational Activities; (Resolution No. R-17-0040, May 30, 2017)
- ee) Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017)
- ff) Personal Wireless Services Facility. (Resolution No. R-17-0040, May 30, 2017)

gg) Early Childhood Care Facilities

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

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

4.015. Sign Regulations. Signs within the "AG" Agricultural District shall be regulated in conformance with the provisions in Article 16.

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

1. **The overall density on one dwelling unit per twenty (20) acres shall be maintained. The subdivision shall have a minimum of twenty (20) acres and a maximum of eighty (80.00) acres with no more than 4 buildable parcels created. For purposes of determining minimum lot area, road right-of-way is included in the total area.**
2. **Buildable lots with onsite wastewater shall be equal to or greater than three (3) acres as provided by County Resolution 02-30. The Lincoln-Lancaster County Health Department may approve lots less than three (3) acres in size served by an onsite wastewater treatment system when an easement exists on**

adjacent land providing a minimum of three (3) acres; (Resolution No. R-12-0058, July 24, 2012)

3. The remaining land shall be placed in an outlot that occupies a minimum of 75% of the total area of the subdivision. This outlot shall be non-buildable except that agricultural structures shall be allowed; (Resolution No. R-12-0058, July 24, 2012)
4. Lots shall be accessed by a single shared driveway, which shall be within a public access and utility easement, sixty (60) feet in width, the purpose of which is to act as local road right-of-way in the event the property, or adjacent parcels, should further subdivide in the future. An exception may be made for subdivisions which have frontage on more than one road when the frontage meets the minimum requirement and when a safe access point can be approved by the County Engineer; (Resolution No. R-12-0058, July 24, 2012)
5. The subdivider agrees to dedicate the full fifty (50) foot right-of-way on County section line and one-half section line roads abutting the subdivision. (Resolution No. R-12-0058, July 24, 2012)
6. In the case of AG Preservation lots there shall be a setback equal to the front yard setback of the district measured from the lot line bordering the public access easement along the shared driveway and along any other public or private roadway. This is to accommodate a future conversion of the shared driveway to a public or private roadway; (Resolution No. R-12-0058, July 24, 2012)

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

4.017. Height and Area Regulations. The height and minimum lot requirements within the "AG" Agricultural District shall be as follows:

a) General requirements:

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

1) Required Yards:

- i. In no event need the sum of the distance from the centerline of the abutting road to the street line, and the required front yard exceed a total of 80'. The required front yard of any such property exceeding the 80'

sum may be reduced accordingly. (Resolution No. R-12-0058, July 24, 2012; Resolution No. 3740, August 31, 1982)

ii. There shall be a required front yard on each street side of a double frontage lot; (Resolution No. R-12-0058, July 24, 2012)

iii. There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on the effective date of this title need not be reduced below thirty-five (35) feet except where necessary to provide a required side yard of not less than five (5) feet in place of one of the required front yards; (Resolution No. R-12-0058, July 24, 2012)

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

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

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

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

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

ix. Accessory buildings which are attached to or not located more than ten (10) feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located; ~~(Resolution No. R-12-0058, July 24, 2012)~~

4. ~~I~~ in the required rear yard, but such accessory buildings shall not be nearer than two (2) feet to the side or rear lot line; such accessory buildings located in the required rear yard shall not occupy more than thirty percent (30%) of the required rear yard, and; (Resolution No. R-12-0058, July 24, 2012)

~~2. Not nearer than a distance equal to ten percent (10%) of the average lot width from the side lot line.~~ Resolution No. 3740,

August 31, 1983) (Resolution No. R-12-0058, July 24, 2012)

2) Minimum Lot Area

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

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

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

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

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

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

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

~~In such event, the yard requirements of subsection (c)(1) below shall apply to the buildable lots. When less than 550' of frontage is available, minimum lot frontage may be adjusted by the Planning Director. Design standards shall meet the requirements of 4.15 of the Lancaster County Subdivision Resolution. (Resolution No. R-12-0058, July 24, 2012; Resolution No. R-05-0125, October 5, 2005)~~

iii. In all interior sections the minimum area for a buildable lot shall be one half (½) of the total acreage contained in that quadrant of the quarter

(1/4) section in which said lot is located. (Resolution No. R-12-0058, July 24, 2012)

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

1. For those lots located within a Government Lot, the minimum required area shall be one-half ($\frac{1}{2}$) of the total acreage contained in said Government Lot; (Resolution No. R-12-0058, July 24, 2012)

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

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

b) Buildable Lots not meeting General Requirements

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

i. If the area of a parcel is **ten (10)** acres or more, such parcel may be used for:

1. Agriculture, except commercial feedlots.
2. Breeding, raising, management and sale of fur-bearing animals and the produce thereof.
3. Dog breeding establishments and kennels.
4. Stables and riding academies.
5. Public uses including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, public elementary and high schools, and public utilities and utility distribution systems.
6. A single-family dwelling.
7. Places of Religious Assembly. (Resolution No. R-17-0040, May 30, 2017)

ii. If the area of such parcel is less than **ten (10)** acres, such parcel may be used for:

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

May 30, 2017)

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

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

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

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

i. General requirements:

	Min. Lot Area	Avg. Lot Width	Min. Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Max. Height
All Permitted Uses:	1 acre	150'	120'	50'*	15'	Lesser of 50' or 20% of depth	30'

* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard, need not exceed a total of 80'. The required front yard may be reduced, where necessary, to reach this total.

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

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

iv. Accessory buildings which are attached to or not located more than ten (10) feet from the main structure shall be considered a part of the main structure and shall comply with the front, side and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the rear yard, but such accessory

building may not occupy more than thirty percent (30%) of the required rear yard and shall not be nearer than two (2) feet to the side or rear lot line. However, if the lot or parcel of land and structure does not meet the requirements of item (l) above, it shall be considered a non-standard use.

- 2) Such Single family dwelling:
 - i. Has existed on such land for more than five (5) years;
 - ii. Is, or has been used as the primary residence associated with a farm; and,
 - iii. Is in conformance with the other provisions of this resolution, the minimum housing code, and the minimum standards for water and sewage facilities and does not represent a hazard to the health and safety of occupants.
- 3) Such lot or parcel created for such public use shall not be used by itself, for any purpose other than public use or agriculture. (Resolution No. 4048, April 9, 1985)
- 4) Such a lot or parcel, created for preservation or conservation purposes;
 - i. Shall be evaluated, prior to action by the County Board, by the Lancaster County Ecological Advisory Committee or other appropriate committee to determine the property's natural, scenic, historic or scientific significance;
 - ii. Shall have an affected deed restriction or conservation easement attached to the deed, in perpetuity, assuring appropriate limitations on development of the property and permanent preservation of its natural, scenic, historic or scientific values. (Resolution No. 5172, November 1, 1994)

ARTICLE 5

"AGR" AGRICULTURAL RESIDENTIAL DISTRICT

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

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

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

- a) Agriculture, except confined feeding facilities for livestock or poultry;
- b) Stables, riding stables and riding academies; (Resolution No. R-17-0040, May 30, 2017)
- c) Public Uses: including but not limited to public parks, playgrounds, golf courses and recreational uses, fire stations, schools, publicly owned or operated airports, heliports and public utility distribution systems;
- d) Places of Religious Assembly; (Resolution No. R-17-0040, May 30, 2017)
- e) Single-family dwellings more than 1,320' from property line of a publicly owned lake property of over thirty (30) acres in size; (Resolution No. 5428, January 22, 1997)
- f) Airports; (Resolution No. 5367, August 26, 1996)
- g) Cable and fiber optic communication distribution systems; (Approved Resolution No. R-01-21, April 4, 2001)
- h) Wind energy conversion systems (WECS). (Resolution No. R-08-0090, October 15, 2008)

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

- a) Cemeteries, including mausoleums:
 - 1) Mausoleums shall be located at least two hundred (200) feet from every street line and adjoining property line;
 - 2) Any cemetery established after the effective date of this title shall contain an area of twenty (20) acres or more;
- b) Pet cemeteries: Minimum area shall be five (5) acres;
- c) Roadside stands for the temporary or seasonal sale of produce:
 - 1) Such roadside stands shall be permitted in a required yard; however, no roadside stand shall be permitted in a right-of-way, nor closer than thirty (30) feet to the edge of a traveled roadway.
 - 2) Such roadside stands shall not be operated for more than one hundred eighty (180) days in any one year.
- d) Group homes:
 - 1) Group homes shall comply with all parking, sign, height and area regulations

of the district and all provisions of the County Building Code.

2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than one-half (½) mile.

3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.

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

1) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the setback distance through appeal when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-08-0090, October 15, 2008)

2) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS. (Resolution No. R-11-0023, March 29, 2011)

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

4) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then-current service regulations applicable to WECS. (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

f) Mobile homes:

1) The mobile home has:

- i. No less than an eight hundred (800) square foot floor area, excluding garages;
- ii. No less than an eighteen (18) foot exterior width;
- iii. A three (3) inch in twelve (12) inch pitched roof or steeper;
- iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry;
- v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock;
- vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes;
- viii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.

2) The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.

3) The towing bar and hitch, wheels and tires, and axles are removed.

4) The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.

- 5) The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
- 6) The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983)

(g) Domestic Shelter:

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

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

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

(i) Early childhood care facilities under the following conditions:

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

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.)

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

- a) Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
- b) Recreational facilities;
- c) Dwellings for members of religious orders;
- d) Broadcast towers;
- e) Excavation; (Resolution No. R-17-0040, May 30, 2017)
- f) Garden centers;
- g) Except as provided in Section 17.031, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)
- h) Community unit plans shall be permitted in conformance with the provisions of Article 14;
- i) Expansion of non-conforming use;
- j) Historic preservation;
- k) Mobile; (Resolution No. R-17-0040, May 30, 2017)
- l) Airfields, Commercial Agriculture Airfields and Heliports; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5367, August 26, 1996)
- m) Family airfields; (Resolution No. 5367, August 26, 1996)
- n) Dwellings within 1,320' of the property line of a publicly owned lake property of more than thirty (30) acres in size; (Resolution No. 5428, January 22, 1997)
- o) Market Garden; (Resolution No. R-12-0023, March 20, 2012)
- p) Clubs; (Resolution No. R-17-0040, May 30, 2017)
- q) Pet Cemeteries; (Resolution No. R-17-0040, May 30, 2017)
- r) Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017)
- s) Personal Wireless Services Facility. (Resolution No. R-17-0040, May 30, 2017)
- t) Early Childhood Care Facilities.**

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

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

5.013. Sign Regulations. Signs within the "AGR" Agricultural Residential District shall be regulated in conformance with the provisions of Article 16.

5.015. Height and Area Regulations. The height and minimum lot requirements within the "AGR" Agricultural Residential District shall be as follows:

a) General requirements:

	Min. Lot Area	Avg. Lot Width	Min. Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Max. Height
All Permitted Uses:	3 acres	220'	175'	50'*	15'	Lesser of 50' or 20% of depth	30'

* The sum of (1) the distance from the centerline of the abutting road to the property line, plus (2) the required front yard, need not exceed a total of 80'. The required front yard may be reduced, where necessary, to reach this total.

** For lots abutting cul-de-sacs, this requirement may be met by providing a frontage of 175 feet measured at the required front yard setback line. (Resolution No. 4452, January 17, 1989; prior Resolution No. 3639, October 6, 1981)

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

ARTICLE 6 "R" RESIDENTIAL DISTRICT

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

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

6.003. Use Regulations. A building or premises shall be used only for the following purposes:

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

6.004 Permitted Conditional Uses. **A building or premises may be used for the following purposes in the "R" Residential District in conformance with the conditions prescribed herein:**

a) Group homes:

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

b) Early childhood care facilities under the following conditions:

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

(Note: Early childhood care facilities with sixteen (16) or more children and early childhood care facilities with fifteen (15) or fewer children not meeting the specified conditions for the above permitted conditional use may be allowed upon approval of a special permit.)

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

- a) Expansion of non-conforming use;
- b) Historical preservation;
- c) Academies, Private Schools, or Post-Secondary Education Facilities; (Resolution No. R-17-0040, May 30, 2017)
- d) Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be setback from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided; (Resolution No. R-17-0040, May 30, 2017)
- e) Cemeteries;
- f) Reserved; (Resolution No. R-17-0040, May 30, 2017)
- g) Mobile home courts; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3777, January 18, 1983)
- h) Except as provided in Section 17.031, places of religious assembly steeples, towers, and ornamental spires which exceed the maximum district height; (Resolution No. 5408, November 19, 1996)
- i) Community unit plans;
- j) Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017)
- k) Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)
- l) A mobile home on an individual lot subject to the following conditions: (Resolution No. 3777, January 18, 1983)
 - 1) The lot meets all the height and area regulations of this district except the Planning Commission may increase the yard areas. (Resolution No. R-11-0023, March 29, 2011)
 - 2) The mobile home has:

- i. No less than an eight hundred (800) square foot floor area excluding garages.
 - ii. No less than an eighteen (18) foot exterior width.
 - iii. A three (3) inch in twelve (12) inch pitched roof or steeper.
 - iv. A non-reflective exterior siding material which is or simulates wood, stucco or masonry.
 - v. A non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.
 - vi. Permanent connections to permanently located utilities complying with plumbing codes and electrical codes.
 - vii. A certificate stating the construction complies with the Federal Department of Housing and Urban Development's mobile home construction and safety standards.
- 3) The mobile home's longest exterior dimension is less than three (3) times the most narrow exterior dimension.
 - 4) The towing bar and hitch, wheels and tires, and axles are removed.
 - 5) The mobile home's exterior siding extends to the ground and is supported to withstand wind loads as set forth in the building code or the foundation forms a complete enclosure under the exterior walls. The space beneath the mobile home shall be properly ventilated.
 - 6) The mobile home is securely and permanently attached to a permanent foundation complying with the building code.
 - 7) The mobile home's placement is inspected and complies with this resolution before the mobile home is occupied. (Resolution No. 3777, January 18, 1983)
 - m) Dwellings for Members of Religious Orders; (Resolution No. R-17-0040, May 30, 2017)
 - n) Flood Plain Construction; (Resolution No. R-17-0040, May 30, 2017)
 - o) Broadcast Towers; (Resolution No. R-17-0040, May 30, 2017)
 - p) Personal Wireless Services Facility. (Resolution No. R-17-0040, May 30, 2017)
 - q) Early Childhood Care Facilities.**

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

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

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

6.013. Sign Regulations. Signs within the "R" Residential District shall be regulated in conformance with the provisions of Article 16.

6.015. Area Regulations.

a) Front yard:

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

b) Side yard:

- 1) Except as hereinafter provided in the following paragraph and in Article 17, there shall be a side yard on each side of a building, having a width of not less than ten (10) feet.
- 2) Wherever a buildable lot at the time of passage of this resolution has a width less than required in the district, the side yard on each side of a building may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than four (4) feet.

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

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

- | | |
|--|---|
| 1) Single-family dwellings | 9,000 square feet |
| Two-family dwellings | 14,000 square feet |
| Multiple dwelling, provided
other applicable adopted
standards and resolutions
are met, i.e., percolation
tests for septic fields; | 14,000 square feet

5,000 square feet for
each family over two |
- 2) The minimum lot width shall be sixty (60) feet.
 - 3) A buildable lot containing less area or width than herein required may be used for single family purposes, provided its boundary lines along their entire length touched lands under other ownership on the effective date of this resolution and have not since been changed.
 - 4) Accessory buildings not a part of the main structure, if located not less than sixty (60) feet from the front lot line, may extend into the required side yard though not nearer than two (2) feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten (10) feet to the alley line. (Resolution No. 3657, December 22, 1981)

ARTICLE 7 "B" BUSINESS DISTRICT

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

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

7.003. Use Regulations. A building or premises shall be used only for the following purposes:

- a) Any use permitted in the "R" Residential District;
- b) Banks, stores, ~~shops~~ **retail** and personal service establishments;
- c) Bowling alleys, dance halls or skating rinks;
- d) Farm implements, sale and repair;
- e) Farm stores or feed stores, including accessory storage of liquid or solid fertilizer;
- f) Funeral homes or mortuaries;
- g) Hotels, motels and lodging houses;
- h) Hospitals or clinics for animals;
- i) Laboratories: research, experimental or testing;
- j) Offices and office buildings;
- l) Garages, service stations and automobile repair shops or parking lots;
- l) Theaters, drive-in theaters, assembly halls, restaurants and taverns;
- m) Truck terminals;
- n) Wholesale merchandising or storage warehouses;
- o) General service and repair establishments, ~~including dyeing or cleaning works or laundries, plumbing and heating, printing, painting, upholstering, tinsmithing or appliance repair shops;~~
- p) Compounding of cosmetics, toiletries, drugs and pharmaceutical products;
- q) Manufacture or assembly of boats, bolts, nuts, screws and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery and hardware products, sheet metal products, and vitreous enameled metal products;
- r) Manufacture or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus;
- s) Manufacture or storage of food products, including beverage blending or bottling, bakery products, candy manufacture, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but not distilling of beverages or slaughtering of poultry or animals;
- t) Manufacture of boxes, crates, furniture, baskets and other wood products of a similar nature;
- u) Generally those light manufacturing uses similar to those listed in items 16 through 20 above which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat or glare than that which is generally associated with light industries of the type specifically permitted;

v) Wind energy conversion systems (WECS); (Resolution R-08-0090, Approved October 15, 2008)

w) Recreational facility; (Resolution No. R-17-0040, May 30, 2017)

x) Clubs; (Resolution No. R-17-0040, May 30, 2017)

y) Social Hall. (Resolution No. R-17-0040, May 30, 2017)

z) mini-warehouse

aa) motor vehicle sales

bb) early childhood care facilities

cc) contractor services

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

a) Expansion of non-conforming use;

b) Historical preservation;

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

d) Health Care Facilities, Non-Residential provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided; (Resolution No. R-17-0040, May 30, 2017)

e) Except as provided in Section 17.031, places of religious assembly steeples, towers and ornamental spires which exceed the maximum district height; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)

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

g) Health Care Facilities, Residential; (Resolution No. R-17-0040, May 30, 2017)

h) Wind energy conversion systems over the district height; (Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

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

j) Floodplain Construction; (Resolution No. R-17-0040, May 30, 2017)

k) Off-premises Signs. (Resolution No. R-17-0040, May 30, 2017)

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

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

7.011. Sign Regulations. Signs within the "B" Business District shall be regulated in conformance with the provisions of Article 16.

7.013. Area Regulations.

a) Front yard: The front yard regulations are the same as those in the "R" Residential District, except that on the side street side of a corner lot, the front yard need not exceed ten (10) feet in depth;

b) Side yard: The side yard regulations for dwelling are the same as those used in the "R" Residential District. Where a lot is used for any of the commercial or industrial purposes permitted in the district, a side yard is not required except on the side of a lot abutting on an "R" Residential District, in which case there shall be a side yard of not less than five (5) feet;

c) Rear yard: The rear yard regulations for dwellings are the same as in the "R" Residential District. In all other cases a rear yard is not required except where a lot abuts an "R" Residential District, in which case there shall be a rear yard of not less than twenty (20) feet in depth;

d) Intensity of use: When a buildable lot is improved with a single-family dwelling, two-family dwelling, or a multiple dwelling or when living facilities are erected above other uses, the intensity of use regulations are the same as those required in "R" Residential District. The minimum lot width for a commercial use shall be fifty (50) feet.

ARTICLE 12 NONCONFORMING AND NONSTANDARD USED

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

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

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

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

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

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

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

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

structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located.

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

12.011. Sign Regulations. Signs for nonconforming uses and nonconforming signs shall be regulated in conformance with the provision of Article 16.

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

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

12.015. Effect On Use Which Is Illegal Under Prior Law. Nothing in this resolution shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect immediately prior to the effective date of this resolution.

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

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

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

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

ARTICLE 13
SPECIAL PERMIT

Sections:

- 13.001 Special Permit
- 13.002 Procedures
- 13.003 Appeal of Planning Commission
- 13.004 Administrative Amendments
- 13.005 Enforcement and Revocation of Special Permits
- 13.006 Reserved
- 13.007 Reserved
- 13.008 Academies and Private School
- 13.009 Health Care Facilities Non-Residential
- 13.010 Cemeteries
- 13.011 Reserved
- 13.012 Airfields, Commercial Agriculture Airfields and Heliports
- 13.013 Mobile Home Courts
- 13.014 Campground
- 13.015 Private Recreational Activities
- 13.016 Riding Stables and Private Stables
- 13.017 Personal Wireless Services Facility
- 13.018 Broadcast Towers
- 13.019 Excavation
- 13.020 Clubs
- 13.021 Health Care Facilities, Residential
- 13.022 Industrial uses
- 13.023 Dwellings for Religious Orders
- 13.024 Pet Cemeteries
- 13.025 Mobile Homes
- 13.026 Recreation Facilities
- 13.027 Veterinary Facilities
- 13.028 Sale Barns
- 13.029 Commercial Storage or Sale of Agricultural Chemicals and Fertilizer
- 13.030 Place of Religious Assembly Steeples, Towers and Ornamental Spires
Exceeding the Height of the District
- 13.031 Community Unit Plans
- 13.032 Expanded Home Occupations
- 13.033 Garden Centers
- 13.034 Non-commercial Distillation and Storage of Fuel
- 13.035 Commercial Feedlot
- 13.036 Market Garden

- 13.037 Commercial Composting
- 13.038 Flood Plain Construction
- 13.039 Expansion of Nonconforming Uses
- 13.040 Heritage Center
- 13.041 Historic Preservation
- 13.042 Wind Energy Conversion Systems
- 13.043 Storage of Agriculture Conservation Equipment and Materials
- 13.044 Dwelling within 1,320 feet of a Publicly Owned Lake Property
- 13.045 Off Premises Signs
- 13.046 Sexually Oriented Live Entertainment Establishment
- 13.047 Race Tracks, Drag Strips and Motor Sport Facilities
- 13.048 Commercial Wind Energy Conversion System

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

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

13.003. Appeal of Planning Commission Action.

a) Any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the County Board by filing notice of appeal with the ~~County Clerk~~ **Planning Department** within fourteen **(14)** days following the action of the Planning Commission.

b) Upon receipt of the appeal by the County Board, the board shall hold a public hearing thereon within thirty **(30)** days from the date of appeal. Notice of the public hearing shall be given as provided in Article 22, Section 22.005 hereafter.

c) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the County Board may, after public hearing, in conformity with the provisions of this Article, make such decisions as ought to be made. (Resolution No. R-11-0023, March 29, 2011)

13.004. Administrative Amendments. After the special permit has been approved, including the specific plot plan under Article 13, the Planning Director is authorized to approve amendments to the special permit provided:

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

13.005. Enforcement and Revocation of Special Permits.

- a) The Director of Building and Safety shall make a report to the County Board at anytime the Director of Building and Safety finds the following:
 - 1) Any of the terms, conditions, requirements of a special permit have not been complied with by the Permittee or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto
- b) The Planning Commission may, after a public hearing of which the permittee shall be notified, take any of the following actions:
 - 1) Revoke the special permit for failure to comply with any of the terms, conditions, and requirements of the special permit, or
 - 2) Take such other action as it may deem necessary to obtain compliance with the special permit, or
 - 3) Take such action that it deems necessary to preserve the public health, safety and general welfare. (Resolution No. R-09-0011; March 10, 2009)

13.006. Reserved.

13.007. Reserved.

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

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

2017)

13.009. Health Care Facilities, Non-Residential.

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

13.010. Cemeteries.

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

13.011. Reserved.

13.012. Airfields, Commercial Agriculture Airfields and Heliports.

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

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

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

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

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

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

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

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

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

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

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

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

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

6) Roads and railroads are considered to be structures or obstructions 15 feet

and 23 feet high respectively above their traveled surface when determining obstructions. An interstate highway shall be cleared by 17 feet above the closest edge of a paved surface.

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

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

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

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

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

2) The minimum effective length of a paved runway shall be 300 feet. The turfed-runway shall be 200 feet longer than the paved runway (100 feet on each end). The turfed runway is required, but the paved runway is optional.

3) The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.

4) The approach surface to each end of each paved or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.

5) The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.

6) The runway shall be set back 50' from all lot lines.

6) Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than 1/2 footcandle of illumination as measured at the property line.

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

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

9) Abutting property/families may use the same runway provided there are no more than four (4) properties, each of which has at least 150' of frontage on the runway.

k) However, an airfield in a residential air park may be allowed under the provisions of the community unit plan as provided in Article 14 of this zoning resolution. (Resolution No. 5367, August 26, 1996)

13.013. Mobile Home Courts.

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

13.014. Campground.

Campground may be allowed by special permit ~~↓~~ in the AG zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.015. Private Recreational Activities.

Private recreational activities ~~↓~~ including cabins and mobile homes not used as a residency; **may be allowed by special permit** in the AG zoning district.

13.016. Riding Stables and Private Stables.

Riding stables and private stables may be allowed by special permit ~~↓~~ in the AG and AGR zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.017. Personal Wireless Services Facility.

Personal wireless services facility ~~M~~ may be allowed by administrative or special permit in any zoning district in conformance with the provisions of Article 10. (Resolution No. R-17-0040, May 30, 2017)

13.018. Broadcast Towers.

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

13.019. Excavation.

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

a) An application for a special permit for excavation or stone milling shall be accompanied by the following information:

- 1) A legal description of the proposed site;
- 2) A site plan drawn to scale that includes but is not limited to identifying proposed vehicle and equipment storage areas and entrance and exit locations to the operation;
- 3) A map showing the site location and the location of private access roads, existing or proposed, and public roads and highways adjacent to the site which will be affected

- by the operation;
- 4) A grading map showing existing contours, proposed excavation contours, proposed final grade contours, and excavation volumes;
- 5) A full and adequate description of all phases of the contemplated operation and the specific listing of the type of machinery and equipment which will be or might be used to carry on the operation;
- 6) A groundwater report from a groundwater hydrologist in cases where proposed soil mining operations are: (i) within 1000 feet of any off-site private well, (ii) within 2000 feet of a community well, or (iii) designed to result in an excavated area that does not drain to a lower area (i.e. a "hole"); the report should demonstrate that the operation and ultimate grading will not negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells will be installed to provide early warning of any such impact. Where a pond or lake is proposed, the groundwater report shall also demonstrate that adequate water will be supplied via runoff and/or wells to maintain the pond or lake as a functioning and attractive year-round water feature.

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

- b) Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with State and Federal standards and County land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.
- c) No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the County. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the County.
- d) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase of operation.
- e) Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control Program Regulations, and the Lincoln/Lancaster County Health Department may additionally require dust control on unpaved perimeter roads.
- f) Safety screening may be required at the outer boundary of the site; visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or at major entryways/corridors into a city, town, or village, or at the discretion of the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)
- g) Operating hours shall be limited to daylight hours, Monday through Saturday.
- h) A sign shall be posted and maintained at the entrance to the site. The sign shall be:
 - 1) Clearly visible from the adjacent road;
 - 2) At least 32 square feet in area;
 - 3) Lettering shall be at least two inches in height, black on a white background;
 - 4) The sign shall list:
 - i) The approved Special Permit Number;
 - ii) The name, contact phone, and email address for the land owner;
 - iii) The name, contact phone, and email address for the operator/contractor;

- iv) The Building and Safety Department contact number.
- i) The County or City Engineer may require installation of traffic signs to warn motorists of excavation operations and truck traffic. (Resolution No. R-14-0072, November 18, 2014)
- j) The applicant will take appropriate measures, such as street sweeping or “rumble bars” as specified by the County Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.
- k) Permittee shall not begin operations until it has received a certificate of operation from the Director of Building and Safety.
 - 1) The Permittee shall comply with all terms, conditions and requirements of the special permit that are required to be completed before beginning operations. Upon completion of all such terms, conditions and requirement of the special permit, the applicant shall advise the Director of Building and Safety that the applicant has met all such conditions and shall apply to the Director of Building and Safety for a certification of operation.
 - 2) The certificate of operation shall not be issued until the Director of Building and Safety has inspected the premises covered by the special permit, reviewed documentation and evidence of completion of the conditions which shall be provided by the applicant, and has found that all terms, conditions and requirements of the special permit, that are to be completed before beginning operations, have been complied with.
 - 3) Any amendment to a special permit approved subsequent to the issuance of a certificate of operation for such special permit shall require application by the permittee for a new certificate of operation which shall not be issued until the Director of Building and Safety has ascertained that any terms, conditions and requirements of the amendment to the special permit have been complied with.
- l) Operations shall commence within one year of approval of the special permit or the special permit will terminate and be considered null and void.
- m) Prior to commencing operations, the Permittee shall provide the County with a penal bond in the amount of \$525.00 per acre intended to be disturbed to assure compliance with the final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A private engineer must certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.
- n) Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety and general welfare of the public.
- o) A special permit may be approved for up to a three year period of time by the Planning Commission. Such period of time shall commence upon the date the special permit is approved by the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)
- p) Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit.
- q) Permittee shall be subject to an annual site inspection by the Director of Building and Safety or assigns. Such inspection shall be paid for by the applicant. Building and Safety shall:
 - 1) Inspect the site to determine whether terms, special conditions and requirements imposed by the Planning Commission in the approval of the special permit have been met and complied with; and

- 2) Review all complaints from public and other departments/agencies.
(Resolution No. R-11-0023, March 29, 2011)

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

13.020. Clubs.

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

13.021. Health Care Facilities, Residential.

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

13.022. Industrial.

Industrial may be allowed by special permit on u ~~Uses~~ upon which the Planning Commission is required to pass under Article 9 only in the "I" Industrial District. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011)

13.023. Dwellings for Members of Religious Orders.

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

13.024. Pet Cemeteries.

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

13.025. Mobile Homes.

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

- a) To be used for residential occupancy when utilized in conjunction with construction of a residence and not to exceed three (3) years in duration in the AG zoning district.
- b) To be used for temporary residence renewed annually for the use of a person either giving or receiving care due to health reasons in the AG zoning district.
- c) When a mobile home on an individual lot does not conform to the condition required for mobile homes in the "AG", "AGR" and "R" zoning districts, subject to the following conditions:
 - 1) The lot meets all the height and area regulations of this district except the Planning Commission may increase the yard areas; (Resolution No. R-11-0023, March 29, 2011)
 - 2) The mobile home is securely and permanently attached to a permanent foundation complying with the building codes; and
 - 3) The towing bar and hitch, wheels and tires, and axles are removed.
(Resolution No. R-17-0040, May 30, 2017)

13.026. Recreation Facilities.

Recreation facilities may be allowed by special permit in the ~~the~~ "AG" and "AGR" zoning

districts. (Resolution No. R-17-0040, May 30, 2017)

13.027. Veterinary Facilities.

Veterinary facilities may be allowed by special permit in the ~~in~~ "AG" zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.028. Sale Barns.

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

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

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

13.030. **Place of Religious Assembly Steeples, Towers, and Ornamental Spires**

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

13.031. Community Unit Plans.

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

13.032. Expanded Home Occupations.

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

- a) On-site sales shall be limited primarily to products grown, manufactured, processed, treated or assembled on the premise;
- b) Except for a Family as defined by this Resolution, no more than two (2) persons participate in the home occupation on the premises. For purposes of Section 13.032, participation shall exclude deliveries;
- c) The lot area shall be **ten (10)** acres or larger;
- d) Driveways and parking areas shall be provided with an all-weather (gravel or rock) surface to minimize dust and mud;
- e) No more than 50% of the floor area of the residence may be used for said business when the home occupation is located within the residence;
- f) The total floor area for all buildings used for said business shall not be more than 10,000 square feet;
- g) Outside area used for work area, storage or other business activity (of vehicles, equipment, or materials used in the business) and parking shall not exceed 15,000 square feet;
- h) All outside business related activity shall be located at least 200 feet from all premise property lines and shall be visually screened from public streets and adjacent property lines. Said visual screening shall be approved as part of the special permit;
- i) Dust control of nearby unpaved roads to mitigate the impact of traffic approaching

and leaving the premise may be required;

j) Building permits will be obtained as required for all new construction and remodeling of existing buildings under this permit;

k) Only one vehicle/truck over 2.5 tons (gross weight) is permitted on the site. No more than four (4) business vehicles shall be parked or stored outside on the site at any one time;

l) There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than twenty (20) square feet in area, which name plate designates the home occupation carried on within;

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

13.033. Garden Centers.

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

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

Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County ~~shall~~ **may** be allowed **by special permit** in the AG zoning district provided that stills be set up in compliance with the requirements of National Fire Protection Association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3501, July 29, 1980)

13.035. Commercial Feedlot.

Commercial feedlot facilities for livestock and poultry ~~shall~~ **may** be allowed by special permit in the AG zoning district. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5238, June 20, 1995)

13.036. Market Garden.

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

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

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

c) The combined total area of all market garden accessory uses shall not exceed ten percent of the total area for the market garden. A single family dwelling located on the same premises as the market garden shall not be considered an accessory use to the market garden

and shall not be counted toward the combined maximum total area of all the market garden's accessory uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor area of all accessory uses, their setbacks and intended use;

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

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

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

13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation.
Commercial composting operation and/or commercial anaerobic digestion operation ~~M~~
may be allowed by special permit in the AG zoning district under the following conditions:

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

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

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

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

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

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

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

13.038. Flood Plain Construction.

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

13.039. Expansion of Nonconforming and Nonstandard Uses.

Expansion of nonconforming uses may be allowed by special permit in ~~all~~ all zoning districts except the "I" Industrial District, ~~a special permit may be granted~~ to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction

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

- a) Effects on adjacent property, traffic, utility service needs;
- b) Density of land use zoning for the subject property and adjacent property;
- c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit. (Resolution No. R-17-0040, May 30, 2017)

13.040. Heritage Center.

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

- a) More than one main building may be located on a lot in conformance with the district regulations;
- b) More than one main building may be located on a parcel of thirty (30) acres or more and buildings shall not cover more than five percent (5%) of the lot area;
- c) Mechanical rides shall be prohibited except for sightseeing vehicles;
- d) Parking: One space for every 200 square feet of floor area for permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre contained within the special permit;
- e) The application shall address the guidelines of the County change of zone policy and include provisions for minimizing impacts on County or community services. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. 4277, April 28, 1987)

13.041. Historic Preservation.

Historic preservation may be allowed by special permit in In any zoning district ~~except the "I" Industrial District, a special permit may be granted~~ to allow the preservation of an historic structure or site and the reuse thereof. Such historic preservation shall be limited to structures or sites identified and approved ~~in the Comprehensive Plan or additional structures or sites identified and approved as landmarks~~ by resolution of the ~~Planning Commission~~ County Board in accordance with Article 24 of this zoning code. A special permit for historic preservation may approve any use in any zoning district in the historic structure or site after review and consideration of the following:

- a) A review shall be made in order to balance the significant of the historic structure or site against the proposed use variance from uses otherwise permitted in the district;
- b) The extent of exterior change to the structure or site shall be reviewed;
- c) The impact on the surrounding area shall be considered;
- d) The compatibility of the proposed use to the structure or site shall be reviewed;
- e) The manner in which the public shall be able to relate to or utilize the structure of

site in the future shall be considered;

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

g) A parking layout shall be submitted;

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

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

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

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

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

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

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

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

13.042. Wind Energy Conversion Systems (WECS).

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

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

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

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

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

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

13.043. Storage of Agriculture Conservation Equipment and Materials.

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

- a) Such use shall comply with the height and area regulations of the "AG" District; except that the Planning Commission may reduce the minimum lot area to ten **(10)** acres;
- b) Such use shall be permitted for a time period which shall be determined by the Planning Commission. The permittee may request administrative amendments for an extension of time;
- c) The permittee shall maintain an exemption application for earth moving equipment for agriculture and soil conservation purposes; Form 410 as authorized by 77-202.46 R.S. or as may be amended;
- d) The exemption application shall be filed with the County Assessor's Office and the exempt uses of the total equipment shall not be less than 75%. (Resolution No. R-11-0023, March 29, 2011; Resolution No. 4656, June 26, 1990)

13.044. Special Permit. Dwellings Within 1,320 feet of a Publicly Owned Lake

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

- a) The Planning Commission may amend the conditions of the special permit upon a showing that exceptional and unusual circumstances exist in connection with the specific parcel of land;
- b) All dwellings, occupied buildings and livestock feed lots shall be located a minimum of 600 feet (200 yards) from the property line of the public lake property to protect from noise and gunfire. Adjustment for other factors such as roads, lot size, abutting uses and private agreements should be considered in applying this;
- c) Sewer systems shall be designed so no effluent will reach the lake;
- d) Well information shall be provided that shows there is adequate quantity and quality of water on the site and the development will not adversely affect adjacent property wells;
- e) Unless already in permanent vegetation, a buffer of native grasses and forbs shall be planted within 200' abutting the public property line. Overall use of native plants and "xeroscaping" is encouraged;
- f) Any disturbance of surface soils shall use the best management practices to prevent any sediment from moving off site, in accordance with a sediment plan shall be approved by the Lower Platte South Natural Resources District based on the Sediment and Erosion Manual;
- g) Exterior lighting shall meet the Lincoln Design Standards for Outdoor Recreational Lighting sections on illumination levels beyond the property line (I.B) and Glare control (III) shielded to prevent trespass of light off the property;
- h) Vehicular access points shall be designed so as not to conflict with other entrances and to recognize the additional traffic as well as the character of that traffic on the road.

Access to paved roads is required if possible;

- i) The boundary between the private and public ownership shall be posted as "private property". The signs shall be at least eleven by fourteen inches and shall be spaced no more than 1,320 feet apart and at all property corners and field entrances;
- j) The public agencies of the adjacent lake property shall have the opportunity to review the special permit application as well as the Nebraska Game and Parks Commission, Natural Resources District, Corps. of Engineers and Department of Environmental Quality;
- k) All chimneys shall be equipped with spark arresters;
- l) No antenna or any other structure over 35' in height shall be permitted unless approved by this permit;
- m) The applicant shall acknowledge and advise future purchasers of the full utilization of all legal uses and activities that would normally occur on the public lake property abutting the application. Protective covenants shall be filed on the property containing this information;
- n) Density/number of dwelling units permitted in the parcel (a range is suggested of no less than 5 nor more than **ten (10)** acres per dwelling unit);
- o) The developer shall enter into a written agreement with the County on the conditions of the special permit. (Resolution No. R-11-0023, March 29, 2011; Resolution No. 5428, January 22, 1997)

13.045. Off-Premises Signs.

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

13.046. Sexually Oriented Live Entertainment Establishment.

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

- a) It meets minimum separation distance of one thousand five hundred (1,500) feet between such uses.
- b) It meets minimum separation distance of one thousand (1,000) feet between such use and from place of religious assembly, public elementary and high schools or private schools having a curriculum equivalent to public elementary or high schools, residential uses, early childhood care facility, public park, hospital, public library, public museum, amusement park, recreation area or playground that primarily serves persons younger than eighteen (18) years old, correctional facility, residential facility licensed by the State of Nebraska in which people reside while receiving therapy, counseling or rehabilitation for physical, emotional or mental disease or disability.
- c) All distancing requirements shall be measured using door to door measurement of distance.

Before making a final decision on the issuance of the above building use, the Planning Commission will hold a public hearing to consider the effect of the proposed use "upon the

character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety, and general welfare". (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution 00-129, October 13, 2000)

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

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

- a) The application shall be accompanied by the following information:
 - 1) A plot plan drawn to an accurate scale showing the layout of the entire site including the track, seating area, restrooms, parking lot, concession stands, lighting facilities, and other pertinent information.
 - 2) Proposed water and sewer systems.
 - 3) Drainage and grading plan.
 - 4) Description of the racing facility, including the type, number and average speed of motorized vehicles and time and frequency of operations.
 - 5) Landscaping and screening plan.
 - 6) Proposed measures to mitigate potential adverse environmental impacts, such as air quality, hazardous liquids and glare.
 - 7) Anticipated peak event attendance and parking needs.
 - 8) Days and hours of operation.
 - 9) Description, type, and frequency of other anticipated events or uses incidental to the racing facility described above.
 - 10) Entrances, exits and traffic flow.
 - 11) A professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. The professional sound assessment may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If the professional sound assessment predicts or identifies NPL levels that exceed the regulatory limits established in Section 13.016(d), a sound mitigation strategies plan shall be proposed by the applicant. Such sound mitigation strategies plan shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The sound mitigation strategies plan shall be submitted to the Health Department for review and recommendation for approval or denial of the sound mitigation strategies plan. The Health Department shall take action to recommend approval or denial of the plan within thirty (30) days of receipt.
- b) The site shall contain at least seventy (70) acres in the AG district.
- c) The proposed water, sewer and drainage facilities shall be reviewed and approved by the Lincoln Lancaster County Health Department.
- d) The operation of a race track, drag strip or motor sports facility shall not create an A-weighted Noise Pollution Level (NPL) sound level (dBA) which exceeds the current conditional NPL on the nearest receiving properties with occupied residences in existence on the date of approval of the special permit by more than 10 dB between the

hours of 10:00 a.m. and 6:00 p.m., nor more than 6 dB between the hours of 6:00 p.m. and 10:00 p.m. In addition, the NPL level shall not exceed 81 dB, no matter what the baseline NPL level. The current condition NPL noise levels shall be established by conducting noise monitoring at the closest residence(s) in outside areas that will likely be actively used for the enjoyment of their property.

- 1) Noise samples shall be acquired continuously for one hour using a one second sampling rate.
- 2) The sound level meter shall be set to the "A" weighting and "fast" mode.
- 3) The sound level meter shall be calibrated to an approved standard before and after each measurement period.
- 4) The current condition NPL shall be established by measuring both during what is believed to represent the peak noise conditions and during evening hours.
- 5) Noise measurements shall be made with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1983 as amended by S1.4A-1985, or the latest approved revision thereof), or its successor body, using a Type I or Type II meter.
- 6) Noise monitoring shall be conducted by the Health Department.
- 7) Noise measurements for enforcement purposes shall be conducted using the same protocol as provided in subsection (d)(1), (2), (3), (5) and (6) above. The formula for calculating the NPL shall be:
$$\text{NPL} = (\text{L50} + \text{L10} - \text{L90}) + [(\text{L10} - \text{L90})^2 / 60]$$
- 8) Before a special use permit is issued for a race track, drag strip or motor sports facility, a professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. This may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If this sound assessment predicts or identifies NPL levels and exceed the regulatory limits established herein, sound mitigation strategies shall be proposed by the applicant. Such sound mitigation strategies shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The noise mitigation plan shall be submitted to the Health Department for review and recommendation for approval or denial. The Health Department shall take no action to recommend approval or denial of the plan within thirty (30) days of receipt.
- 9) Prior to operation, the race track, drag strip or motor sports facility shall install an approved continuous noise monitoring device at a location to be determined by the Health Department. Data collected from this monitor shall be made available to the Health Department. The Health Department shall be provided access to the race track, drag strip or motor sports facility at any reasonable time to inspect, investigate complaints or conduct noise monitoring.

e) The site shall not be located in areas for residential use, rural use/low density residential, schools, parks and open space, and the major ecological and environmental protection areas in accordance with the Comprehensive Plan.

f) The boundary of the property legally described in the application shall be located at least one half (½) mile away from existing cemeteries, hospitals and places of religious assembly and residential areas, rural use/acreage areas, schools and parks and open space as

designated by the Comprehensive Plan.

g) The site shall be readily accessible from a major street or paved road with adequate access for law enforcement and emergency vehicles.

h) The site shall be located within reasonable reach of existing fire protection facilities or fire protection may be provided on-site, and shall be approved by the fire protection district. A report thereon shall be obtained from the fire protection district or authority in which the site is located.

i) The events shall not operate between the hours of 10:00 p.m. to 10:00 a.m.

j) The operation of a race track, drag strip or motor sports facility may exceed the noise sound level set forth in Section 13.016(d) for a certain number of events each calendar year upon approval by the Planning Commission. At the time of application for the special permit, the applicant shall request the number of events it proposes to exceed the noise level set forth in Section 13.016(d) each calendar year. In the event the applicant wishes to amend the number of event exceptions in any given year, the applicant must request an amendment to the special permit. The Planning Commission shall act on such request after holding a public hearing. (Resolution No. R-11-0023, March 29, 2011)

The County Board may amend any of the above conditions of the special permit, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, ~~morals~~, and the general welfare. (Resolution No. R-07-0061; July 24, 2007)

13.048. Commercial Wind Energy Conversion System (CWECS).

A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

a) In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.

b) Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.

c) Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower's cement base.

d) Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30

hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

e) Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.

f) No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review.

g) Setbacks to the turbine base:

- 1) For the purposes of this section, "turbine height" shall be equal to hub height plus the rotor radius.
- 2) For a non-participating lot, the setback shall be 2 times the turbine height measured to the property line, or 3 ½ times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum 1,000 feet to the property line.
- 3) For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
- 4) The setback to any public right-of-way or private roadway shall be no less than the turbine height.
- 5) Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

h) The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than three (3) acres of land outside of the CWECS setbacks and ~~or~~ the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.

i) Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use. For both participating and nonparticipating properties:

- 1) From the hours of 7 am to 10 pm:
 - i. Forty (40) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.
- 2) From the hours of 10 pm to 7 am:
 - i. Thirty-seven (37) dBA maximum 10 minute Leq or;
 - ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

j) A professional pre-construction noise study shall be conducted which includes all property within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for

review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review.

k) Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

l) Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.

m) At the discretion of the County Board, post-construction noise level measurements may be required to be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

n) All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring shall be required to determine whether a violation has occurred. (Resolution No. R-15-0061, November 24, 2015; Resolution No. R-11-0022, March 29, 2011)

13.049 Early Childhood Care Facilities.

Early Childhood Care Facilities may be allowed by special permit in the AG, AGR and R zoning districts under the following conditions:

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

- 1. The number of children and number of staff members on the largest shift;**
- 2. A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, the location and arrangement of parking spaces, the traffic circulation pattern, loading and unloading areas, fencing, play area, and entrances/exits to such facility.**
- 3. If the proposed facility is for twenty-one (21) or more children and is located in a residential district, the application must also include a conversion plan.**

b. Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements.

ARTICLE 14 COMMUNITY UNIT PLAN

14.001. General Purpose. The purpose of this chapter is to permit and to encourage the creative design of new living areas, as distinguished from subdivisions of standard lot sizes and standard street systems, and in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health, safety and general welfare of existing and future residents of surrounding neighborhoods.

14.003. General Requirement. The owner or owners of any tract of land in the "R" Zoning District which is one acre or more in area, including and up to the center line of existing public rights-of-way abutting the tract of land, or in the "AG" Zoning District which is seventy-five (75) acres or more, or in the "AGR" Zoning District which is ten (10) acres or more in area, may submit to the Planning Commission a plan for the use and development thereof for residential purposes or for the repair and alteration of any existing residential development; provided, however, that the Planning Commission shall apply the standards contained in this chapter in consideration of all applications for community unit plans. The plan may propose a modification of height and area of regulations of the district in which the community unit plan is located. In the AG District for lots **five (5)** acres or less the height and area regulations of the AGR District shall apply unless modified by the Community Unit Plan. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011)

a) Community unit plans in the "AG" and "AGR" zoning district shall provide access to each residential lot from a private or public roadway; except in unique circumstances, no direct access for any residential lot to a County section line, or half section line, roadway is allowed. (Resolution No. R-12-0058, July 24, 2012)

b) In the "AG" zoning district, a minimum of fifty percent (50%) of the total area in the subdivision must be preserved as an unbuildable outlot to be used as open space or for agricultural uses. (Resolution No. R-12-0058, July 24, 2012)

c) A dwelling unit bonus of up to twenty five percent (25%) may be granted under the following circumstances: (Resolution No. R-12-0058, July 24, 2012)

1) A community unit plan in the "AGR" zoning district where at least twenty percent (20%) of the land is preserved as an unbuildable outlot, and community sanitary sewer facilities are proposed, or; (Resolution No. R-12-0058, July 24, 2012)

2) A community unit plan in the "AG" zoning district where at least seventy percent (70%) of the land is preserved as an unbuildable outlot or; (Resolution No. R-12-0058, July 24, 2012)

3) A community unit plan in the "AG" zoning district where at least fifty percent (50%) of the land is preserved as an unbuildable outlot, and that outlot includes: (Resolution No. R-12-0058, July 24, 2012)

i. Green space, environmental resources or agricultural stream corridor areas as designated in the Future Land Use Maps of the Lincoln City - Lancaster County Comprehensive Plan which are permanently protected, or; (Resolution No. R-12-0058, July 24, 2012)

- ii. Areas which can be shown to be environmentally sensitive and in need of preservation, whether or not they are shown in the Plan, when the applicant shows a means for permanently protecting those areas.
(Resolution No. R-12-0058, July 24, 2012)

For purposes of calculating dwelling unit bonuses in community unit plans, any final dwelling unit calculation which is greater than or equal to fifty hundredths (0.50) shall be rounded up to the next whole number. (Resolution No. R-12-0058, July 24, 2012)

14.005. Procedures. An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information and development of a community unit plan under this article shall be filed in writing with the Planning Department. Upon the filing of an application, the Planning Department shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of the proposed use upon character of the neighborhood, the Comprehensive Plan, traffic conditions, public utility facilities and other matters relating to the public health, safety and general welfare. (Resolution No. R-11-0023, March 29, 2011; Resolution R-07-0016, March 13, 2007)

- a) That the land surrounding the tracts for the proposed community unit plan will not be adversely affected;
- b) That the proposed community unit plan is consistent with the intent and purpose of this title to promote the public health, safety and general welfare;
- c) That the buildings and land in the proposed community unit plan shall be used only for single-family dwellings, two-family dwellings, townhouses or multiple family dwellings and accessory uses and any other uses permitted in the zoning district in which the land is located;
- d) That the average lot area per family within the proposed community unit plan will not be less than the lot area per family required in the zoning district or districts in which the tracts of the proposed community unit plan is located, except as otherwise provided in this chapter.

The Planning Commission shall approve or deny the application and require that certain conditions be fulfilled by the applicant in conjunction with the approval of the community unit plan applied for. Any action by the Planning Commission may be appealed to the County Board **by filing notice of appeal with the Planning Department within fourteen (14) days following the action of the Planning Commission.** (Resolution No. R-11-0023, March 29, 2011)

14.009. Requirements after Approval. Upon approval of the community unit plan, the developer shall cause to be prepared and submitted to the Planning Department a revised and reproduceable final plot plan with all required amendments and revisions. Thereafter, building permits and certificates of occupancy shall be issued only upon strict compliance with the community unit plan as approved or as amended, regardless of any regulations to the contrary with regard to the height and location of buildings, yard requirements, type of dwelling unit, accessory uses and the fronting of lots upon public streets set forth elsewhere in this title and applying to the zoning district or districts in which the community unit plan is located. (Resolution No. R-11-0023, March 29, 2011)

14.011. Community Unit Plan Amendments. After the Planning Commission has approved a community unit plan, including the specific plot plan, the Planning Director is authorized to approve amendments in the community unit plan, provided that: (Resolution No. R-11-0023, March 29, 2011)

- a) A request for amendment is filed with the Planning Director, and if appropriate, accompanied by a plot plan drawn to an accurate scale and showing all pertinent information;

- b) There is no increase in the number of dwelling units;
- c) No public land will be accepted as a result of the amendment;
- d) The amendment shall not be contrary to the general purposes of this chapter as set forth in Section 14.001.

14.013. Form of Community Unit Plan. A plot plan shall be accurately, clearly and legibly drawn on tracing cloth or mylar in a sufficient size and scale to show the details of the plan clearly and shall contain the following information:

- a) A surveyor's certificate certifying the accuracy of the boundary survey shown thereon and a certificate for showing the Planning Commission's approval or disapproval, and a certificate for the County Clerk to show the approval or disapproval by the Planning Commission, including the date and resolution number; (Resolution No. R-11-0023, March 29, 2011)
- b) Date prepared, north point, scale of plot plan and location of section lines and section corners;
- c) Contour lines at intervals not to exceed five (5) feet based on County data. Spot elevations on a 100-foot grid shall be required to fully indicate the topography on flat land;
- d) Locations, name, tangent lengths, center line radius of each curve and its interior angle and width of all proposed and existing streets, highways, private roadways and other public ways within and adjacent to the development;
- e) Locations and widths of all existing and proposed easements for drainage, sewers and other public utilities and if appropriate, access easements;
- f) Location, width and direction of flow of all watercourses in and adjacent to the community unit plan, including the limits of the flood plain and floodway as defined in Article 11;
- g) The location and size of all existing and proposed sanitary and storm sewers, culverts, water mains, fire hydrants and existing power lines and other underground structures or cables within the tract of land and adjacent streets;
- h) All lot lines, building setback lines for all lots, dimensions of all lot lines and building envelope lines. Chord distance shall be shown for lot lines abutting curvilinear streets;
- i) Lot numbers shall begin with the number (1) and shall continue consecutively through a block with no omission or duplication. Blocks shall be numbered in the same manner. Letters shall be used to designate outlots in alphabetical order;
- j) Proposed areas for parks and playgrounds. Any parcels other than streets which are to be dedicated or reserved for public use shall be clearly shown and said parcels shall be designated as outlots and assigned an alphabetical designation;
- k) The location of all proposed and existing sidewalks, walkways and other pedestrian ways;
- l) Location, height and uses of proposed and existing buildings with an indication as to whether an existing building is to be removed or to remain;
- m) A certified accurate boundary survey showing sufficient linear, angular and curve data to determine the bearing and length of all boundary lines of the community unit plan. Where the tract of land abuts on an existing plat, the distances, angles and bearing of any common lines be shown and any differences in measurement, noted. The total calculated acres within the boundaries of the community unit plan shall be shown;
- n) The following data shall be shown on each sheet of the community unit plan:
 - 1) The name of the community unit plan;
 - 2) The name, address and telephone number of the person or company responsible for preparation of the community unit plan;
 - 3) North arrow, scale, date;
 - 4) Sheet number and the total number of sheets comprising the community unit plan;
- o) Accompanying the community unit plan, the following information shall be submitted

to the Planning Department with the number of copies requested by the Planning Director:

- 1) Name, address and telephone number of developer;
- 2) Certified record owner or owners and their addresses;
- 3) Legal description of the proposed community unit plan, including the number of acres;
- 4) Statement of present zoning and proposed use or uses of the property;
- 5) Profiles along the center line of the proposed streets and private roadways which show the existing ground surface elevations and the proposed street grades including the length of vertical curves between changes in grade with the profiles for stub streets ending at the boundary of the community unit plan to be extended three hundred (300) feet beyond the limits of the community unit plan into subdivided and unsubdivided land;
- 6) The proposed method of providing sanitary sewer service to the area:
 - i. If a public or community sewage system is established, the size and location of all proposed sanitary sewers the proposed manhole locations, any necessary extension to the existing public system or to the proposed community sewage treatment facility, and the location of the proposed community sewage treatment facility;
 - ii. If the use of individual sewage disposal systems is permitted pursuant to Resolution No. 2382 and amendment thereto of Lancaster County, plans for the proposed disposal system and its location on each lot must be shown. If a septic tank system is proposed, soil and percolation data and plans which show the location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system shall be shown.
- 7) The proposed method of providing an adequate potable water supply:
 - ~~i. If a public or community water system or rural water district is used, the location and size of all proposed water mains, the proposed hydrant locations and any necessary extension of the proposed system to existing water mains or to a proposed community well, the location of the proposed community well, and the type of water treatment to be used;~~
 - ~~ii. If a community water system other than a rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test well within the immediate vicinity of the proposed water supply well. If an individual water well system for each lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten (10) acres on a grid system. The results of these preliminary tests shall in no way be construed to guarantee the quantity or quality of water to individual lots in the proposed community unit plan and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed community unit plan.~~

(i) If a public or community water system or rural water district is proposed, the location and size of all water mains, hydrants, and necessary extensions of the system within or beyond the limits of the subdivision to connect to the existing water mains or to the community well.

- (ii) If a community water system other than rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test

well within the immediate vicinity of the proposed water supply well.

(iii) If an individual water well system for each lot is proposed, the applicant shall provide information on the expected quantity and quality of the water in the proposed development for Lincoln-Lancaster County Health Department (LLCHD) review. The information shall include geological and hydrological data obtained from public records on wells located within a reasonable distance from the proposed development as well as data obtained from a test well or test wells located within the proposed development. The LLCHD may waive the test well requirement within the proposed development if satisfactory geological and hydrological information has been provided surrounding the proposed development. Information shall include: well logs; an inventory of wells on contiguous land; a map or maps showing precise locations of the wells ; estimates of the demand for water by the proposed subdivision; an evaluation of the adequacy of the quantity and quality of water of the proposed community well or individual wells. The LLCHD may require additional water quality tests based on potential contamination known to be in the area. Acceptable quality shall mean water that may contain impurities or contaminants that can be treated, removed, or reduced to safe levels that meets the US EPA National Primary Drinking Water Regulations Maximum Contaminant Levels. The LLCHD shall make a recommendation to the Planning Commission or County Board based on this information. This recommendation shall not be construed to guarantee the quantity or quality of water to individual lots in the proposed subdivision.

8) A drainage study prepared in accordance with any approved Storm Sewer Design Standards of the County on file with the County Clerk. The following items must be included in the drainage study:

- i. A map showing the drainage area and resulting runoff from any land lying outside the limits of the community unit plan which discharges storm water runoff into or through the community unit plan;
- ii. A map showing all internal drainage areas and resulting runoff;
- iii. Proposals as to how the computed quantities of runoff will be handled;
- iv. A copy of the drainage computations.

9) A map or an aerial photograph showing the proposed streets, private roadways, driveways, parking areas, building and lots which includes the location and identifies, by common name, all existing trees within the area of the community unit plan. Single trees which are three (3) inches in caliper or larger measured five (5) feet above the ground must be shown. However if the five (5) or more trees are located so that each end is within approximately ten (10) feet of the edge of another tree, they will be considered a tree mass and the outline of the tree mass may be shown with a list of the common names of the trees which are within the tree mass. If the above-stated procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed;

10) A vicinity sketch showing the general location of the community unit plan in

relation to existing streets, section lines and county limits;

11) Site grading plan showing existing and proposed contour lines with intervals at no greater distance than five (5) feet, and if necessary, spot elevations showing complete proposed grading of the community unit plan. Also, cross-sections may be required showing existing and proposed ground lines and buildings. Information as to where fill will be obtained and the amount of the fill shall be included if all or part of the property is located within the flood plain as defined in Article 11. If the proposed location from which said fill is obtained is later to be changed, the developer shall inform the County Board of the location of the proposed new borrow area and obtain approval thereof from the County Board;

12) All deviations from the provisions of this article shall be fully set forth and reasons given for said deviations;

13) In the event that said real property is located within a flood plain, the developer shall comply with all requirements pertaining to flood plains contained in the Lancaster County Code and applicable state statutes.

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

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

ARTICLE 17

ADDITIONAL HEIGHT AND AREA REGULATIONS

The district regulations hereinafter set forth in this article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this resolution.

17.001. Public, semi-public, or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and places of religious assembly may be erected to a height not exceeding seventy five (75) feet, if the building is setback from each yard at least one (1) foot for each two (2) feet of additional building height above the height limit otherwise provided in the district which the building is located. (Resolution No. R-17-0040, May 30, 2017)

17.003. Barns, chimneys, place of religious assembly steeples, cooling towers, elevator bulkheads, fire towers, grain elevators, and storage structures, monuments, ornamental towers, silos, spires, stacks, stage towers of scenery lofts, tanks, water towers, WECS over the district height authorized by conditional use or special permit, wireless towers, or necessary mechanical appurtenances are exempt from the height regulations as contained herein. (Resolution No. R-17-0040, May 30, 2017; Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)

17.005.

a) Accessory buildings may be built in a required rear yard, except as otherwise provided in this resolution, but such accessory buildings shall not occupy more than thirty (30) percent of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line except, that when a garage is entered from an alley, it shall not be located closer than ten (10) feet to the main building. The garage shall be regarded as part of the main building for the purpose of determining side and rear yards and the distance back from the front property line. (Resolution No. 3740, August 31, 1982)

b) Maximum and expanded maximum cumulative allowable area for all accessory buildings are as set out in Table 1 below. The applicable maximum cumulative allowable area may be increased up to the expanded maximum allowable area as provided in Table 1 Notes 1-4 below:

Table 1 Maximum and Expanded Maximum* Cumulative Allowable Area for Accessory Buildings on Single Family or Two Family Residential Lots or Tracts * Expanded Maximum applies only in accordance with the applicable Note # below (e.g. 1)						
		Lot or Tract Size				
		less than 7,500 sq. ft.	7,500 sq. ft. to less than 20,000 sq. ft.	20,000 sq. ft. to less than 1 acre	1 acre or more	
R Accessory Building sq. ft.	Maximum	1,000	1,500	2,000	2,000	
	Expanded Maximum	1,500 ¹	3,000 ²	3,000 ²	5,000 ³	
		less than 1 acre	1 acre to less than 2 acres	2 acres to less than 4 acres	4 acres to less than 10 acres	10 acres or more
AGR Accessory Building sq. ft.	Maximum	2,000	2,000	2,000	2,000	2,000
	Expanded Maximum	3,000 ²	6,000 ⁴	8,000 ⁴	20,000 ⁴	No maximum ⁴
AG Accessory Building sq.ft.	Maximum	2,000	2,000	2,000	2,000	No maximum
	Expanded Maximum	3,000 ²	6,000 ⁴	8,000 ⁴	20,000 ⁴	

Notes:

1. In the R zoning districts, for lots or tracts less than 7,500 square feet in size, the maximum cumulative square footage of all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i) Total square footage for all accessory buildings does not exceed the total square footage, excluding basement, of the main building; and
- ii) The total square footage for all accessory buildings does not exceed a cumulative total of 400 square feet in the side, rear and front yard setbacks.

2. In the R zoning districts for lots or tracts 7,500 square feet to less than 1 acres in size and in AG and AGR zoning districts for lots or tracts less than 1 acre in size, the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided:

- i) The total square footage for all accessory buildings shall not exceed the total square footage, excluding basement, of the main building;
- ii) The total square footage for all accessory buildings does not exceed a cumulative 250 square feet in the side, rear and front yard setbacks; and
- iii) Any individual accessory building over 250 square feet in area must be located outside of the side, rear and front yard setbacks.

3. In the R zoning districts, for lots or tracts of 1 acre or larger in size, the maximum cumulative square footage for all accessory buildings may be increased up to the above expanded maximum square feet provided;

- i) The total square footage for all accessory buildings does not exceed a cumulative total of 250 square feet in the side, rear and front yard setbacks; and
- ii) Any individual accessory building over 250 square feet in area must be located outside of the side, rear and front yard setbacks.

4. In the AG zoning district for lots and tracts 1 acre to less than 10 acres and in the AGR zoning district for lots or tracts 1 acre or greater, the maximum cumulative square footage for all accessory buildings may be increased to the above expanded maximum square feet, provided that the total square footage of all accessory buildings does not exceed a cumulative total of 2,000 square feet in the side and rear setbacks.

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

17.007. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes. (Resolution No. 99-1385, July 27, 1999)

17.009. Every part of a required yard shall be open to the sky, unobstructed by any structure, except as hereto for permitted or by any vehicle or motor vehicle except;

- a) Fences;
- b) Accessory buildings in a rear yard;
- c) Projection of sills, belt courses, cornices and ornamental features, which are not to exceed twelve (12) inches;
- d) Parking of a motor vehicle and vehicles in the rear yard and that part of the side yard to the rear of the front yard, provided that such use of such motor vehicle or vehicles shall be accessory to the main use of the premises.

17.011. No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

17.013. Open-lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Superintendent of the Codes Administration for a distance of not more than three and one-half (3 ½) feet where the same are so placed as not to obstruct light and ventilation.

17.015. An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a front yard for a distance not to exceed four (4) feet.

17.017. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project into a required yard, provided these projections be distant at least two (2) feet from the adjacent side lot line.

17.019. For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one (1) building occupying lot.

17.021.

a) Temporary buildings and uses that are used in conjunction with construction work only may be permitted in any district during the period of construction, but such temporary buildings shall be removed upon completion of the construction work.

b) Temporary paving plants used for the paving of federal or state highways or county roads are permitted in any zoning district during the project construction period under the following conditions:

- 1) The paving plant shall be located on property abutting the specific project and having access to a paved road.
- 2) Authorization of a temporary paving plant does not allow for the hauling of paving product to any other location than the abutting property.
- 3) The boundaries of the property used for the paving plant shall be located no closer than **three hundred (300)** feet from an occupied dwelling or from any school, place of religious assembly, library, early childhood care facility, hospital, motel, park, farmstead or livestock facility.

- 4) The operator of the paving plant shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.
- 5) The paving plant shall be removed upon substantial completion of the construction project. (Resolution No. R-17-0040, May 30, 2017)

17.023. Where a lot or tract is used for farming or for a commercial or industrial purpose, more than one (1) main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

17.025. No side yards are required where dwelling units are erected above commercial and industrial structures.

17.027. The front yards heretofore established shall be adjusted in the following cases:

a) Where forty (40) percent or more of the frontage on the same side of a street between two intersecting streets is developed with two (2) or more buildings that have (with a variation of five [5] feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line;

b) Where forty (40) percent or more of the frontage on the side of a street between two intersecting streets is developed with two (2) or more buildings that have a front yard of less depth than herein required, then:

1) Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two (2) closest front corners of the adjacent building on each side; or

2) Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

17.029. Enlargement and Alteration of Lots.

a) Any lot or premises which does not meet the area, width or frontage requirements or any combination thereof, of the districts in which it is situated may be enlarged without affecting the purposes for which it may be used; provided that such enlargement does not result in the creation of an additional lot which does not conform to the applicable area, width or frontage requirements of this code. (Resolution No. 3568, March 10, 1981)

b) In the "AG" or "AGR" zoning districts, two (2) or more adjoining lots, all of which do not meet the area width or frontage requirements, or any combination thereof, of the district in which they are situated, may alter their common lot lines without affecting the purposes for which they may be used, provided:

1) That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county and city regulations; and

2) That such alteration meets all requirements of the County Land Subdivision Resolution. (Resolution 3678, March 2, 1982)

3) That the newly created lots in the AG or AGR zoning districts shall have a required front yard, side yard and rear yard that conforms to Section 4.017~~(h)~~(c) or Section 5.015© and (d) respectively; except that in the AG zoning district, the required side yard shall not be less than 10% of the lot width or fifteen (15) feet, whichever is greater. (Resolution R-07-0027, May 8, 2007)

c) In those instances where a governmental agency acquires land for the purposes of road right-of-way from lots which were:

- 1) Legally existing on the effective date of this title; or
- 2) Lawfully created after the effective date of this section. (Resolution No. 5009, July 6, 1993)

The acquisition of said right-of-way shall not affect the status of said lot as a buildable lot with respect to minimum lot area, width or frontage requirements of this title provided thereafter:

- 1) That all new construction, enlargements, extensions or conversions of any buildings, structures, or uses including open land uses shall comply with all applicable provisions of this title, unless adjusted by the Board of Zoning Appeals pursuant to Article 19.
- 2) That those lots located in "AG" or "AGR" districts, contain a minimum of one (1) acre and have an average lot width of one hundred fifty (150) feet.
- 3) That those lots located in the "R" Residential districts contain a lot area of four thousand (4,000) square feet and an average lot width of forty (40) feet. (Resolution No. 4658, July 10, 1990)

17.030. Those airfield and airports not included in Article 18, shall have the responsibility for meeting proper clearances over utility lines, poles, towers and structures which are presently located in the path of an airfield runway.

17.031. Buildings, Places of Religious Assembly, Height of. In all districts where places of religious assembly are allowed, the main place of religious assembly building including place of religious assembly steeples, towers and ornamental spires, used for the conduct of worship or religious services, may exceed the district height limit by the addition of one foot for each foot that such building is set back from all required yards. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)

ARTICLE 19
BOARD OF ZONING APPEALS

19.001. A Board of Zoning Appeals is hereby created. Such Board shall consist of five (5) members, all of whom shall be residents and electors of ~~the County of Lancaster~~ County. They shall be appointed by the County Board.

Upon the passage of this resolution, one member shall be appointed for a term of one year, one member for a term of two years, one member for a term of three years, one member for a term of four years and one member for a term of five years; and upon expiration of said terms, appointments shall be made for a term of five years. Vacancies shall be filled by appointment for the unexpired term only. Members of the Board shall serve without compensation, but may be allowed their reasonable expenses, in an amount to be fixed by the County Board. A member of the Board may be removed by the affirmative vote of two (2) members of the County Board after being given a written statement of the charges against him and a hearing, which shall be a public hearing if he so requests. (Resolution No. 3545, November 18, 1980)

19.003. The jurisdiction of the Board of Zoning Appeals shall be limited to the following:

a) Appellate Jurisdiction. The Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this resolution.

b) Original Jurisdiction.

1) Powers Relative to Variances. The Board of Zoning Appeals is authorized, upon petitions for variances, to vary the strict application of the height, area, parking or density requirements to the extent necessary to permit the owners a reasonable use of their land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned.

2) Powers Relative to Exceptions. The Board of Zoning Appeals is authorized, upon petition, to make the following exceptions:

i. To permit the reconstruction of a non-conforming building which has been destroyed by fire or act of God, where the Board shall find some compelling public necessity requiring the continuance of the non-conforming use;

ii. To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the Board deems reasonably necessary for the public convenience or welfare. Such uses lawfully existing on the effective date of this resolution shall be deemed to have received such a permit, and shall be provided with such a permit by the Building Inspector upon request and shall not be non-conforming uses; provided, however, that a permit shall be required for enlargement, extension or relocation of any of these existing uses;

iii. To interpret the provisions of this resolution where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this resolution. (Resolution No. R-13-0033, June 11, 2013; Resolution No. 3781, February 2, 1983)

19.005.

a) Appeals to the Board of Zoning Appeals. Any aggrieved person or any office, department or bureau of Lancaster County adversely affected by any final written order, decision, or determination made by an administrative official in the enforcement of this title, may appeal from such final order, decision, or determination to the Board of Zoning Appeals. Such appeal shall be taken by filing with the Planning Department, a notice of appeal specifying the grounds therefore. Only those grounds listed in said notice shall be considered by the Board of Zoning Appeals. The notice of appeal shall be filed within sixty (60) days from the date of such final order, decision, or determination.

b) Petitions to the Board of Zoning Appeals. The owner of any property may file a petition requesting the Board of Zoning Appeals to grant a variance or an exception to the Zoning Resolution under its jurisdiction without prior application to an administrative official charged with enforcement of this title. The petition shall be submitted by the owner of the property directly to the Planning Department. It shall be solely the responsibility of the property owner seeking the variance to set forth any and all requested variances in his or her petition. Only those variances requested in said petition may be considered by the Board.

c) Hearing and Notice of Hearing. Upon receipt of an appeal or petition pursuant to a) or b) above, the Planning Department shall schedule such appeal or petition upon the Board of Zoning Appeals' calendar within forty-five (45) days from the date the notice of appeal or petition was filed with the Department. For those hearings where the Board is exercising its appellate jurisdiction, notice shall be (i) posted conspicuously at the property for at least eight consecutive days immediately prior to the meeting of the Board, (ii) published in a newspaper of general circulation at least ~~eight~~ five (5) days prior to the meeting of the Board, and (iii) mailed to appellant, appellant's attorney, and to the Director of the Department whose decision is before the Board on appeal at least eight (8) days prior to the meeting. In all other matters brought before the Board, notice of the date, time and place of such hearing shall be given as provided in Article 22 hereafter.

d) If, due to the absence of one or more of the members of the Board, any motion, resolution or other proposition put to a vote shall fail to receive three or more votes either for or against, said motion, resolution or proposition shall be deemed to have received neither approval nor disapproval and shall without further order of the Board of Zoning Appeals be continued from regular meeting to regular meeting and voted on once at each such meeting until such time as it shall receive three votes either for or against.

e) Formal rules of evidence shall not be followed at hearings before the Board of Zoning Appeals, but the chairman may exercise discretion to exclude evidence where said evidence is cumulative with other evidence in the record or where said evidence is immaterial to the decision before the Board of Zoning Appeals in the matter before it.

f) In all matters where the Board of Zoning Appeals exercises its appellate jurisdiction as described in Article 19, Section 19.003b)(1), the order or decision of the administrative official being appealed shall be presumed to be correct unless the preponderance of the evidence introduced before the Board of Zoning Appeals supports a contrary determination or finding. (Resolution No. R-13-0033, June 11, 2013; Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

19.007. The members of the Board of Zoning Appeals shall meet at least once each year or as may be required after a one month notice, at such time and place as they may fix by resolution. They shall select one of their number as chairperson, who shall serve one (1) year and until a successor has been selected. Special meetings may be called at any time by the chairperson. Any regularly scheduled meeting of the Board may be cancelled by the chairman for lack of business items for the Board to consider. A majority of the Board shall constitute a quorum for the transaction of business and three (3) affirmative votes shall be required for final action on any matter acted upon by the Board. The Board shall cause a proper record to be kept of its proceedings. (Resolution No. R-13-0033, June 11, 2013)

19.009. In exercising its appellate jurisdiction, such Board may, in conformity with the provisions of this resolution, reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such decisions as ought to be made. In considering all petitions for variances or exceptions under this resolution, the Board shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the District Map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of Lancaster County. In making a determination, the board may request information and recommendations from any department of Lancaster County. Every decision of the Board of Zoning Appeals shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variation. In the event that the proposed variance or exception is denied by the Board of Zoning Appeals, no new request shall be made for the same or substantially similar variance or exception within one year of said denial thereof. Every decision of the Board of Zoning Appeals, accompanied by the written findings of fact, shall be transmitted to the County Clerk by the Board within one week after such actions have been taken. Any decision granting an appeal or a petition for a variance or an exception shall be by resolution of the Board, a certified copy of which shall be filed with the Register of Deeds by the petitioner at the expense of the petitioner within sixty **(60)** days after such approval, or such approval shall be null and void. Decisions of the Board of Zoning Appeals shall be final unless appealed to the County Board pursuant to Section 19.011. (Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

19.011.

a) Any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Board of Zoning Appeals to the County Board by filing notice of appeal with the County Clerk within fourteen (14) days following the action of the Board of Zoning Appeals.

b) Upon receipt of the appeal by the County Board, the board shall hold a public hearing thereon within thirty **(30)** days from the date of appeal. Notice of the public hearing shall be given as provided in Article 22 hereafter.

c) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the County Board may, after public hearing, in conformity with the provision of this title, make such decision as ought to be made. (Resolution No. R-13-0033, June 11, 2013; Resolution No. R-11-0023, March 29, 2011)

ARTICLE 24
Historic Preservation District

Sections:

24.010 Name and Citation of Title.
24.020 Purpose.
24.030 Definitions; General Provisions.
24.040 Landmark.
24.050 Landmark District.
x.060 Historic Preservation Commission Created.
x.070 Membership.
x.080 Organization.
x.090 Secretary and Staff of Preservation Commission.
x.100 Attorney; Duties.
x.110 Powers and Duties.
x.120 Designation of Landmarks and Landmark Districts.
x.130 Requirement of Certificate for Certain Work.
x.140 Procedure for Certificate.
x.150 Certificate Approval or Denial.
x.160 Procedure Following Certificate Denial.
x.170 Hazardous Structures.
x.180 Appeal.

x.010 Name and Citation of Title.

This title shall be known, referred to, and cited as "Historic Preservation District" of Lancaster County.

x.020 Purpose.

This title is to designate, preserve, protect, enhance, and perpetuate those structures and districts which are elements of the county's historical, cultural, archaeological, or architectural heritage; to stabilize and improve property values in such districts; to foster civic pride in the beauty and accomplishments of the past; to protect and enhance the county's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; to strengthen the economy of the county; to promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the county; and to promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used so that the objectives listed above can be attained while the owner can receive a reasonable economic return on the property. The historic landmarks and landmark districts are intended to be zoning overlay districts.

x.030 Definitions; General Provisions.

For the purpose of this title, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory.

x.040 Landmark.

Landmark shall mean an individual structure, or an integrated group of structures on a single lot or site, or a site having special historical, cultural, architectural, or archeological interest or value.

x.050 Landmark District.

Landmark district shall mean an area containing a number of structures having special historical, cultural, architectural, or archaeological interest or value constituting a distinct section of the county. The landmark district shall have a minimum area of 45,000 square feet.

x.060 Historic Preservation Commission Created.

There is hereby created the Lincoln/Lancaster County Historic Preservation Commission (hereinafter, the "Preservation Commission"). The Preservation Commission shall consist of seven members, six appointed by the Mayor of Lincoln with confirmation by a majority of the City Council and one appointed by a majority of the County Board.

x.070 Membership.

The Preservation Commission membership shall include at least two registered architects, one historian qualified in the field of American history, one registered landscape architect, if available; one licensed realtor; and two citizens at large. Members are to be appointed for terms of three years, provided that of those members first taking office, two shall be appointed for one year, two for two years, and three for three years. Members may serve for more than one term and each member shall serve until the appointment of a successor. In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term, and the person appointed to fill the vacancy shall hold such office for the unexpired term.

x.080 Organization.

The Preservation Commission shall elect from among its own members a chairman and such other officers as it may deem necessary. The Preservation Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the county and the state. Four members shall constitute a quorum for the transaction of business and four affirmative votes shall be required for final action on any matter acted upon by the Preservation Commission. Members of the Preservation Commission shall serve without compensation. The Preservation Commission shall meet monthly.

x.090 Secretary and Staff of Preservation Commission.

The Planning Director shall act as the non-voting secretary to the Preservation Commission. The city and the county, through the Planning Department, shall provide the Preservation Commission with adequate staff to perform the duties prescribed under this chapter.

x.100 Attorney; Duties.

The County Attorney shall be ex officio the attorney for the Preservation Commission on any matters within County zoning jurisdiction brought before the Commission, and shall advise the Preservation Commission, and represent it in any and all legal disputes or court or administrative actions within County zoning jurisdiction.

x.110 Powers and Duties.

The powers and duties of the Preservation Commission shall be as follows:

- (a) Initiate and maintain an inventory of all sites, structures, and districts potentially eligible for designation as landmarks or landmark districts, pursuant to the standards in Section x.
- (b) Consult with and consider the ideas and recommendations of civic groups including neighborhood and business organizations, public agencies, and citizens interested in historical preservation;
- (c) Inspect and investigate structures, sites, and areas which are believed worthy of preservation;

- (d) Disseminate information to the public concerning those structures, sites, and areas deemed worthy of preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of landmarks and property of interest;
- (e) Prepare National Register nominations and, after consultation with Planning Commission and County Board within its zoning jurisdiction forward them to the State Historic Preservation Office, for all such sites, structures, and districts the Preservation Commission deems eligible for inclusion on the National Register of Historic Places.
- (f) Solicit gifts and contributions to be made to the county and assist in the preparation of applications for grant funds to be made to the county for the purpose of preservation;
- (g) For every building or district designated for preservation, prepare a guideline for preservation of the property;
- (h) Upon request of the property owner, render advice and guidance with respect to any proposed work on a landmark or in a landmark district;
- (i) Prepare and deliver an annual report of the Preservation Commission's past actions and future goals to the County Board;
- (j) Make recommendations and do such other acts as are mandated by this chapter.

x.120 Designation of Landmarks and Landmark Districts.

A site, structure, or area may be designated as a landmark or landmark district if it is of historical, cultural, architectural, or archeological importance as evidenced by meeting one or more of the following standards for designation:

- (a) Associated with events, person, or persons who have made a significant contribution to the history, heritage, or culture of the County of Lancaster, the State of Nebraska, or the United States;
- (b) Represents a distinctive architectural style or innovation, or is the work of a craftsman whose individual work is significant in the development of the County of Lancaster, the State of Nebraska, or the United States; or
- (c) Represents archeological value in that it yields or may be likely to yield information pertaining to prehistory or history.

Any person, group of persons, or association may request the designation of a landmark or landmark district by submitting a petition for such designation to the Planning Department upon a form furnished by the Planning Department. The Preservation Commission, in addition, may on its own motion submit a petition for designation. The Planning Director shall transmit all petitions to the Preservation Commission.

Each petition forwarded to the Preservation Commission by the Planning Director shall be considered by the Preservation Commission at a public hearing with a public record kept. Notice of the time, place, and purpose of such public hearing shall be published by the Planning Department in a daily newspaper having general circulation in Lancaster County and shall be mailed to the owners of all property included in the proposed designation not less than eight (8) days prior to the date of the hearing, using for this purpose the name and addresses of the last known owners as indicated by the real property tax records of Lancaster County. The Preservation Commission may also give such other notice as may be deemed desirable and practicable.

Whenever possible, the Preservation Commission shall secure the written consent of the owner or owners before proceeding to secure designation as a landmark. The Preservation Commission shall apply the "standards for designation" in its decision.

Within ninety (90) days of the receipt of the petition by the Planning Department, the Preservation Commission shall approve, disapprove, or modify the petition and shall notify the petitioner of its action. Petitions which are approved or approved as modified shall then be transmitted to the Planning Commission. Along with the petition, the Preservation Commission shall include a justification for the designation as a landmark or landmark district and its recommendations for guidelines for preservation of the landmark or landmark district.

The Planning Commission shall consider the petition at a public hearing with a public record kept. Notice of the hearing including posting of property shall be made according to County Zoning regulations Article 22.005. Such posting shall include the property contained in the original petition and the modified petition, if any, unless the applicant and the Preservation Commission agree otherwise. The Planning Commission shall consider the petition in light of the "standards for designation" and the degree of conformity with the Lincoln/Lancaster County comprehensive plan. Within sixty (60) days, the Planning Commission shall recommend approval, disapproval, modification, or continuance of the petition and shall notify the petitioner of its actions. All petitions for property within the County's zoning jurisdiction except for those held for continued consideration shall then be transmitted to the County Board.

Upon receipt of a petition, the County Board may designate a landmark or landmark district by ordinance. The County Board shall consider the "standards for designation" as well as the recommendations of the Planning Director, the Preservation Commission, and Planning Commission, and shall further give consideration to the economic consequences to the county and to the affected owners. The designation shall be by majority vote, except that if any owner of property to be designated as a landmark does not consent to such designation, the vote shall be by two-thirds of the board members. A landmark district shall not be designated if written protests are made by owners of at least fifty-one percent of the included property, excluding public right-of-way, at or prior to public hearing on the designating ordinance. The sufficiency of such protests shall be determined by the County Board.

Each designating ordinance shall include a description and statement of the significance of the landmark or landmark district to justify its designation and a description of the particular features that should be preserved, a guideline for preservation of the landmark or landmark district including particular restrictions as to construction, alteration, repair, or demolition of the landmark or property within the landmark district, and the legal description of the landmark or landmark district.

Within ten (10) days after the effective date of the ordinance designating property as a landmark or a landmark district, the Planning Director shall send to the owner of record of such property so designated or each property within the designated landmark district, by registered or certified mail, a copy of the designating ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. Immediately after the effective date of the ordinance designating property as a landmark or landmark district, the County Clerk shall file certified copies of the designating ordinance with the Register of Deeds and with the Department of Building and Safety.

x.130 Requirement of Certificate for Certain Work.

No person shall carry out or cause to be carried out on a landmark or in a landmark district any change in the appearance of a landmark or landmark district for which a building permit or demolition permit is required, or any change restricted by the particular designating ordinance without a certificate issued by the Preservation Commission or the Planning Director as described below. Ordinary maintenance and repair not otherwise subject to a building permit regulation or restricted by the designating ordinance may be carried out without a certificate issued by the Preservation Commission.

x.140 Procedure for Certificate.

The application for such certificate shall be filed with the Planning Department and shall be accompanied by plans for the proposed work to be done and such other information as the Director of Planning shall require. . The application and plans shall be referred to the Department of Building and Safety to review the application and plans for compliance with the existing building code ordinances and regulations.

The Planning Director may issue a certificate of "no material effect" if the application is for work which is not restricted by the designating ordinance and if the work contemplated in the application will have no effect on any architectural features of the landmark or landmark district

as detailed in the particular designating ordinance and will be in harmony therewith.

Other applications shall be transmitted by the Planning Department to the Preservation Commission along with any recommendations by the Department of Building and Safety and the Planning Department. Within sixty (60) days of receipt of the application by the Department of Planning, the Preservation Commission shall hold a public hearing on the applications received by the Preservation Commission. Notice of the time, place, and purpose of such hearing shall be published by the Planning Department in a daily newspaper having a general circulation in Lancaster County and shall be mailed to the certificate applicant not less than eight (8) days prior to the date of hearing. The Preservation Commission may also give such other notice as may be deemed desirable and necessary, including posting of the property affected.

During the public hearing, the Preservation Commission shall review the application and plans in light of the guideline for preservation of the property contained in the particular preservation designation ordinance for that landmark or landmark district.

x.150 Certificate Approval or Denial.

Within forty-five (45) days of the hearing, the Preservation Commission shall approve or deny the application for the certificate for certain work on the landmark or in a landmark district.

The Preservation Commission:

- (a) May issue a certificate of "appropriateness" if, after focusing upon aesthetic, historical, and architectural values, it finds that the proposed work would not unduly hinder the protection, enhancement, perpetuation, and use of the landmark or landmark district;
- (b) May issue a certificate of "exception on the ground of insufficient return or hardship" if it finds that the landmark or property within the landmark district cannot yield a reasonable return if the proposed work is not permitted, that the plight of the applicant is due to unique circumstances, and that the hardship is the result of the application of the ordinance and is not the result of any act or omission by the applicant; or
- (c) May refuse to issue a certificate, if it finds that the application does not meet any of the above criteria.

The Preservation Commission's decision must be accompanied by written findings of fact. No change shall be made in the application for any building permit after issuance of a certificate by the Preservation Commission or the Planning Director without resubmittal to the Preservation Commission or the Planning Director and approval in the same manner as provided above.

x.160 Procedure Following Certificate Denial.

If no certificate is issued, the applicant and the Preservation Commission shall enter into negotiations to develop a plan whereby modifications in the application would enable the Preservation Commission to issue a certificate under the criteria listed above and compatible with the guideline for preservation in the particular designation ordinance. If the proposed work involves demolition of all or a significant portion of a landmark or property within a landmark district or involves construction upon open areas of a landmark or within a landmark district and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the county may proceed by eminent domain proceedings to acquire the landmark or the affected property within the landmark district, but if the county does not initiate proceedings within ninety (90) days, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application. If the proposed work on a landmark or in a landmark district is other than the above and no acceptable plan is negotiated and approved by the applicant within three months of the Preservation Commission's decision not to issue a certificate, the Planning Director shall issue a certificate of "allowance," permitting the applicant to proceed with the work as proposed in the application.

.170 Hazardous Structures.

The Planning Director shall issue a certificate of "allowance on the ground of hazardous conditions" for razing a structure or other work if the Building & Safety Director has determined that the landmark or structure within the landmark district poses an immediate hazard to human health and safety. However, no owner shall by deliberate acts or deliberate neglect allow a landmark or property within a landmark district to become hazardous to human health and safety with the intent of then obtaining such permit.

x.180 Appeal.

Any County Board member or any person aggrieved by any order, approval, disapproval, or other decision issued by the Preservation Commission, the Planning Director, or the Planning Commission may appeal such order, approval, disapproval, or other decision to the County Board by filing a written appeal with the County Clerk within thirty (30) days of such order. Such appeal shall fully state the order, approval, disapproval, or other decision appealed from, the date thereof, and the facts of the matter.

The County Clerk shall refer the appeal to the County Board, which shall fix within thirty (30) days a reasonable time for the hearing. Notice of the time, place, and purpose of such hearing shall be published in a daily newspaper having a general circulation in Lancaster County by the County Clerk and shall be mailed by certified or registered mail to the appealing party not less than eight (8) days prior to the date of hearing. In exercising its appellate jurisdiction, the order approval, disapproval or other decision appealed from shall be deemed advisory and the County Board may in conformance with the provisions of this title make such decision as ought to be made. In making a determination, the County Board may request information and recommendations from any department of Lancaster County.



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER
Text Amendment #18013

FINAL ACTION?
No

PLANNING COMMISSION HEARING DATE
October 24, 2018

RELATED APPLICATIONS
None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This application is to amend the Lancaster County Subdivision Regulations. The text amendment is proposed by the Planning Director to clarify minor discrepancies, delete outdated references to other codes and update requirements for water wells.

JUSTIFICATION FOR RECOMMENDATION

The current subdivision regulations are in need of minor updating. This amendment is a result of looking at the entire subdivision regulations and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement.

APPLICANT

David Cary, Planning Director

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

ANALYSIS

This text amendment is to revise and update the Lancaster County Subdivision Regulations. The following is a summary of the significant proposed amendments. The proposed text amendments are the result of input from Building and Safety Department, Lancaster County Engineer, Lincoln-Lancaster County Health Department and County Attorney. The following is a summary of the proposed amendments.

There are also numerous small corrections to spelling and format that do not change the regulations. These minor corrections are not listed in the analysis, but are in the proposed text.

A briefing was done for the Planning Commission on October 10, 2018.

Definitions-Chapter 2

Amend 2.17 Frontage to add that the end of a temporary dead-end street is not frontage. There has been confusion if access is allowed off the end of a temporary dead-end street. This language clarifies that it is not allowed.

Procedure- Chapter 3

Amend 3.01 Subdivision to add that conveyance of abandoned railroad right-of-way to adjacent property and the conveyance of surplus property does not require a subdivision. This language is in Lincoln's subdivision ordinance and makes it clear that no subdivision is required. Railroads and governmental agencies that have power of eminent domain are exempt from subdivision regulations.

Amend 3.04 Department Reports on Preliminary Plats to change the time for other departments to respond from 30 days to 10 days. Ten days response time has been the policy for many years. A public hearing is required before the Planning Commission within 30 days after receiving an application.

Amend 3.06 Hearing by Commission by deleting that reports are required from the planning director, Health Department and County Engineer. Reports are included in the staff report prepared by the Planning Department.

Amend 3.08 Approval of Preliminary Plat by changing the appeal process. Currently an appeal of an action by the Planning Commission to the County Board is filed with the county clerk within 7 days following the filing of such findings. The proposed change would allow an appeal to be filed 14 days after the Planning Commission's action. This allows for a simpler appeal process and corresponds with the City process to avoid confusion.

Amend Section 3.10 Authority to Proceed with Final Plans and Installation of Improvements by deleting the requirement of the subdivider to post a surety in the amount of 5% of the estimated construction costs of the roads. This surety has not been required in the past and all improvements are required to be installed prior to approval of a final plat per Section 3.14.

Amend Section 3.12 Filing Final Plat by deleting language in (a)(3) pertaining to the use of property. Uses are regulated by the zoning regulations, not subdivision. In addition in (c)(4) delete that the subdivider is required to install individual water well systems and individual wastewater systems. These improvements have routinely been done by the home builder.

Amend Section 3.14 Requisites for Final Plat Approval by deleting the last sentence requiring the subdivider to install individual water well systems and wastewater systems. These improvements are normally installed by the home builder.

Amend Section 3.18 Survey Errors by deleting reference to corrected final plat and replacing it with Affidavit of Surveyor. In most cases where there is an error on a final plat it is a minor error such as a typographical error. An affidavit is a simpler and quicker process than a corrected final plat. If there is a major error, a new final plat would be required.

Amend Section 3.21 Expiration of Applications to delete administrative subdivision permit. Administrative subdivision permits have not existed since 2012.

Design Standards-Chapter 4

Amend Section 4.07 Blocks by adding language that a block length may exceed 1,320 feet when a major street, man-made barrier or natural barrier forms one boundary of the block. Adding this language eliminates the need for a waiver to the block length.

Amend Section 4.08 Lots by deleting the first sentence in (d) relating to the minimum width of a residential lot shall be 50 feet. This is confusing with other parts of the zoning regulations. In the R District the minimum width is 60 feet. The zoning code regulates lot and area requirements.

Amend Section 4.08 Lots by adding language that private roadways for residential lots must be in a minimum 60' wide outlot and are not encouraged when there are less than 10 dwelling units. By requiring the road to be in an outlot it eliminated the issue of having each property owner maintain their portion. A homeowners association would own the outlot and be responsible for the maintenance of the road. This should help to ensure that the road is maintained.

Amend Section 4.14 Street and Road Design to update the name of Nebraska Department of Roads to Nebraska Department of Transportation. Also delete references to specific codes. This makes it more generalized and removes the need to update the subdivision regulations if a specific code reference is changed.

Minimum Improvements-Chapter 5

Amend Section 5.01 Street and Road Improvements by deleting references to specific sections on road construction. Also change the name of Nebraska Department of Roads to Nebraska Department of Transportation.

Amend Section 5.03 Water Supply by updating the name of Nebraska Department of Health.

Amend Section 5.04 Wastewater Disposal by clarifying that a community wastewater system is only required when lots

are less than 3 acres in size.

Amend Section 5.05 Drainage by updating the name of Nebraska Department of Transportation and deleting reference to specific sections.

Amend Section 5.07 Temporary Turnaround and Barricades by adding language that proper drainage and grading shall extend around the temporary turnaround until the temporary dead-end street is extended. This makes it clear that grading and drainage may need to be extended beyond the end of the temporary dead-end street.

Amend Section 5.09 Seeding and Erosion Control by updating the name of Nebraska Department of Transportation and deleting reference to specific sections.

Form of Preliminary Plat-Chapter 7

Amend Section 7.01 Information on a Preliminary Plat by revising part J to update requirements for a water well report and allow a waiver to requiring test wells. Currently when water wells are being proposed for a development test wells are required. There is no waiver process in the current code. This would allow for a waiver if satisfactory geological and hydrological information is provided. This change is supported by Lincoln-Lancaster County Health Department.

Form of Final Plat-Chapter 8

Amend Section 8.03 Certificate and Acknowledgements on Final Plat to add language that a lien holder must sign the final plat. This is a requirement, but was not specifically listed in the subdivision regulations.

Amend Section 8.04 Data Required on a Final Plat to add language that a blank space on the first sheet is required. This is a requirement of Lancaster County Register of Deeds so that there is blank space for their notations. In addition delete part 8. It is a repeat of part 7.

Amend Section 8.06 Survey Requirements to change he or his to “the surveyor” to make it gender neutral.

General Provisions Chapter 9

Amend Section 9.01 Modification of Requirements to allow the Planning Commission to grant waivers. This will expedite the approval process.

Amend Section 9.05 Notice of Hearing to change the number of days from 8 to 5 prior to a hearing that a notice must be in a newspaper. This would match what is required in the County zoning regulations. There have been situations in the past where the newspaper failed to get the noticed published in time and the application was delayed two weeks. The Planning Department will still a goal of publishing the notice 8 days prior to the public hearing.

Prepared by

Tom Cajka, Planner

Date: October 11, 2018

Applicant: David Cary, Planning Director
Lincoln-Lancaster County Planning Department

Contact: Tom Cajka, Planner

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OUTLINE OF CHAPTERS AND SECTIONS IN THE UPDATE OF THE LANCASTER COUNTY SUBDIVISION RESOLUTION

CHAPTER 1 --Title and Purpose

- Section 1.01 --Name and citation of resolution
- 1.02 --Purpose

CHAPTER 2 --Definitions

- Section 2.01 --Definitions, generally
 - 2.02 --Alley
 - 2.03 --Board
 - 2.04 --Commission
 - 2.05 --Community Wastewater System
 - 2.06 --Community Water System
 - 2.07 --Comprehensive Plan
 - 2.08 --Corner Lot
 - 2.09 --County
 - 2.10 --County Clerk
 - 2.11 --County Engineer
 - 2.12 --Cul-de-sac
 - 2.13 --Double Frontage Lot
 - 2.14 --Flood Insurance Study
 - 2.15 --Flood Plain
 - 2.16 -- Floodprone Area
 - 2.17 --Frontage
 - 2.18 --Health Department
 - 2.19 --Individual Wastewater System
 - 2.20 --Individual Water Well System
 - 2.21 --Lot
 - 2.22 --Outlot
 - 2.23 --Major Highway, Street or Road
 - 2.24 --Planning Director
 - 2.25 --Subdivision
 - 2.26 --Temporary Dead End Street or Road
 - 2.27 --Temporary Turn-Around

CHAPTER 3 --Procedure

- Section
 - 3.01 --Subdivision, when required
 - 3.02 --this section was eliminated
 - 3.03 --Filing Preliminary Plat
 - 3.04 --Department Reports on Preliminary Plat
 - 3.06 --Hearing by Commission
 - 3.08 --Approval of Preliminary Plat
 - 3.09 --Preliminary Plat Approval Limited
 - 3.10 --Authority to Proceed with Final Plans and Installation of Improvements
 - 3.11 --Installation of Improvement
 - 3.12 --Filing Final Plat
 - 3.13 --Department Reports on Final Plat
 - 3.14 --Requisites for Final Plat Approval
 - 3.16 --Final Plat Approval
 - 3.17 --Final Plat filed with Register of Deeds
 - 3.18 --Survey Errors

Section	3.19	--Vacation of Plat (voiding)
	3.20	-
	3.21	--Expiration of Application

CHAPTER 4 -- Design Standards

Section	4.01	--Conformity to Comprehensive Plan
	4.02	--Relation to adjoining Highway, Road and Street System
	4.03	--Street, Road and Other Right-of-Way
	4.04	--Easements
	4.05	--Easements Along Streams
	4.06	--Sidewalks
	4.07	--Blocks
	4.08	--Lots
		a. Lot arrangement b. Side lot lines c. Minimum width and area d. Width to depth ratio e. Minimum depth f. Corner lots g. Lots fronting major street h. Double frontage lots i. Lots front upon public street except in C.U.P. j. Residential lot arrangement
	4.09	--Street and Road names
	4.10	--Maintenance responsibility of private common facilities
	4.11	--Parks, School Sites, etc.
	4.12	--Land Grading
	4.13	--Drainage
	4.14	--Street and Road Design
	4.15	--Design Standards for AG Preservation Lots

CHAPTER 5 --Minimum Improvements

Section	5.01	--Street and Road Improvements
	5.02	--Sidewalks
	5.03	--Water Supply
		a. Where public water supply is available b. Where public water supply is not available c. Operation and maintenance of community water system
	5.04	--Wastewater disposal
		a. Where a public wastewater collection system is available b. Community wastewater systems b. Individual wastewater system c. Operation and maintenance of community wastewater system
	5.05	--Drainage
	5.06	--Land Preparation and Grading
	5.07	--Temporary Turn-Around and Barricades
	5.08	--Street Name and Traffic Control Signs
	5.09	--Seeding and Erosion Control

CHAPTER 6 --Subdivision within Flood Plain

Section 6.01 --No Platting or Subdivision Allowed Except

- a. Land found to be out of flood plain
- b. Flood-proof utilities
- c. Raise land above flood plain
- d. Land use restricted
- e. Street, road, and private roadway elevations
- f. Land borrow area

CHAPTER 7 --Form of Preliminary Plat

Section 7.01 --Information on Preliminary Plat

- a. Name of Subdivision
- b. North arrow, scale, etc.
- c. Contour lines
- d. Existing and proposed streets
- e. Existing property lines, section, and township lines
- f. Lot lines
- g. Lot and block numbers
- h. Areas for schools, parks, playgrounds, etc.
- i. Proposed method of wastewater treatment
- j. Proposed method of supplying water
- k. Location and size of existing wastewater collection and wastewater treatment facility
- l. Location of existing and proposed easements
- m. Existing and proposed sidewalks, etc.
- n. Location of existing structures
- o. Certified boundary survey
- p. Certificate for signature of Chair of Planning Commission

Section 7.02 --Information on or Accompanying Preliminary Plat

- a. Centerline profiles of streets
- b. Drainage study
- c. Existing trees
- d. Vicinity map
- e. Criteria for centerline profiles and drainage studies
- f. Computer-Aided-Design (CAD file)

7.03 --Additional Required Information

- a. Interest the subdivider has in surrounding land
- b. Request for other action by County
- c. Name, telephone number and mailing address of subdivider and other persons
- d. All deviations
- e. Whether or not the subdivider intends to request County maintenance of roads

- 7.04 --Development within the flood plain
 - a. Hydrological and grade information
 - b. Type and extent of use
 - c. Plans and information required by Chapter 6
 - d. Limits of 100 Year Flood Plain
 - e. Amount of fill material

CHAPTER 8

--Form of Final Plat

- | | | |
|---------|------|--|
| Section | 8.01 | --Final Plat Requirements |
| | 8.02 | --Form of Final Plat |
| | | <ul style="list-style-type: none"> a. Size of sheets b. Method of presenting final plat land material c. Margin d. Scale e. Indexing f. Boundaries clearly shown |
| | 8.03 | --Certificates, acknowledgment, etc., on Final Plat |
| | 8.04 | --Data required on Final Plat |
| | | <ul style="list-style-type: none"> a. Accurately and legibly drawn <ul style="list-style-type: none"> 1. Survey and mathematical information 2. All dimensions to 1/100 of a foot 3. Lot, outlot, and block lines 4. Lot, outlot, and block identity 5. Areas to be dedicated or reserved for public use 6. Easements 7. Location and identification of section corners 8. Number of acres b. The following information shall be shown on each sheet of the final plat: <ul style="list-style-type: none"> 1. Name 2. Scale 3. North arrow 4. Sheet number 5. Name and number of Preliminary Plat |
| Section | 8.05 | --Additional Information Required |
| | | <ul style="list-style-type: none"> a. Statement from subdivider <ul style="list-style-type: none"> 1. Indicating interest in surrounding land 2. Other requests for action of the Board 3. Name, telephone number, and mailing address of subdivider and others b. Computer-Aided-Design (CAD file) |

8.06 --Survey Requirements

- a. Accuracy
- b. Surveyor's responsibilities
 - 1. Permanent monument at periphery of subdivision
 - 2. Monuments on the centerline of the streets
 - 3. Permanent stakes at lot and block corners
- c. Length, size, and material used for the stakes

CHAPTER 9

--GENERAL PROVISIONS

- | | | |
|---------|------|--|
| Section | 9.01 | --Modification of Requirements |
| | 9.02 | --Severability |
| | 9.03 | --Coordinating subdivision and community unit plan |
| | 9.04 | --Penalty |

CHAPTER 10

--FEES

- | | | |
|---------|--------|-----------------------|
| Section | 10.010 | --General Regulations |
|---------|--------|-----------------------|

CHAPTER 1

TITLE AND PURPOSE

Sec. 1.01. NAME AND CITATION OF RESOLUTION. This resolution shall be known, referred to and cited as "The Land Subdivision Resolution" of the County of Lancaster, State of Nebraska.

Sec. 1.02. PURPOSE. This resolution is to provide for the harmonious development of Lancaster County, except those areas under the jurisdiction of any city or village; for the coordination of streets, roads or highways within subdivisions with other existing or planned streets, roads or highways or with other features of the Comprehensive Plan of Lancaster County; for adequate open spaces, for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience or prosperity.

CHAPTER 2

DEFINITIONS

Sec. 2.01. DEFINITIONS -- GENERALLY. For the purpose of this resolution, certain words, phrases and terms shall be construed as set out in this paragraph.

Sec. 2.02. ALLEY. Alley shall mean a public way not designed for general travel or to allow through vehicular traffic, used as a secondary access to the rear or side of lots, which shall in no way be a street.

Sec. 2.03. BOARD. Board shall mean the Board of County Commissioners of ~~the County of~~ Lancaster County, Nebraska.

Sec. 2.04. COMMISSION. Commission shall mean the Lincoln City - Lancaster County Planning Commission.

Sec. 2.05. COMMUNITY WASTEWATER SYSTEM. Community wastewater system means any system, whether publicly or privately owned, serving two or more lots, for the collection and treatment of wastewater or industrial wastes of a liquid nature, including various devices for the treatment of such wastewater or industrial wastes.

Sec. 2.06. COMMUNITY WATER SYSTEM. Community water system means any system, including various devices to supply the water, whether publicly or privately owned, serving two or more lots, supplying an adequate amount of potable water to the occupant of the lot or lots.

Sec. 2.07. COMPREHENSIVE PLAN. Comprehensive Plan shall be the general plan for the improvement and development of the County outside the jurisdiction of any city or village as provided by Section 23-174.05 Reissue Revised Statutes of Nebraska 1943 and as provided by Resolutions of the Board of County Commissioners of the County of Lancaster, Nebraska.

Sec. 2.08. CORNER LOT. Corner lot means a lot which has frontage on two intersecting streets or roads.

Sec. 2.09. COUNTY. County shall mean ~~the County of~~ Lancaster County.

Sec. 2.10. COUNTY CLERK. County Clerk shall mean the County Clerk of ~~the County of~~ Lancaster County.

Sec. 2.11. COUNTY ENGINEER. County Engineer shall mean the County Engineer of ~~the county of~~ Lancaster County.

Sec. 2.12. CUL-DE-SAC. Cul-de-sac means a local street or road which terminates in a permanent turnaround and which by design is not intended to continue beyond its terminal point.

Sec. 2.13. DOUBLE FRONTAGE LOT. Double frontage lot means a lot which has a frontage or two (2) nonintersecting streets or roads.

Sec. 2.14. FLOOD INSURANCE STUDY. Flood Insurance study (FIS) shall mean the Flood Insurance Study for Lancaster County, Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing background data such as base flood discharges and water surface elevations used to prepare the FIRM. (Resolution R-01-75, August 21, 2001)

Sec. 2.15. FLOOD PLAIN. Flood plain shall mean those lands within the zoning jurisdiction of the County of Lancaster which are subject to a one percent (1%) or greater chance of flooding in any given year. The regulatory flood plain for this title shall be based on the official Flood Insurance Rate Map or Flood Boundary and Floodway Map issued by the Federal Emergency Management Agency, Federal Insurance Administration and any revision thereto. Copies of the said maps shall be on file in the office of the County Clerk.

Sec. 2.16. FLOODPRONE AREA. Those lands subject to a one percent or greater chance of flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City of Lincoln, Lancaster County or other government agency, or other acceptable source as approved by the County where this is the best available information. (Resolution No. R-09-0071, September 15, 2009)

Sec. 2.17. FRONTAGE. Frontage means that portion of a parcel of property which abuts on a public street or road-; provided, however, that the end of a temporary dead-end street shall not be considered frontage.

Sec. 2.18. HEALTH DEPARTMENT. Health department shall mean the Lincoln-Lancaster County Health Department.

Sec 2.19. INDIVIDUAL WASTEWATER SYSTEM. Individual wastewater system means a wastewater system, other than a public or community system, which receives either human excreta or liquid waste, or both, from no more than one lot. Included within the scope of this definition are wastewater stabilization ponds, septic tank soil-absorption systems, chemical-type systems, and such other types of systems as may be similar to those specified herein.

Sec. 2.20. INDIVIDUAL WATER WELL SYSTEM. Individual water well system means a water system, including various devices to supply the water, other than a public or community water system, which supplies adequate potable water to no more than one lot.

Sec. 2.21. LOT. Lot means: (a) A portion of real property containing at least the area required, at the time it was created by the zoning district in which it is or was located, abutting at least one public street, road, or private roadway, or

(b) a parcel of real property with a separate and distinct number or other designation shown on a final plat approved by the Lancaster County Board recorded in the office of the Register of Deeds for Lancaster County, Nebraska.

Sec. 2.22. OUTLOT. A parcel of real property to be included in a final plat, having access to at least one public street or private roadway and reserved for future building or occupancy after replatting and subdivision, or reserved for agricultural uses, open space or common facilities. (July 30, 2013, Resolution No. R-13-0044)

Sec. 2.23. MAJOR HIGHWAY, STREET OR ROAD. Major highway, street or road is a highway, street or road shown on the Comprehensive Plan adopted by the Board.

Sec. 2.24. PLANNING DIRECTOR. Planning Director shall mean the administrative head of the Planning Department as provided by Section 23.174.04 Reissue Revised Statutes of Nebraska 1943 and as provided by Resolutions of the Board of County Commissioners of ~~the County of~~ Lancaster County, Nebraska.

Sec. 2.25. SUBDIVISION. Subdivision shall mean the division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, of ownership of building development, except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten (10) acres.

Sec. 2.26. TEMPORARY DEAD-END STREET OR ROAD. Temporary dead-end street or road shall mean a street which is terminated at the boundary line of the subdivision, but which will be required to be extended at a later date to provide access to abutting land.

Sec. 2.27. TEMPORARY TURNAROUND. Temporary turnaround shall mean a surfaced area for the turning of vehicles at the end of a temporary dead-end street or road.

CHAPTER 3

PROCEDURE

Sec. 3.01. SUBDIVISION, WHEN REQUIRED.

- (a) It shall be unlawful for the owner, agent or person having control of any land within the subdivision, jurisdiction of ~~the County of~~ Lancaster County, to subdivide land, except in accordance with Section 23-174.03 Reissue Revised Statutes of Nebraska 1943, and the provisions of this resolution, provided however, that any subdivision of land caused by the acquisition of land by the Federal Government, State of Nebraska, *any natural resource district, any county, city, or village, within the jurisdiction of the County, shall be deemed to have received approval ~~as required by Neb. Rev. Stat. 23-184.03 (Cum. Supp. 1980).~~ This proviso shall apply to all such subdivisions occurring both before and after the effective date of this section. (August 5, 1986, Resolution No. 4214)
- (b) The conveyance or portions of abandoned railroad right-of-way by a railroad or a subsequent owner of such right-of-way to abutting property owners shall not be required to comply with the otherwise applicable requirements of this title.
- (c) The conveyance of portions of property that have been declared surplus by any governmental agency shall not be required to comply with the otherwise applicable requirements of this title. For purposes of this subsection, a governmental agency shall include the federal government, the State of Nebraska, any natural resources district or any county. Any such surplus property so conveyed may not thereafter be separately conveyed or devoted to a separate use without complying with all otherwise applicable requirements for lots within the zoning district in which such surplus property is situated.

Sec. 3. 02. This section was eliminated with Resolution No. R-12-0059, July 24, 2012

Sec. 3.03. FILING PRELIMINARY PLAT. Except as provided in Section 3.12 (c) and 9.03 of this chapter, a preliminary plat shall be required under this Resolution. A person proposing to subdivide land shall file with the Planning Director copies of the preliminary plat prepared in accordance with the specifications of Chapter 7 herein. The Planning Director shall determine the number of copies to be filed. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.04. DEPARTMENT REPORTS ON PRELIMINARY PLAT. The Planning Director shall distribute copies of the preliminary plat and owner's statement and accompanying data to other county departments and governmental agencies who are directly concerned with the proposed subdivision. Reports shall be returned to the Planning Department within ~~30~~ **10** days.

Sec. 3.06. HEARING BY COMMISSION. Hearing on a preliminary plat shall be before the Commission, provided:

~~(a) that notice of the consideration of such plat and the time and place of hearing shall be given to all interested persons as hereinafter provided., and~~

~~(b) a report from the Planning Director, Health Department and the County Engineer has been received by the Commission.~~

Sec. 3.08. APPROVAL OF PRELIMINARY PLAT. If, upon hearing, the Commission shall find such proposed plat to satisfy the requirements of this resolution, it shall approve said plat. If, upon hearing, the Commission shall find that such proposed plat does not satisfy the requirements of this resolution, it shall specify in writing in the minutes of the hearing such

objections as are found to such plat and may recommend the disapproval of such proposed plat, or recommend approval conditioned upon specific changes in the proposed plat, and complying with this resolution. The Commission's findings shall be filed with the County Clerk within seven (7) days of the Commission's findings. Any interested person may appeal to the County Board any action of the Commission by filing notice of appeal with the County Clerk within ~~(7)~~ **fourteen 14** days following the ~~filing of such findings~~ **Commission's action**. One copy of the proposed plat and findings shall be retained by the Commission and one copy and findings given to the person offering the proposed plat. The approval of the preliminary plat shall not constitute authority for the subdivider to sell the individual lots. (Resolution R-07-0015, March 13, 2007)

Sec. 3.09. PRELIMINARY PLAT APPROVAL LIMITED. If any final plat on all or a portion of the approved preliminary plat is submitted five (5) years or more after the effective date of the preliminary plat, the Planning Director may require that a new preliminary plat be submitted, pursuant to all the provisions of the subdivision resolution. A new preliminary plat may be required if the Subdivision Resolution, the Design Standards, or the required improvements have been amended by the Board; and as a result, the preliminary plat as originally approved does not comply with the amended rules and regulations. Any aggrieved person may appeal any action of the Planning Director to the Planning Commission, and any decision of the Planning Commission to the County Board, by filing notice of appeal within fourteen (14) days following the action being appealed. The appeal of the Planning Director's action shall be filed with the Director, and the appeal of the Planning Commission's action shall be filed with the County Clerk. (Resolution R-07-0015, March 13, 2007)

Sec. 3.10. AUTHORITY TO PROCEED WITH FINAL PLANS AND INSTALLATION OF IMPROVEMENTS. Receipt by the subdivider of the copy of the approved preliminary plat, together with the approval of the Commission or the approval of the Board, if appealed, shall constitute authority for the subdivider to proceed with final plans and specifications for the installation of the required improvements and preparation of the final plat. Prior to the construction of any of the required improvements, the subdivider shall submit such final plans and specifications to the appropriate agency pursuant to Chapter 5 - Minimum Improvements for examination. If, upon examination, the appropriate agency shall find such plans and specifications to be in accordance with applicable policies and standards, construction shall be authorized. All construction of streets, roads and public ways within the subdivision shall be inspected by a person approved by the County Engineer. The County Engineer shall be notified at the beginning and end of each phase of construction. Certificates shall be issued by the inspector for all phases of construction showing compliance or non-compliance with the standards herein and submitted to the County Engineer. All costs of inspections and surveying shall be the responsibility of the subdivider.

~~The subdivider shall (a) post a surety in the amount of 5% of the estimated construction costs of the streets and roads, and (b) agree to pay the cost to repair any and all failures of the streets and roads. These terms shall remain in effect for two years from the date of final plat approval.~~ (June 26, 1990; Resolution No. 4653)

Sec. 3.11. INSTALLATION OF IMPROVEMENTS. The owner of a tract may prepare and secure approval of a preliminary plat of an entire area and may install the required improvements only in a portion of such area, but all improvements except individual water well systems and individual wastewater systems must be installed in any portion of the area for which a final plat is approved for recording; provided, however, that the community wastewater system and community water system shall be designed and built to serve the entire area owned by the subdivider or designed and built in such a manner that each system can be easily expanded or

extended to serve the entire area.

Sec. 3.12. FILING FINAL PLAT. (a) If the preliminary plat is still in effect as set out in Section 3.09, a final plat in accordance with the approved preliminary plat may be filed. The final plat shall be drawn in accordance with an accurate survey of the subdivision, the approved preliminary plat, and the design standards set out in Chapter 4 herein. The subdivider shall file with the Planning Department the final plat and in addition thereto the number of copies required by the Planning Director, together with the following documents:

* (1) Prior to the approval of the final plat by the Planning Director, the subdivider shall provide a statement from the County Treasurer's Office showing that, according to their records, there are no liens of taxes against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's Office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. The County shall assume no responsibility for any tax or special assessment liability on the property to be subdivided, and approval of said final plat shall not be construed as either approval of or act as a waiver of the enforcement of all applicable statutes and resolutions with regard to the collection of taxes and special assessments on the proposed subdivided property or any part thereof. All taxes and special assessments must be paid in full on all real property dedicated in fee to a public use. (November 8, 2005, Resolution No. R-05-0142; Resolution #4852, March 31, 1992.)

(2) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the County showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the County Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the Planning Director of said changes in ownership. The County shall assume no responsibility for any title problem with said proposed subdivision or any part thereof, and approval of said final plat shall not be construed as approval of the title of the proposed subdivision or any part thereof

(3) ~~Whenever property is subdivided with the intention that it will have a use other than permitted by the district in which such property is located as designated on the then existing Lancaster County zoning district maps, such use shall be stated.~~ No final plat shall be approved unless or until it complies with the zoning resolution of the County.

(b) If the time period between the effective date of the approved preliminary plat and the date the final plat is submitted exceeds five (5) years and the required improvements have not been installed, the subdivider may, prior to preparing the final plat, request a written opinion from the Planning Director as to whether the conditions of approval and the approved preliminary plat are still in compliance with the subdivision resolution, design standards, and required improvements. The Planning Director shall submit to the subdivider a written response indicating whether the conditions of approval and the approved preliminary plat are still in compliance with the current subdivision resolution, design standards, and required improvements. If the preliminary plat is not in compliance, the Planning Director shall list the items of noncompliance and may require that a new preliminary plat be submitted by the subdivider pursuant to all of the provisions of the Subdivision Resolution.

(c) A subdivider may file a final plat without an approved preliminary plat and the Planning Director or his/her authorized representative may approve such a final plat under the following conditions:

(1) No highway, road or street is accepted or needed within the area of the new lots.

(Resolution #4852, March 31, 1992)

(2) No more than four (4) lots shall be created from any lot, tract or parcel of land. If the remaining outlot of any one parcel of land is ten (10) acres or less, it shall be considered one of the four (4) lots.

(3) Necessary easements for drainage, utilities and any other improvement required by this resolution shall be granted.

(4) All improvements required by this resolution shall be completed before the Planning Director approves the subdivision except individual water well systems and individual wastewater systems. ~~Then, the subdivider shall agree to install and construct such systems on each lot prior to or at the time improvements are erected on the lot.~~

(5) The subdivider shall submit such information as set forth in this resolution when specified by the Planning Director.

(6) The subdivision shall be in accordance with the Comprehensive Plan.

(7) The subdivision shall comply with the Design Standards, Chapter 4, Minimum Improvements, Chapter 5, and Subdivision with Flood Plain, Chapter 6, in this resolution.

(8) Where an individual water well system for each lot or a community water system is proposed, water quality and quantity tests, results and reports as required in Chapter 7 shall be submitted by the subdivider.

(9) Where individual water or wastewater systems are proposed to serve any of the proposed lots, the Health Department must approve the system, and all plans and information required by the Health Department shall be provided by the subdivider.

(10) Prior to the approval of the subdivision, the subdivider shall provide a statement from the County Treasurer's Office showing there are no liens of taxes against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's Office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. All taxes shall be paid in full on all real property dedicated for public use.

(11) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the County showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the County Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the Planning Director of said change in ownership. The County shall assume no responsibility for any title problem with said proposed subdivision or any part there, and approval of said subdivision shall not be construed as approval of the title of the proposed subdivision or any part thereof (Resolution R-12-0059, July 24, 2012)

Sec. 3.13. DEPARTMENT REPORTS ON FINAL PLAT.

(a) The Planning Director shall distribute copies of the final plat and other accompanying data to other county departments and governmental agencies who are directly concerned with the proposed subdivision.

(b) Each department or governmental agency which is directly concerned with the proposed subdivision shall, within ten days from receipt of a copy of the final plat, file with the Planning Director its approval of said plat or a report indicating in what manner such final plat does not conform to the requirements of this resolution and all other rules, regulations, and standards adopted pursuant to this resolution over which such department has administrative responsibility.

(c) Within ten (10) days from receipt of all of the above reports, the Planning Director shall notify the subdivider in writing of the recommended approval, conditional approval or

disapproval of the final plat based upon a review of the recommendations of the various departments and the Director's own review of the design of the subdivision. If the Director finds that the final plat should be conditionally approved, the notification shall set forth all conditions of approval. The Planning Director shall also furnish the subdivider a subdivision agreement to be executed by the subdivider and the County Board wherein the subdivider agrees to comply with all conditions of approval and further agrees to construct the required improvements as provided therein. (December 10, 2013, Resolution No. R-13-0070; November 8, 2005, Resolution No. R-05-0142)

Sec. 3.14. REQUISITES FOR FINAL PLAT APPROVAL. No final plat shall be approved by the Planning Director unless or until all the required minimum improvements as set out in the approval of the preliminary plat have been installed and constructed and such has been approved by the appropriate agency, except individual water well systems and individual wastewater systems. ~~In those subdivisions where an individual water well system and individual wastewater system is allowed the subdivider shall agree to install and construct such systems on each lot prior to or at the time improvements are erected on the lot.~~ (November 8, 2005, Resolution No. R-05-0142)

Sec. 3. 16. FINAL PLAT APPROVAL.

(a) When the final plat conforms to the approved preliminary plat and the requirements have been accomplished, or when the final plat meets the requirements of Section 3.12 (c), certification to this effect shall be endorsed on the final plat by the Planning Director. (Resolution R-12-0059, July 24, 2012; November 8, 2005, Resolution No. R-05-0142)

(b) Any aggrieved person may appeal any action of the Planning Director to the Planning Commission, and any decision of the Planning Commission to the County Board by filing notice of appeal within fourteen days following the action being appealed. The appeal of the Planning Director's action shall be filed with the Director, and the appeal of the Planning Commission's action shall be filed with the County Clerk. If the Planning Commission approves a final plat and its action is not appealed to the County Board, the final plat shall be signed by the Chair of the Commission. If the County Board approves a final plat after the appeal of the denial of such a plat by the Commission, no further action shall be required by the Commission to approve such a plat. After approval thereof by the County Board, the plat shall be returned to the Planning Department for signing by the Chair of the Commission. Thereafter, such plat shall be processed in accordance with the procedures set forth in Section 3.17. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.17. FINAL PLAT FILED WITH REGISTER OF DEEDS. No plat shall be filed for record or recorded in the Office of the Register of Deeds of Lancaster County, and no lot shall be sold from such plat unless and until:

(a) Such final plat has been approved by the Planning Director, or in the event of an appeal, by the Planning Commission or County Board;

(b) Provision for the installation and construction of all required minimum improvements have been fulfilled;

(c) The subdivider has submitted to the Planning Director the recording fee. Thereafter, the approved final plat and a copy of the accepting resolution certified by the County Clerk, along with the subdivision agreement and any other required agreements and an analysis of the quality and quantity of underground water when individual water well systems are to be used shall be filed and recorded in the Office of the Register of Deeds of Lancaster County, Nebraska. Thereupon, such final plat shall be equivalent to and operate as a deed in fee simple to Lancaster County or other applicable utility or governmental entity from the owner of all streets, alleys, public ways and grounds, and of such portions of land as herein set apart for public and County use.

The Planning Director shall have the responsibility for transmitting to the Office of Register of Deeds the approved final plat, the subdivision agreement, any other required agreements and any other data that must be recorded. The planning Director shall ascertain the amount of the recording fees due to the Register of Deeds and notify the subdivider. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.18. SURVEY ERRORS. In the event that a survey error is found at any time after the filing of the final plat with the Register of Deeds, the subdivider shall be notified by the Planning Director. Thereafter, the subdivider shall immediately proceed to cause the survey error to be corrected. Building permits on any or all the lots within the subdivision may be withheld and the County may take such action it deems appropriate to obtain the correction of the survey error. The subdivider shall submit to the Planning Director an Affidavit of Surveyor corrected final plat, and an explanation letter setting forth the corrections. The Planning Director shall transmit the corrected final plat and the letter of explanation to the County Engineer. The County Engineer shall review and return comments to the Planning Director. (November 8, 2005, Resolution No. R-05-0142; September 1, 2006, Resolution No. R-06-0071)

After the Planning Director has approved the Affidavit of Surveyor corrected final plat, the Planning Director shall then file the approved Affidavit of Surveyor corrected final plat in the Office of the Register of Deeds. The recording fee shall be paid in advance ~~by the subdivider and submitted to the Planning Director. The name of the corrected final plat shall be "A corrected plat of (the name of the said subdivision)." The word "replat" shall not be used. The corrected plat shall comply with this resolution and the conditions of the original plat as approved by the County.~~ (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.19. VACATION OF PLAT (VOIDING). The owner of any subdivision or plat may file a request to vacate all or a portion of such subdivision or plat with the Planning Department. A notice to adjacent owners of record shall be mailed at least ten (10) days before the Planning Commission's public hearing. Receipt of such notice is not mandatory or required as a condition precedent to any such public hearing. After notification of the proposed action has been mailed to the owners of record within one mile of the boundary of the proposed vacation, the board may then set forth conditions it deems appropriate and approve the vacation. After the vacation is approved by the Board, the Planning Director shall then file the resolution approving the vacation in the Office of the Register of Deeds. Thereupon, the previous subdivision or plat shall be voided. The recording fee shall be paid in advance by the owner and submitted to the Planning Director. (November 13, 1990, Resolution No. 4690; September 5, 2003, Resolution No. 03-0091; September 1, 2006, Resolution No. R-06-0071)

Sec. 3.20. This section rescinded on December 10, 2013, Resolution No. R-13-0070,

Sec. 3.21. EXPIRATION OF APPLICATION.

All applications for a final plat ~~or administrative subdivision permit~~ shall automatically expire and become null and void one (1) year after submission of the application, if the applicant by said date has failed to satisfy all the conditions of approval set forth in the Planning Director's letter. All applications which are placed on pending before the Planning Commission or County Board at the request of the applicant shall automatically expire and become null and void one (1) year after the application was placed on pending.

At least thirty (30) days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the matter shall automatically terminate unless prior to the

expiration date the applicant has satisfied all the conditions of approval set forth in the Planning Director's letter or the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or County Board agenda as appropriate. (Resolution R-07-0015, March 13, 2007; Resolution R-08-0024, April 15, 2008; Resolution No. R-08-0094, November 4, 2008)

Sec. 3.22. AMENDMENTS TO THE TEXT.

The County Board may from time to time on its own motion or on petition, amend, supplement, change, modify or repeal by resolution this resolution. Any proposed amendment, supplement, change, modification, or repeal shall first be submitted to the Lincoln-Lancaster County Planning Commission for its recommendations and report. After the recommendations and report of the Commission has been filed, the County Board shall, before enacting any proposed amendment, supplement, change, modification, or repeal, hold a public hearing in relation thereto, giving notice of the time and place of such hearing as provided in section 9.05(a). (Resolution No. R-08-0094, November 4, 2008).

CHAPTER 4

DESIGN STANDARDS

Sec. 4.01. CONFORMITY TO THE COMPREHENSIVE PLAN. The subdivision shall conform to and be in harmony with the Comprehensive Plan.

Sec. 4.02. RELATION TO ADJOINING HIGHWAY, ROAD OR STREET SYSTEM.

(a) The arrangement of streets and roads in new subdivision shall make provision for the continuation of the existing highways, roads, or streets in adjoining areas (or their proper projection where adjoining land is not subdivided) insofar as they may be deemed necessary for public requirements. The street, road, and alley arrangement shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(b) Off-set streets and roads should be avoided.

(c) The angle of intersection between streets should not vary more than 10 degrees (10) from a right angle.

(d) Proposed street intersections shall be located on existing major streets and roads to provide stopping sight distance for 50 mph traffic on the existing major street or road. Stopping sight distance shall be as described in the current AASHTO Standards at the time the subdivision is being proposed. (June 26, 1990; Resolution No. 4653).

Sec. 4.03. STREET, ROAD AND OTHER RIGHT-OF-WAY. The location of major highways, streets, roads and other rights-of-way shall conform to the locations designated in the Comprehensive Plan.

The minimum right-of-way widths shall be as follows:

<u>Type</u>	<u>Right-of-Way Width</u>
State and Federal Highways	180 feet
Major roads and streets	100 feet
(Paved and potential paved streets and roads shown on future Street and Road Network Maps in the	

Comprehensive Plan.)	
Local roads and streets	60 feet
Cul-de-Sacs	60 foot radius
Alleys	20 feet

When streets and roads adjoin unsubdivided property, a half right-of-way at least thirty (30) feet in width may be dedicated. Whenever subdivided property adjoins a half right-of-way, the remainder of the street shall be dedicated. Half rights-of-way should be avoided.

In all cases of permanent dead-end streets and roads, cul-de-sac rights-of-way shall be dedicated. Streets and roads ending in a cul-de-sac shall not have more than a potential of forty (40) dwelling units nor be longer than one thousand (1,000) feet.

In the case of AG Preservation subdivisions, a minimum of fifty (50) feet of right-of-way shall be dedicated along all abutting County section line and one half (½) section line roads. (Resolution R-12-0059, July 24, 2012) Alleys shall not be provided in a residential subdivision except under very unusual conditions. Alleys may be required in the rear of commercial lots. (June 26, 1990; Resolution No. 4653).

Sec. 4.04. EASEMENTS. Easements of at least five (5) feet in width shall be provided and dedicated on each side of rear lot lines and side lot lines, where necessary, and ten (10) feet along front lot lines where the lots would be better served from the front lot line, for poles, wires, conduits, storm drains, wastewater collectors, water, or other mains. Easements of greater width may be required along or across lots where necessary for the extension of mains, sewers, or other utilities. Power and communication easements shall be separate from other easements except at crossings.

Shared driveways for AG Preservation lots shall have a minimum of sixty (60) foot wide public access, utility and maintenance easement as described in Section 4.15. (Resolution R-12-0059, July 24, 2012)

Sec. 4.05. EASEMENTS ALONG STREAMS. Whenever any stream or important surface drainage course is located in any area which is being subdivided, the subdivider shall provide an adequate easement as determined by the County Engineer along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream or for drainage or parkway.

Sec. 4.06. SIDEWALKS. Portland concrete sidewalks shall be constructed in pedestrian ways and on both sides of all streets and roads including major streets only when necessary by reason of pedestrian traffic generated on adjacent land, the size of the subdivision, lot areas within the subdivision, or uses within the subdivision and only when the areas are zoned "R" Residential, "B" Business, and "I" Industrial, or are approved community unit plans.

The Board may approve alternate locations for sidewalks pursuant to the following criteria:

(a) The location of the alternate sidewalk must be predominantly parallel to the street where the standard sidewalk would have been required.

(b) The alternate sidewalk shall be connected at its extremities to the sidewalk located in the abutting street.

c) Sidewalks shall be constructed to the limits of the subdivision in the abutting streets.

(d) The minimum length of the sidewalk allowed to be placed in the alternate location shall not be greater than six hundred sixty (660) feet.

(e) The distance between the alternate sidewalk location and the standard sidewalk location shall not be greater than fifteen percent (15%) of the total length of the alternate sidewalk.

(f) An easement permitting public use of the sidewalk and ensuring continual maintenance and availability to the public of the sidewalk shall be provided for all sidewalks approved at alternate locations and located outside of the public right-of-way.

Sec. 4.07. BLOCKS. No block shall be longer than thirteen hundred twenty (1,320) feet between cross streets except where a major street, other man-made barrier, lake or other natural barrier forms one boundary of a block. A cross walk with an easement five (5) feet in width shall be required where the block exceeds one thousand (1,000) feet in length and where needed for pedestrian traffic.

Sec. 4.08. LOTS.

(a) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of the surrounding development.

(b) All side lines of lots shall be at right angles to a straight street line on a radial line where curved streets exist, except where a variation of this rule will provide a better street and lot layout.

(c) No lot shall have an area or width less than that required by any zoning resolution except as permitted by an approved community unit plan or through an AG Preservation subdivision. However, subject to rules and regulations of the Health Department regarding the use of an individual wastewater systems, a larger lot area and lot width than required by zoning resolution may be required by the Board. (Resolution R-12-0059, July 24, 2012)

(d) ~~The minimum width of residential lots shall be fifty (50) feet at the building lines.~~ No lot shall have a depth in excess of three (3) times its width; however, any lot in the "B" or "I" zoning districts which has a minimum width of at least one hundred (100) feet may have a maximum depth of five (5) times its width. The Planning Director may waive this requirement for AG Preservation lots in order to accommodate a desirable lot arrangement and a shared driveway. (Resolution R-12-0059, July 24, 2012)

(e) The minimum depth for residential lots shall be ninety (90) feet, except lots abutting a major highway, street or road shall have a minimum depth of one hundred twenty (120) feet.

(f) Corner lots shall have an extra width sufficient to permit the establishment of front building lines on both the adjoining streets.

(g) Lots fronting on major highway, street, or road intersections and other acute angle intersections which are likely to be dangerous to traffic movement shall have a lot line radius of twenty (20) feet at the street corner. On business lots, a chord may be substituted for the circular arc.

(h) The residential lot arrangement of a subdivision shall be accomplished in such a manner that there will be no lots with a double frontage; i.e., a lot fronting on two non-intersecting public streets and roads. However, in circumstances where the subdivision abuts a major highway, street, or road, double frontage lots shall be required when no frontage road exists adjacent to or abutting on the major highway, street, or road, and access from the lot is only to an interior street. Where double frontage lots are allowed, the subdivider, the subdivider's successors and assigns shall relinquish the right of access from the lot to the major highway, street, or road, and place covenants and restrictions upon the land to run with the land relinquishing said access as approved by the County Attorney.

(i) Every lot shall front upon and have access to a public street or road, except lots may front upon and take access to a private roadway if said lots are located within an approved community unit plan or upon the public access easement of a shared driveway if lots are part of an AG Preservation development. Private roadways for residential lots; (i) shall be located in an outlot having a minimum width of sixty 60 feet, (ii) shall also be subject to a public access easement, (iii) are not encouraged where

fewer than ten (10) dwelling units are proposed.

(Resolution R-12-0059, July 24, 2012)

(j) Residential lot arrangement shall be such that no lot accesses a major highway, street, or road, and shall only access an interior subdivision road, or shared driveway in the case of AG Preservation lots, except when creating a lot for a single family dwelling which has existed for five (5) years as a primary residence associated with a farm, which meets the minimum housing and health codes, and which has an approved access to the major highway, street, or road. (Resolution R-12-0059, July 24, 2012; June 26, 1990; Resolution No. 4653).

Sec. 4.09. STREET AND ROAD NAMES.

(a) Where they are continuations of existing streets, the existing street names shall be used.

(b) Proposed street names shall not duplicate or approximate phonetically the name of any existing street in Lancaster County and the City of Lincoln.

(c) Streets running predominantly straight north and south shall be numbered consecutively in sequence with adjacent streets, except upon approval of the Board.

Amended August 27, 1996

(d) North-south numbered streets east of First Street and north of "O" Street shall be preceded by the word "North", and those north-south streets south of "O" Street and east of First Street shall be preceded by the word "South". North-south numbered streets west of First Street and north of "O" Street shall be preceded by "N.W.", and those north-south streets south of "O" Street and west of First Street shall be preceded by "S.W."

(e) All streets running east-west shall be named or given a letter designation where applicable. All east-west streets west of First Street shall have their name preceded by the word "West".

(f) Diagonal or curvilinear streets shall be named.

(g) The names or designation of cul-de-sacs shall be given the suffix "Bay", "Circle", "Court" or "Place". (Res. 5365, 8-27-96)

Sec. 4.10. MAINTENANCE RESPONSIBILITY OF PRIVATE COMMON FACILITIES. Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees, or other physical facilities necessary or desirable for the welfare of the area and which the County does not desire to maintain, provision shall be made for the proper and continuous maintenance and supervision of such facilities by the lot owners in the subdivision. All such maintenance agreements shall be incorporated in covenants and restrictions governing the subdivided property and shall be submitted to the County Attorney for approval prior to recordation with the Register of Deeds. Mowing and trimming of the seeded portion of the interior roads shall be the responsibility of the adjacent property owner. (June 26, 1990; Resolution No. 4653).

Sec. 4.11. PARKS, SCHOOL SITES, ETC. In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds and other common areas for public use, so as to conform to any recommendations of the Comprehensive Plan.

Sec. 4.12. LAND GRADING. Earth moving shall be kept to a minimum to protect and preserve the existing trees and grasses and to keep erosion to a minimum. Graded and otherwise disturbed land shall be stabilized to prevent erosion. Trees that are to remain shall be protected to prevent damage to them during construction and development of the subdivision.

Sec. 4.13. DRAINAGE.

(a) The area to be subdivided shall be designed and laid out so as to provide proper and

sufficient drainage. The storm drain system shall adequately drain the subdivision and shall be constructed to allow the storm water to flow by gravity from the subdivision to an adequate outlet. Roadway drainage structures shall be designed for a minimum 10-year storm frequency for watersheds under 100 acres. For most watersheds over 100 acres, roadway drainage structures shall be designed for a minimum 25-year storm frequency. However, in isolated cases, the County Engineer may require that higher storm frequencies be used. In no case shall the design headwater elevation exceed the proposed shoulder elevation.

(b) Design discharges shall be computed using any of the following methods:

Rational Method
Potter Method
SCS Method

Drainage structures shall be sized using the procedures outlined in Hydraulic Engineering Circular No. 5.

c) The necessary permits shall be obtained for the construction of drainage structures, roadways or other improvements. A Corps of Engineer permit will generally be required for all structures draining 640 acres or more or for structures located in excess of one (1) mile from the headwaters of the watershed. Flood plain permits are required for any structure located in the flood plain. (June 26, 1990; Resolution No. 4653).

Sec. 4.14. STREET AND ROAD DESIGN.

(a) Streets and roads within the subdivision shall conform to the Nebraska Department of Transportation ~~State Board of Public Roads Classification Local Road RL-4~~. State highways and other highways, roads, or streets designated in the Comprehensive Plan shall have a typical cross section as determined by the Nebraska Department of ~~Roads~~ Transportation or the County Engineer.

(b) Streets and roads within the subdivision shall have a vertical and horizontal alignment designed for a minimum speed of 25 miles per hour. The vertical and horizontal design shall conform to the current AASHTO standards at the time the subdivision is being proposed. The maximum grade shall be seven percent (7%) and the minimum grade shall be one-half percent (0.5%). (This section added by the Board of County Commissioners on June 26, 1990; Resolution No. 4653).

Section 4.15. DESIGN STANDARDS FOR AG PRESERVATION LOTS. The following alternative design standards may be applied to AG Preservation lots.

(a) AG Preservation lots shall take access off a single shared driveway. Shared driveways shall have a public access, utility and maintenance easement of not less than sixty (60) feet. This easement shall extend from the public right-of-way to the lot line of the outlot or adjoining lot, or run the full length of the AG Preservation lots to provide access should the property be further subdivided in the future.

1) In the case of AG preservation subdivisions, with frontage on more than one County section line of one half (½) section line road, a single access point on each road may be allowed when the frontage on that road meets the minimum requirement and a safe access point can be approved by the County Engineer.

(b) Shared driveways with public access easements may be part of the larger outlot or in a separate outlot.

(c) The access point for a shared driveway shall be approved by the County Engineer.

(d) The Director of Planning may waive the required lot depth of no more than three (3) times the width in cases where it would allow for a more favorable lot arrangement or shared

driveway for AG Preservation lots.

(e) An AG Preservation lot may be allowed to front upon a public access, utility and maintenance easement. The Director of Planning has the authority to reduce the frontage requirements for AG Preservation subdivisions; however, the frontage requirements shall not be reduced in the AG Preservation subdivision has sufficient frontage on a County section line or one half ($\frac{1}{2}$) section line road to meet the minimum requirement.1) AG Preservation subdivisions that create a single buildable lot from a twenty (20) acre parcel shall maintain the required minimum frontage.

(f) When an AG Preservation subdivision abuts a County section line or one half ($\frac{1}{2}$) section line roadway, a minimum of fifty (50) feet of right-of-way shall be dedicated along the length of that road abutting the subdivision. (Resolution R-12-0059, July 24, 2012)

CHAPTER 5

MINIMUM IMPROVEMENTS

Sec. 5.01. STREET AND ROAD IMPROVEMENTS. All streets, roads and public ways within the subdivision shall be graded to the standards described in Resolution No. 3039 or in Chapter 4 of these regulations and shall be surfaced as follows:

(a) When streets and roads are located within a platted area where the average lot size is one-half ($\frac{1}{2}$) acres or less, or where there are two or more dwelling units per acre, such roads shall be constructed in accordance with the City of Lincoln standards and regulations for residential streets and shall include curb and gutter.

(b) When streets and roads are located within a platted area where the average lot size is less than 3.0 acres, but more than one-half ($\frac{1}{2}$) acre, such roads shall be hard surfaced with a type of material and thickness as specified by the Lancaster County Engineering Department. However, where additional traffic is anticipated, the County Engineer may specify other surfacing and an increase in thickness. (Resolution #R-05-0037; March 29, 2005; Resolution #R-01-5; January 30, 2001)

(c) Streets and roads located in platted areas which are not included in (a) or (b) above shall be surfaced with three (3) inches of crushed rock embedded into the subgrade during construction and one (1) inch of gravel. The crushed rock and the gravel shall conform to ~~Section 1033 of the State of~~ Nebraska Department of ~~Roads~~ Transportation Standard Specifications for Highway Construction (1997 - English Units). (Resolution #R-01-5; January 30, 2001)

Construction procedures for streets and roads shall conform to ~~subsections 204.01, 204.02 and 204.03 for Class III embankments of the State of~~ Nebraska Department of ~~Roads~~ Transportation Standard Specifications for Highway Construction (1997 - English Units). The required density shall be ninety-five percent (95%) for gravel surface and one hundred percent (100%) for paved surface of the maximum dry density, and required moisture content shall be between optimum and optimum plus two percent (2%). (Resolution #R-01-5; January 30, 2001)

All construction shall be subject to inspection and approval by the County Engineer. (June 26, 1990; Resolution No. 4653).

Sec. 5.02. SIDEWALKS. When required by the Board, Portland concrete sidewalks four (4) inches thick and four (4) feet wide shall be constructed on both sides of all highways, roads, or streets within or adjacent to the subdivision. Sidewalks not within a highway, road, street, or pedestrian way easement may be constructed of other material with the Board's approval. All construction shall be subject to inspection and approval by the County Engineer.

Sec. 5.03. WATER SUPPLY. (a) Where a public water supply approved by the County is reasonably available, each lot within the subdivision area shall be provided with a connection to such water supply. Fire hydrants may be required to be installed in such subdivisions.

(b) In all other subdivisions individual water well systems or a community water system shall be installed in such a manner that an adequate supply of potable water meeting the current standards of the Nebraska Department of Health ~~of the State of Nebraska and Human Services~~ for drinking purposes is available to every lot within the subdivision at the time improvements are erected thereon. All such individual water well systems shall be constructed in compliance with the rules and regulations of the Health Department. A community water system shall be constructed in accordance with the rules and regulations for community water supply systems of the State of Nebraska. The Health Department shall review the plans to verify the proposal complies with the rules and regulations.

c) In any subdivision where a community water system other than a rural water district is used, the subdivider, his/her successors and assigns, shall enter into an agreement with the Board whereby the operation and maintenance of the community water system shall be in compliance with the rules and regulations for public water supply systems of the State of Nebraska, a permit to operate the system has been received from the State of Nebraska, and the operator of the system possesses a certificate of competency issued by the State of Nebraska.

Sec. 5.04. WASTEWATER DISPOSAL. (a) All lots in the subdivision shall connect to the public wastewater collection system if the system is reasonably accessible. Each lot not having reasonable access to the public wastewater collection system and a community wastewater treatment facility complying with the rules and regulations of the Health Department and the State of Nebraska, or an individual wastewater system complying with the rules and regulations of the Health Department shall be provided.

(b) In a subdivision where more than four (4) lots of less than three (3) acres in size ~~or less~~ are created for building purposes, a community wastewater collection system shall be required to serve all the lots within the subdivision. Connection from such a system shall be made to a community wastewater treatment facility. All community wastewater systems shall comply with the rules and regulations of wastewater treatment works of the State of Nebraska. The plans of such system shall be reviewed by the Health Department to verify that the proposal complies with the rules and regulations.

c) Where the lot area is adequate, an individual wastewater system may be permitted if each disposal system is in conformance with Resolution No. 2832 or as amended and is approved by the City-Council Health Department and is not in conflict with the above subsection (b).

(d) In any subdivision where a community wastewater system is required, the subdivider, his/her successors and assigns, shall enter into an agreement with the Board whereby the operation and maintenance of the community wastewater system shall be in compliance with the rules and land regulations of wastewater treatment works of the State of Nebraska, a discharge permit has been received from the State of Nebraska, and the operator of the system has been trained to operate the system and possesses a certificate of competency issued by the State of Nebraska.

Sec. 5.05. DRAINAGE. Storm drain pipes, culverts, ditch liners and other drainage facilities shall be installed as per the approved drainage study. The minimum size for a driveway culvert pipe shall be eighteen (18) inches in diameter and twenty-four (24) feet in length. The minimum size for a street or road culvert pipe shall be twenty-four (24) inches in diameter and the length necessary to meet "embankment" and/or "skew" requirements. All pipe drainage structures shall be constructed of new corrugated metal conforming to ~~Section 719 and Section 724 of the State of Nebraska Department of Roads~~ Transportation Standard Specifications for Highway Construction (1997 - English Units), and shall have a minimum of one (1) foot of cover. All spiral corrugated metal pipe used for drainage shall have annular corrugations at each end of the pipe section, and manufactured with a continuously welded seam. Such construction shall be subject to inspection and approval of the County Engineer. (June 26, 1990; Resolution No. 4653).(Resolution #R-01-5; January 30, 2001)

Sec. 5.06. LAND PREPARATION AND GRADING. Any cut, fill, and compaction of land within, and if applicable, adjacent to the subdivision, shall be accomplished to control erosion and sedimentation during and after land preparation. The subdivider, his/her successors and assigns shall provide for disturbing only the areas needed for construction; removing only those trees, shrubs, and grasses that must be removed by construction, installing required sediment basins and diversion dikes before disturbing the land that drains into them, and temporarily stabilizing each segment of graded or otherwise disturbed land by seeding and mulching or by other

approved methods. As land preparation is completed, the subdivider, his/her successors and assigns shall permanently stabilize each segment with perennial vegetation and structural measures. Diversion dikes and sediment basins shall be leveled after areas that drain into them are stabilized, and permanent vegetation shall be established on those areas. Sediment basins that are to be retained for storm water detention shall be seeded to permanent vegetation no later than nine (9) months after completion of the sediment basins and shall be permanently maintained by the subdivider or his/her successors and assigns. The land shall be graded and shaped as per the approved grading plan. Grading and erosion control shall be subject to inspection and approval of the County Engineer.

Sec. 5.07. TEMPORARY TURNAROUND AND BARRICADES. A thirty (30) foot radius surfaced temporary turnaround shall be constructed at the end of all temporary dead-end streets and roads which extend more than one hundred fifty (150) feet beyond the nearest intersection with another street, road, or private roadway. In addition, a permanent barricade shall be erected, as outlined in the Manual on Uniform Traffic Control Devices (1988 Edition), paragraph 6C-8. The temporary turnaround and barricade shall be removed when the temporary dead-end street or road is extended therefrom. Proper design drainage and grading shall extend around all temporary turn-around cul-de-sacs and must remain in place until temporary dead-end streets are extended. (June 26, 1990; Resolution No. 4653). (Resolution #R-01-5; January 30, 2001)

Sec. 5.08. STREET NAME AND TRAFFIC CONTROL SIGNS. The design, location and installation of all street signs designating the name of streets, roads, private roadways, and traffic control signs shall be approved by the County Engineer.

Sec. 5.09. SEEDING AND EROSION CONTROL. All streets, roads, and public ways within the subdivision shall be seeded and shall conform to the requirements of ~~Subsections 803, 804 and 805 of the State of~~ Nebraska Department of Roads Transportation Standard Specifications for Highway Construction (1997 - English Units). Graded and other disturbed land shall be stabilized to prevent damage to them during construction. (This section added by the Board of County Commissioners on June 26, 1990; Resolution No. 4653). (Resolution #R-01-5; January 30, 2001)

CHAPTER 7

FORM OF PRELIMINARY PLAT

Sec. 7.01. INFORMATION ON A PRELIMINARY PLAT. The preliminary plat shall be accurately and legibly drawn to a scale that clearly shows all pertinent information required in this chapter. The proposed layout and design of all the features of the subdivision shall conform to this resolution and to the rules and regulations adopted by the Board.

The following required information shall be identified and shown on the preliminary plat:

(a) Name of the subdivision. The name of the subdivision shall not duplicate or approximate the name of an existing subdivision within Lancaster County unless the subdivision is adjacent to that existing subdivision and is an expansion thereof. The distinction shall be made by adding the suffix "First Addition" to the first duplication of the name, and then continuing in sequence.

(b) North arrow, scale of drawing, date prepared, the sheet number and total number of sheets included within each set of the preliminary plat submittal.

(c) Contour lines based on NAVD 1988 and at sufficient intervals, not to exceed five (5) feet, to duplicate adequately the existing and proposed topography and land form within and adjacent to the subdivision. The scaled distance between contour lines shall not exceed two hundred (200) feet. Notwithstanding the above, documents submitted before March 1, 2000, may be submitted in NAVD 1988 or in City datum or other datum as approved by the County Engineer. (Resolution No. R-3, December 30, 1999)

(d) Existing and proposed streets and private roadways within and adjacent thereto. This shall include the right-of-way and driving surface width, tangent length, the centerline radius of each curve and its interior angle, the angle of intersection with all other streets and private roadways, and the name or number of each.

Where the preliminary plat submitted covers only a portion of the subdivider's tract, a sketch of the prospective future street system of the unsubmitted part of the tract shall be furnished; and the street system of the part being platted shall be considered in connection with the proper projection of streets into the portion of the tract not being presently platted.

(e) The locations of the present property lines, section or township lines, the lines of incorporated areas, and subdivision jurisdiction lines.

(f) All lot lines and their dimensions. The dimensions along curvilinear lines shall be noted as being either chord or arc length.

(g) Lot and block numbers and outlot letters with the total number of each. All lots shall be numbered in sequence beginning with the number one (1) and continuing consecutively through each block with no omission or duplication. All blocks shall be numbered in the same manner. Outlots shall be assigned an alphabetical letter beginning with the letter "A" and continuing through the alphabet. Areas, except streets, to be dedicated or reserved for public or private parks or other public areas shall be outlots.

(h) Areas for schools, parks, playgrounds, fire stations, and other common areas for public use, along with any requested consideration for such area.

(i) The proposed method of providing wastewater treatment to each lot:

(1) If a public or community wastewater collector system is proposed, the size, direction of flow, location of the wastewater collectors, manholes, necessary extensions of the system within or beyond the limits of the subdivision to connect to the existing public wastewater collector system or to the community wastewater treatment facility, and the location of the community wastewater treatment facility.

(2) If the use of individual wastewater systems is permitted, pursuant to this resolution, plans for the proposed wastewater system and its location on each lot. If a septic tank system is proposed, soil and percolation data and plans which show the

location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system.

(J) The proposed method of providing water supply to each lot:

(1) If a public or community water system or rural water district is proposed, the location and size of all water mains, hydrants, and necessary extensions of the system within or beyond the limits of the subdivision to connect to the existing water mains or to the community well.

(2) If a community water system other than rural water district is proposed, data on the quantity and quality of the water shall be obtained from a test well within the immediate vicinity of the proposed water supply well. ~~If an individual water well system for each lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten (10) acres on a grid system unless each lot area exceeds ten (10) acres, then one (1) test well per lot. The results of the tests shall be completed in accordance with procedures acceptable to the Health Department.~~

(3) If an individual water well system for each lot is proposed, the applicant shall provide information on the expected quantity and quality of the water in the proposed development for Lincoln-Lancaster County Health Department (LLCHD) review. The information shall include geological and hydrological data obtained from public records on wells located within a reasonable distance from the proposed development as well as data obtained from a test well or test wells located within the proposed development. The LLCHD may waive the test well requirement within the proposed development if satisfactory geological and hydrological information has been provided surrounding the proposed development.

~~The report shall describe the chemical quality of the water supply and the flow in gallons per minute. Included shall be information depths to water, pumping well performance records, the nature of water bearing materials, the~~ Information shall include well logs; of test holes and an inventory of wells on contiguous land; ~~The report shall also include a map or maps showing precise locations of the wells; data sites. Such report shall contain: 1)~~ estimates of the demand for water by the proposed subdivision; ~~2) and an evaluation of the adequacy of the quantity and quality of water of the proposed community well or individual wells. The LLCHD may require additional water quality tests based on potential contamination known to be in the area. Acceptable quality shall mean water that may contain impurities or contaminants that can be treated, removed, or reduced to safe levels that meets the US EPA National Primary Drinking Water Regulations Maximum Contaminant Levels. The LLCHD shall make a recommendation to the Planning Commission or County Board based on this information. The results of these preliminary tests shall in no way be~~ This recommendation shall not be construed to guarantee the quantity or quality of water to individual lots in the proposed subdivision. ~~and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed subdivision.~~

(k) The location and size of all existing wastewater collectors and wastewater treatment facilities, storm drains, culverts, water mains and fire hydrants, power lines, cables, and other underground structures within or adjacent to the subdivisions. The location and size of the nearest water main and sewer or outlet, may be indicated in a general way upon the plat.

(l) The location, width, and purpose of all existing and proposed easements within or adjacent to the subdivision and all flowage easements.

(m) The location of all existing and proposed sidewalks, pedestrian ways, and bikeways with required easements and setbacks.

(n) The location of all existing structures and buildings within and adjacent to the

subdivision, their existing and proposed use.

(o) A certified accurate boundary survey showing sufficient linear, angular and curve data to determine the bearing and length of all boundary lines of the subdivision, a legal description thereof, and the number of acres therein. (This survey shall be field measured and shall mathematically close with an error of not more than one in twenty-five thousand (1/25,000). This survey shall also locate and identify all section corners and section lines. Where the subdivision abuts on an existing plat or other surveyed tracts, the distances, angles, and bearing of any common lines shall be shown; and any differences along common lines of the original survey and the survey of this subdivision shall be noted.

(p) A certificate for the signature of the Chair of the Commission in a form approved by the Planning Director.

Sec. 7.02. INFORMATION ON OR ACCOMPANYING A PRELIMINARY PLAT. The following required information shall be identified and shown on the preliminary plat or on accompanying sheets:

(a) Centerline profiles in NAVD 1988 of all existing and proposed streets and private roadways within and adjacent to the subdivision. The profile shall show points of intersection with all other streets and private roadways, stationing, the existing ground surface elevations, the proposed street grades, the length of vertical curves between changes in grade, and the profiles and horizontal alignment of temporary dead-end streets extending three hundred (300) feet beyond the limits of the subdivision. (Resolution No. R-3, December 30, 1999)

(b) A drainage study in NAVD 1988. When utilizing National Geodetic Vertical Datum 1929 (NGVD 1929) based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the County Engineer. The drainage study shall include the following: (Resolution No. R-3, December 30, 1999)

(1) A topographic map showing the drainage area and resulting runoff from all land lying outside the limits of the preliminary plat which discharges storm water runoff into or through the plat.

(2) A topographic map showing proposed contour lines and all subdrainage areas and resulting runoff within the limits of the preliminary plat.

(3) Directional flow arrows for surface drainage along all lot lines where:

i. The flow from one acre or more discharges along a common lot line; and

ii. The finished grade of the lot is proposed to be two percent (2%) or less.

The drainage study map shall provide sufficiently detailed information to determine the proposed slope along all lot lines.

(4) The size and location of the pipes, ditch liners, and other drainage facilities required to adequately drain the subdivision.

(5) A copy of the drainage computations.

c) The location, size, and common name of all existing trees within and adjacent to the subdivision. The location of the trees may be shown on an aerial photograph with the proposed streets and lots accurately shown thereon. All existing trees which measure three (3) inches or more in caliper five (5) feet above the ground shall be shown and each tree identified with its common name. However, if five (5) or more trees are located so that each is within approximately ten (10) feet of the edge of another tree, they may be considered a tree mass and the outline of the tree mass shall be shown, with a list of the common name of the trees which are within the tree mass and their general grouping. If this procedure is followed, the individual location of each tree within the tree mass is not necessary. An indication shall be made on the map showing which trees or tree masses are to remain and which trees or tree masses are to be removed.

(d) A vicinity sketch showing the general location of the preliminary plat in relation to

existing streets and section lines.

(e) Notwithstanding (a) and (b) above, centerline profiles and drainage studies submitted before March 1, 2000 may be submitted in NAVD 1988 or in City datum or other datum as approved by the County Engineer. (Resolution No. R-3, December 30, 1999)

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

Sec. 7.03. ADDITIONAL REQUIRED INFORMATION. Accompanying the preliminary plat submittal, the following information shall be submitted in a statement from the subdivider:

(a) Any interest the subdivider has in the land surrounding the preliminary plat and the nature of such interest.

(b) All requests to be submitted to the Board for special use permits, changes of zone, and vacations which are required to complete the development.

(c) The name, telephone number, and mailing address of the subdivider, any other person the subdivider may want informed of the preliminary plat process, and any person authorized to act on the subdivider's behalf.

(d) All deviations from this resolution and the adopted rules and regulations shall be set forth, reasons given for each deviation, reasons given on how the proposal meets the intent, and why the proposal should be accepted.

(e) Whether or not the subdivider intends to request County maintenance of the roads within the subdivision following completion of the roads to the County's maintenance standards.

Sec. 7.04. DEVELOPMENT WITHIN FLOOD PLAIN. The following additional information shall be included with the preliminary plat if any part of the subdivision is within the flood plain:

(a) All hydrological and grade information in NAVD 1988 including base flood elevation data with Zone A (no base flood elevations determined), which is necessary to determine the frequency and extent that the subdivision is subject to inundation by flood water, except that this shall not apply where the use of the property is not being changed and where there are no physical changes on the site which have the potential to increase the flood hazard. When utilizing NGVD 1929 based flood elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD 1988, unless a more accurate conversion factor using an established conversion program is demonstrated to the satisfaction of the County Engineer. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in NAVD 1988 or in City datum or other datum as approved by the County Engineer. (Resolution R-01-75, August 21, 2001)

(b) The type and extent of the proposed use or development of the land which is located within the flood plain, along with such information as is necessary to determine the effect flood waters will have on such development and use and the effect such development and use may have upon the flood waters. All such information shall show the location of the proposed use, areas of habitation and employment, including the location, size, and floor elevation of any structures, the location and elevation of all parking areas, and the use, location, and elevations of all open land areas.

(c) All plans and other information required herein shall conform to Chapter 6 of this resolution.

(d) The limits of the 100-year flood plain.

(e) The amount of fill material brought into the flood plain from outside the flood plain. If fill is from within the flood plain, give the location of the borrow area.

CHAPTER 8

FORM OF FINAL PLAT

Sec. 8.01. FINAL PLAT REQUIREMENTS.

The final plat shall comply with the subdivision design standards set out in Chapter 4 hereof, shall comply with the approved preliminary plat, and shall consist of an accurate map or plat designating specifically the land so laid out and particularly describing the lots, blocks, streets, roads, alleys, public ways or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto.

Sec. 8.02. FORM OF THE FINAL PLAT.

(a) The size of each sheet of said final plat shall be sixteen by twenty-two (16 X 22) inches, except that lien holder consent and subordination signature blocks and acknowledgement may be on separate 8 ½" by 11" sheets. All lots and, wherever practicable, blocks in their entirety, shall be shown on one sheet. (December 10, 2013, Resolution No. R-13-0070; Feb. 20, 2002, Resolution No. 02-23)

(b) Said final plat shall be accurately, clearly, and legibly drawn in black waterproof India ink or photographed upon tracing cloth or clear mylar which is a minimum of three thousandths (.003) of an inch thick, 24 lb. white paper, or its equivalent. Affidavits, certificates, and acknowledgements shall be legibly lettered or printed upon the final plat with opaque ink. Signatures shall be in opaque ink. (Resolution No. R-08-0009, February 19, 2008; Resolution No. R-08-0094, November 4, 2008).

(c) A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of at least one-half inch.

(d) The final plat shall be drawn to one of the following scales only: 1 inch equals 20 feet, 1 inch equals 30 feet, 1 inch equals 40 feet, 1 inch equals 50 ft., 1 inch equals 60 feet, or 1 inch equals 100 feet or any other scale proposed by the subdivider with the approval of the Planning Director. The scale selected shall be sufficient to show all required information clearly, and enough sheets shall be used to accomplish this end. (Resolution #4942, December 8, 1992).

(e) If more than one sheet is used, the particular number of the sheet and the total number of sheets comprising the final plat shall be stated on each of the sheets; and the relationship to each adjoining sheet shall be clearly shown. If more than two sheets are used, an index sheet the same size as required above shall be included showing, at whatever scale is necessary, the entire subdivision with an indication by the use of dotted lines of the component areas which are shown on the other sheets.

(f) The boundary of the subdivision shall be clearly identified on the final plat. All lines shown on the final plat which do not constitute a part of the subdivision itself shall be clearly distinguishable from those lines which are a part of the subdivision, and any area enclosed by such lines shall be labeled, "not a part of this subdivision."

Sec. 8.03. CERTIFICATES AND ACKNOWLEDGEMENTS ON FINAL PLAT. The final plat shall show the following:

(a) Owner's acknowledgement and offer of dedication, if any. Such plat shall be signed and acknowledged by the owner or owners of the land subdivided in the same manner and form as the acknowledgment of a deed conveying real estate, before some officer authorized to take the acknowledgments of deeds;

Lien holder's acknowledgement and consent to owners offer of dedication, if any;

- (b) Certificate of the surveyor;
- (c) Certificate of approval by the Planning Director;
- (d) All affidavits, certificates, acknowledgments, endorsements, dedications, and notarial seals as are required by law and the provisions of this resolution shall be as approved by the County Attorney. (November 8, 2005, Resolution No. R-05-0142)

Sec. 8.04. DATA REQUIRED ON A FINAL PLAT. (a) The final plat shall be accurately and legibly drawn and shall show the following:

(1) All survey and mathematical information with sufficient linear, angular, and curve data necessary to locate all existing and placed monuments and stakes, and to locate and retrace all lots, blocks, and parcels within the subdivision, and the boundary of the subdivision. Where the land being subdivided abuts on an existing plat, the distances, angles, and bearing of all common lines and the street centerline points shall be shown and any differences in measurements so noted.

(2) All dimensions on the final plat shall be to the nearest one-hundredth (.01) of a foot with such other information necessary to reproduce the final plat on the ground.

(3) Lot, outlot, and block lines. All such lines shall be shown and dimensioned.

i. Where such lines are curved at street intersections, the length of tangents shall be shown.

ii. Where such lines abut curvilinear streets, chord or arc distances shall be shown and noted.

iii. All angles of deflection or bearings of such lines other than those which are at right angles to the centerline of a street or on a radial line of a curved street.

(4) Lot, outlot, and block identity. Within each block all lots shall be numbered in sequence, beginning with the number one (1) and continuing consecutively throughout each block with no omission or duplication. All blocks shall be numbered in the same manner. Outlots shall be assigned an alphabetical letter beginning with the letter "A" and continuing consecutively through the alphabet.

(5) Areas to be dedicated or reserved for public use. For streets, private roadways, and other public ways within and adjacent to the subdivision, the location, name, centerline, centerline radius, length, and interior angle of horizontal curves, tangent length, and width. All areas shall be located and identified which are to be dedicated or reserved for public use, including park land and other public areas. All such parcels shall be outlots except streets dedicated to the public. A clear distinction shall be made as to which parcels are to be dedicated to the public from those parcels to be privately owned by or reserved for public use.

(6) The location and identification of all section corners, section lines, monuments and stakes found and placed. The boundary lines shall be located in reference to existing official monuments. Describe the stakes, monuments, or other evidence used to determine the boundaries of the subdivision.

(7) The lot area in square feet for each lot and outlot, the number of acres, total number of lots and outlots within the subdivision. (Resolution #5322 dated May 7, 1996)

(8) A blank space shall be left at the top of the first page which is at least two and one-half (2 ½) inches by six and one-half (6 ½) inches in size.

~~(8) The lot area in square feet for each lot and outlet, the number of acres, total number of lots and outlets within the subdivision. (Resolution #5322 dated May 7, 1996)~~

(b) The following data shall be shown on each sheet of the final plat:

- (1) The name of the subdivision, the use of first (1st), second (2nd), third (3rd), etc. for additions or subdivisions shall be made in sequence, but only if the final plat is located adjacent to a plat with the same name.
- (2) Scale.
- (3) North arrow.
- (4) Sheet number and the total number of sheets comprising the final plat.
- (5) The name and number of the Preliminary Plat upon which the Final Plat is based. This information shall appear directly beneath the name of the Final Plat. (Resolution #R-01-14 dated March 27, 2001)

Sec. 8.05. ADDITIONAL INFORMATION REQUIRED. Accompanying the final plat submittal, the following information shall be submitted:

(a) a statement from the subdivider indicating:

(1) Any interest the subdivider has in the land surrounding the final plat and the nature of such interest.

(2) The name, telephone number, mailing address of the subdivider, record owner, and any other person the subdivider may want informed of the final plat process, and any person who has the authorization to act on behalf of the subdivider. (December 10, 2013, Resolution No. R-13-0070)

(b) A Computer-Aided-Design (CAD) file representing all information being submitted that complies with the CAD File Submittal Standards maintained by the Lancaster County Engineer. (Resolution No. R-18-0001, January 9, 2018)

Sec. 8.06. SURVEY REQUIREMENTS. (a) A land survey is required to support data furnished on the final plat, and this survey shall conform to all requirements set forth in this paragraph. All angles and dimensions shown on the plat shall be field measured. The survey of the centerline of all streets within the plat and the periphery of the plat shall mathematically close with an error of not more than one in twenty-five thousand (1/25,000). The survey shall be tied into the modified state plane coordinate system when necessary data to make the tie is available from the County Engineer. The final plat shall include a certificate signed by a registered land surveyor certifying that ~~he~~ the surveyor has accurately surveyed the subdivision and attesting to the accuracy of the survey, the correct location of all permanent survey monuments shown, and that the lots, blocks, streets, alleys, public ways, and grounds are staked and marked as herein required. The surveyor's certificate shall include a metes and bounds traverse description of the land being subdivided and the number of acres included. The surveyor's name, land surveying registration number, address, and if applicable, firm name shall appear below ~~his~~ the surveyor's signature; however, the letters of the firm name shall not appear elsewhere on the final plat.

(b) The land surveyor who performs the survey and certifies the final plat shall be obligated to place all of the following monuments and stakes in the subdivision and show the same on the final plat:

(1) A permanent monument at each of the final plat corners of the periphery of the subdivision.

(2) A permanent monument on the centerline of each street within the final plat or abutting thereon, at each street intersection, at the intersection of each street and railroad right-of-way, and at each point of tangency and curvature.

(3) A permanent metal stake shall be installed designating lot corners and block

corners within the subdivision.

c) The length, size, material, and approximate depth of all monuments and metal stakes placed in making the survey shall be designated by the County Engineer.

CHAPTER 9

GENERAL PROVISIONS

Sec. 9.01. MODIFICATION OF REQUIREMENTS. Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in real difficulties or substantial hardship or injustice, ~~the Board, after report by~~ the Commission, may vary or modify such requirements so that the subdivider may develop his property in a reasonable manner, but so that, at the same time, the public welfare and interests of the County and surrounding area are protected and the general intent and spirit of these regulations preserved.

Sec. 9.02. SEVERABILITY. Each section and each subdivision of this resolution is hereby declared to be independent of every other section or subdivision of a section so far as inducement for passage of this resolution is concerned; and the invalidity of any section or subdivision of a section of this resolution shall not invalidate any other section or subdivision of a section hereof.

Sec. 9.03. COORDINATING SUBDIVISION AND COMMUNITY UNIT PLAN. A preliminary plat is not required whenever the tract to be subdivided is included in a community unit plan. The approval of said community unit plat shall require that the tract to be subdivided conform to the requirements of this title, except that the approval may include a provision varying or modifying the requirements of this title so as to permit the coordinated development of a subdivision and a community unit plan; provided the public welfare and interests of the County and surrounding area are protected and the general intent and spirit of the regulations preserved. The Planning Director shall be authorized to approve final plats submitted in accordance with a community unit plan, notwithstanding the fact that such plats require modifications to the requirements of this title if such modifications were specifically approved at the time of approval of the community unit plan. (November 8, 2005, Resolution No. R-05-0142)

Sec. 9.04. PENALTY. Any violation of this resolution or of any regulation made by the County Board under the provisions of this resolution shall be a misdemeanor. Any person, partnership, association, club, or corporation violating the provisions of this resolution or of any regulation of the County Board, 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.

Sec. 9.05. NOTICE OF HEARING.

(a) No hearing shall be held by the Commission until notice thereof shall have been given by the Planning Director on behalf of the Commission, by publication of notice of said hearing one time at least ~~eight (8)~~ five (5) days prior to such hearing in a daily newspaper having a general circulation in the City of Lincoln and Lancaster County in a local newspaper of any county which has a territory within three (3) miles of the property affected by such action of the County Board. Notice of the time and place of such hearing shall also be given in writing to the Chair of the municipal, county or joint planning commission, which has jurisdiction over land within three (3) miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three (3) miles of the property affected by such action.

(b) For hearings on a preliminary plat, in addition to the notice provided in paragraph (a) above, notice shall be posted in a conspicuous place on or near the property being subdivided, stating that the Commission will hold a hearing on the proposal to subdivide the property. Said notice shall be posted at least eight (8) days in advance of the hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change the posted notice prior to the hearing time.

(c) A general notice describing the property location and stating the date and location of the Commission hearing will be mailed at least ten (10) days before the Planning Commission's public hearing to the owners of record within one (1) mile of the boundaries of the proposed subdivision. Receipt of such notice is not mandatory or required as a condition precedent to any such public hearing. (Resolution No. R-08-0094, November 4, 2008).

CHAPTER 10

FEES

Sec. 10.010. GENERAL REGULATIONS. Any person submitting an application for approval of a final plat, preliminary plat, amendment to a final plat or preliminary plat, survey error to correct another application, postponement that requires additional legal notice, or any other application under the Land Subdivision Resolution of Lancaster County shall pay an appropriate fee therefore established by Resolution of the Lancaster County Board of Commissioners. Under no condition shall any fee required hereunder be refunded for failure of said application to be granted by the County Board or other appropriate authority. No fee shall be required when any application or requested action is initiated by the County Board on its own motion or by any board member or any person or group officially designated to participate in the administration of this Resolution. (Resolution No. R-12-0082, October 2, 2012)