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NOW THEREFORE BE IT RESOLVED BY THE PEOPLE OF YORK, COUNTY, NEBRASKA:

SECTION 1: ESTABLISHMENT OF DISTRICTS - PROVISION FOR OFFICIAL ZONING MAP

- 1.1 OFFICIAL ZONING MAP: York County is hereby divided into zones or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution.
- 1.2 The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners attested by the County Clerk and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 1 of this Resolution Number 50 of York County, Nebraska" together with the date of the adoption of this Resolution.
- 1.3 If in accordance with the provisions of this Resolution and Chapter 23, Laws of Nebraska, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after amendment has been approved by the Board of Commissioners together with an entry on the Official Zoning Map which shall read as follows: "On (date), by official action of the Board of Commissioners, the following (change) was made on the Official Zoning Map (brief description of the nature of the change)", which entry shall be signed by the Chairman of the Board of Commissioners and attested by the County Clerk. No amendment to this Resolution which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map and such entry has been signed and attested.
- 1.4 No changes of any nature shall be made in the Official Zoning Map or matter shown thereon, except in conformity with the procedures set forth in this Resolution. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Resolution and punishable as provided under this Resolution.
- 1.5 Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, which shall be filed with the County Clerk and located in the Board of Commissioners, Meeting Room, shall be the final authority as to the current status of land and water areas, buildings, and other structures in the County.

SECTION 2: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

- 2.1 Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
- A. Boundaries indicated as approximately following the centerlines of roads, highways, alleys or watercourses shall be construed to follow such centerlines.
  - B. Boundaries indicated as approximately following the corporate limits of any municipality or the planning and zoning jurisdictional boundaries of any municipality shall be construed as following such corporate limits or jurisdictional boundaries.
  - C. Boundaries indicated as parallel to or extensions or features indicated in Subsections A and B, immediately above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Official Zoning Map.
  - D. In circumstances not covered by Subsections A through C immediately above, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Zoning Adjustment shall interpret the district boundaries. Where a district boundary divides a lot or tract which is in single ownership at the time of adoption of this Resolution, the Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot or tract, not to exceed one hundred (100) feet beyond the district boundary line indicated on the Official Zoning Map, into the remaining portion of the lot or tract.

### SECTION 3: APPLICATION OF DISTRICT REGULATIONS

- 3.1 The regulations set forth by this Resolution within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.
- 3.2 No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- 3.3 No building or other structure shall hereafter be erected, moved or altered to exceed the height or bulk, to accommodate or house greater numbers of families, to occupy a greater percentage of lot area, to have narrower or smaller front, side or rear yards or other open space than herein required, or in any manner contrary to the provisions of this Resolution.
- 3.4 No part of a yard, other open space, off-street parking or loading space required about or in connection with any building or structure for the purpose of complying with the requirements of this Resolution shall be included as part of a yard, other open space, off-street parking or loading space similarly required for any other building or structure.
- 3.5 No yard or lot existing at the time of passage of this Resolution shall be reduced in dimension or area below the minimum requirements set forth in this Resolution. Yards or lots created after the effective date of this Resolution shall meet at least the minimum requirements established by this Resolution.
- 3.6 In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements adopted for the promotion of the general public health, safety, morals and general welfare. Wherever the requirements of any other lawfully established rules, regulations, resolutions, deed restrictions or covenants are at variance with the requirements of this Resolution, the most restrictive or that which imposes a higher standard shall govern. With regard to such other rules, this Resolution specifically recognizes the structure height and other restrictions applicable in the Airport Hazard Zoning applicable to areas in and around the York Municipal Airport and any applicable rules that may now or in the future apply with regard to minimizing hazards around other aircraft landing strips in York County.

## SECTION 4: NON-CONFORMING USES

### 4.1 INTENT

Within the zoning districts established by this Resolution or amendments that may be adopted at a later date, there exists 1) lots, 2) structures, 3) uses of land and structures, and 4) characteristics of use which were lawful before this Resolution was adopted or amended, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of the Resolution that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

Non-conforming uses are declared by this Resolution to be incompatible with those uses permitted in the zoning district involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structures and land in combination shall not be extended or enlarged after passage of this Resolution by attachment of additional signs intended to be seen from off the premises to or on existing structures or by the addition of other uses of a nature which would be prohibited in the zoning district involved.

To avoid undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Resolution and upon which actual building construction has been diligently carried on. Actual construction materials in a permanent position and fastened in a permanent manner, or where a zoning permit for such construction has been issued and said construction is initiated within one (1) year after the date the zoning permit was issued. Where excavation has been substantially begun preparatory to building, such excavations shall be deemed to be actual construction, provided that construction work shall be diligently carried on. Amended 06/03/2008, Resolution #08-45.

Notwithstanding other provisions of this Section, a lawfully established residential use rendered non-conforming by the adoption of this Resolution or future amendment may be enlarged, altered or reconstructed, provided, however,

1. Such residential uses shall comply with Section 4.2 of this Resolution.
2. This provision shall not be construed to include more than one (1) use on a lot and shall be applicable so long as such use remains otherwise lawful.

### 4.2 NONCONFORMING LOTS OF RECORD

In any zoning district in which single-family structures are permitted, a single-family dwelling and customary accessory buildings and structures may be erected on any single lot of record as of the effective date of adoption of this Resolution or future amendment, notwithstanding limitations imposed by other provisions of this Resolution.

Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements of this Resolution for area or width or both, that are applicable in the zoning district, provided that yard dimensions of the lot shall conform to the zoning regulations for the zoning district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this Resolution or future amendment, and if all or part of the lots do not meet the requirements established in the Resolution for lot width and area, the land involved shall be considered to be an undivided parcel for the purpose of this Resolution and no portion of said parcel shall be used or sold in manner which diminishes compliance with the lot width and area requirements established by this Resolution nor shall any division of any parcel be made which creates a lot or parcel with a width or area less than required by this Resolution.

#### 4.3 NON-CONFORMING USES OF LAND (with minor structures only)

Where, at the time of adoption of this Resolution, lawful use of land exists which would not be permitted by these regulations and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000), the use may be continued so long as it remains otherwise lawful, provided:

1. If any such non-conforming use of land ceases for any reason for a period of one (1) year, any subsequent use of such land shall conform to the regulations specified by this Resolution for the zoning district in which such land is located.
2. No additional structure not conforming to the requirements of this Resolution shall be erected in connection with such non-conforming use of land.
3. No such non-conforming uses shall be moved in whole or in part, to any portion of the lot or parcel of land than that occupied by such use at the effective date of adoption or amendment of this Resolution.
4. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of this Resolution or applicable amendment thereto.

#### 4.4 NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption of this Resolution or applicable amendment thereto that could not be constructed under the terms of this Resolution by reason of restrictions or area, lot coverage, height, yard requirements, the location on the lot, or other requirements concerning the structure, such structure may remain so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of such structure be destroyed by any means to an extent of more than seventy-five percent (75%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with all applicable provisions of this Resolution.
3. Should such non-conforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the applicable regulations for the zoning district in which it is located after it is moved.

#### 4.5 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000) or more, or structure and land in combination exists at the effective date of adoption of this Resolution or applicable amendment thereto that would not be allowed in the zoning district in which such structure and use is located, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted in the applicable zoning district shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the applicable zoning district.
2. Any non-conforming use may be extended throughout any parts of a building or area which were manifestly arranged or designed for such use at the time of adoption or applicable amendment of this Resolution, but no such use shall be extended to occupy any land outside such building or area.
3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may, as a special exception, be changed to another non-conforming use provided that the Board of Commissioners by making of specific findings determine that the proposed use is equally appropriate or more appropriate to the zoning district than the existing non-conforming use. In permitting such change, the Board of Commissioners shall establish and require adherence to conditions and safeguards in accordance with the provisions of this Resolution and the applicable zoning district.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations of the applicable zoning district and a non-conforming use may not be resumed.

5. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, except when government action impedes access to the premises, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the applicable zoning district.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure or structures shall eliminate the non-conforming status of the land. Destruction for the purposes of this subsection is defined as damage beyond seventy-five percent (75%) of the replacement cost at the time of destruction.

#### 4.6 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use work may be done with regard to ordinary repairs including repair or replacement on non-bearing walls, fixtures, heating and cooling systems, wiring, plumbing and roofing, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repair and maintenance and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt after six (6) months of said declaration, except in conformity with the regulations of the applicable zoning district.

Nothing in this Resolution shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or part thereof declared to be unsafe within the time limitations herein established.

#### 4.7 USES UNDER SPECIAL EXCEPTIONS

A special exception granted under the terms of any prior regulation shall remain as a special exception under this Resolution. All conditions and limitations specified in the granting of a special exception under any prior regulation shall remain in full force and effect and shall be enforceable under this Resolution. A special exception granted under the terms of this Resolution shall not be deemed a non-conforming use.

- 4.8 Any change from one non-conforming use to another non-conforming use, as authorized in Section 4.5, Subsection 3 or this Resolution, which is approved by the Board of Commissioners, as a special exception, shall remain a non-conforming use and shall be subject to the same non-conforming use regulations of this Resolution.

#### 4.9 LIVESTOCK FEEDLOTS AND CONFINED LIVESTOCK FEEDING FACILITIES

If a lawful feedlot or commercial feedlot exists at the effective date of adoption of this Resolution or applicable amendment thereto, which would not be permitted in the zoning district or which is restricted due to its location near a dwelling unit, church or



school, such feedlot or commercial feedlot shall not be deemed a non-conforming use unless feeding activity in such feedlot or commercial feedlot shall have continuously ceased for a period of longer than 3 years.

Any feedlot or commercial feedlot in which feeding of livestock has continuously ceased for longer than three (3) years shall be considered abandoned as a feedlot or commercial feedlot and feeding of livestock in such feedlot or commercial feedlot shall not be initiated in any respect except in compliance with all requirements of this Resolution.

RESOLUTION NO. 28

Nebraska Resolution

A RESOLUTION DESIGNED TO MEET STATE AND FEDERAL REQUIREMENTS FOR PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM FOR COMMUNITIES IDENTIFIED AS FLOOD PRONE BUT HAVE NOT RECEIVED DETAILED FLOOD INSURANCE STUDY INFORMATION

SECTION 5-1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

5-1.1 STATUTORY AUTHORIZATION

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

5-1.2 FINDINGS OF FACT

5-1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of York County, Nebraska, are subject to inundation which results in loss of life and property, health safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

5-1.22 General Causes of the Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

5-1.3 STATEMENT OF PURPOSE

It is the purpose of this Resolution to promote the public health, safety, and general welfare and to minimize those losses described in Section 5-1.21 by applying the provisions of this Resolution to:

5-1.31 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

5-1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

5-1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

5-1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

SECTION 5-2.0 LOCAL ADMINISTRATOR RESPONSIBILITIES

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Resolution and all other Resolutions of the County of York now in force or hereafter adopted, related to zoning, subdivision or building codes.

SECTION 5-3.0 LOCAL ADMINISTRATOR ADDITIONAL RESPONSIBILITIES

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

SECTION 5-4.0 DESIGNATION OF CURRENT FIRM

The Governing Body of the County of York hereby designates the current Flood Insurance Rate Map, for the County of York and amendments, as the official map to be used in determining those areas of special flood hazard.

SECTION 5-5.0 PERMIT REQUIRED

Permits required: No person, firm or corporation shall initiate a floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in this Resolution.

A. Within a special flood hazard areas on the official map, separate floodplain permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.

- B. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
1. Identify and describe the development to be covered by the floodplain development permit for which application is made.
  2. Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  3. Indicate the use or occupancy for which the proposed development is intended.
  4. Be accompanied by plans and specifications for proposed construction.
  5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
  6. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in the case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
  7. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1") penalty is assessed at the time of rating the structure for the policy premium.)

#### SECTION 5-6.0 DEVELOPMENT PERMIT APPLICATIONS REVIEW

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

#### SECTION 5-7.0 ALL APPLICATIONS REVIEW (See Section 5-21)

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) (as defined in Section 5-21 of this Resolution) will:

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

1. That until a floodway has been designated - No development or substantial improvement may be permitted within the identified floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood more than one (1) foot at any location.
  2. Residential Construction - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
  3. Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the local administrator.
  4. Require for all new construction and substantial improvements - That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designated to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- B. Require the use of construction materials that are resistant to flood damage.
- C. Require the use of construction methods and practices that will minimize flood damage.
- D. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- E. New structures be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions flooding.

- F. Assure that all manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured home must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
1. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side.
  2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side.
  3. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  4. Any additions to manufactured homes be similarly anchored.
- G. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the community's official map on sites:
1. Outside of a manufactured home park or subdivision;
  2. In a new manufactured home park or subdivision;
  3. In an expansion to an existing manufactured home park or subdivision; or
  4. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5-7.F.
- H. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's official map that are not subject to the provisions of Section 5-7.G be elevated so that either:
1. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
  2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 5-7.F.

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

#### SECTION 5-8.0 SUBDIVISION APPLICATION

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

- A. All such proposed developments are consistent with the need to minimize flood damage.
- B. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All public utilities and facilities are located so as to minimize or eliminate flood damage.

#### SECTION 5-9.0 WATER AND SEWAGE SYSTEMS

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

#### SECTION 5-10.0 STORAGE OF MATERIAL AND EQUIPMENT

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

#### SECTION 5-11.0 FLOOD-CARRYING CAPACITY WITHIN ANY WATERCOURSE

The Governing Body of the County will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will

notify, in riverine situations, adjacent communities and the State Coordinating Office (Nebraska Natural Resources Commission) prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency. Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

#### SECTION 5-12.0 VARIANCE PROCEDURES

- 5-12.1 The Board of Zoning Adjustment as established by York County shall hear and decide appeals and requests for variances from the requirements of this Resolution.
- 5-12.2 The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of the Resolution.
- 5-12.3 Any person aggrieved by the decision of the Board of Zoning Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943.
- 5-12.4 In passing upon such applications, the Board of Zoning Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this Resolution, and;
  - 5-12.41 the danger that materials may be swept onto other lands to the injury of others;
  - 5-12.42 the danger of life and property due to flooding or erosion damage;
  - 5-12.43 the susceptibility of proposed facility and its contents to flood damage and effect of such damage on the individual owner;
  - 5-12.44 the importance of the services provided by the proposed facility to the community;
  - 5-12.45 the necessity to the facility of a waterfront location, where applicable;
  - 5-12.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - 5-12.47 the compatibility of the proposed use with existing and anticipated development;
  - 5-12.48 the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - 5-12.49 the safety of access to the property in times of flood for ordinary and emergency vehicles.
  - 5-12-49-1 the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - 5-12-49-2 the costs providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.



## 5-12.5 Conditions for Variances

- 5-12.51 Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (5-12.52 through 5-12.55 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 5-12.52 Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 5-12.53 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5-12.54 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or resolutions.
- 5-12.55 The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct below base flood level will result in increased premium rates for flood insurance to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.

## SECTION 5-13.0 NON-CONFORMING USE

5-13.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of the Resolution, but which is not in conformity with the provisions of this Resolution may be continued subject to the following conditions:

5-13.11 If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Resolution.

5-13.12 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

5-13.13 If any non-conforming use or structure is destroyed by any means including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Resolution. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

## SECTION 5-14.0 PENALTIES FOR VIOLATION

Refer to SECTION 15.2

## SECTION 5-15.0 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Resolution to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this Resolution imposes greater restrictions, the provision of this Resolution shall prevail. All other Resolutions inconsistent with this Resolution are hereby repealed to the extent of the inconsistency only.

## SECTION 5-16.0 INTERPRETATION

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal, of any other powers granted by state statutes.

## SECTION 5-17.0 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Resolution is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris.

This Resolution does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Resolution shall not create liability on the part of York County or any officer or employee thereof for any flood damages that may result from reliance on this Resolution or any administrative decision lawfully made thereunder.

#### SECTION 5-18.0 SEVERABILITY

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

#### SECTION 5-19.0 APPEAL

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

#### SECTION 5-20.0 CONFLICTING RESOLUTIONS

This Resolution shall take precedence over conflicting Resolutions or parts of Resolutions. The Governing Body of the County of York may, from time to time, amend this Resolution to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of this Resolution are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Floodplain Management Act.

#### SECTION 5-21.0 DEFINITIONS

Refer to Definitions in SECTION 17.

SECTION 6: SCHEDULE OF ZONING DISTRICT REGULATIONS ADOPTED

- 6.1 District regulations shall be set forth in this Schedule of District Regulations, hereby adopted by reference and declared to be a part of this Resolution and in Section 9 of this Resolution, entitled "Supplemental District Regulations."
- 6.2 For purposes of this Resolution, the following zoning districts and Official Zoning Map designations are established:
- GA - General Agricultural District
  - ICD - Interstate Commercial District
  - RCI - Rural Commercial/Industrial District

Amended 12/30/2008, Resolution #08-97; Amended 06/03/2008, Resolution #08-46;

## SECTION 7: GA - GENERAL AGRICULTURAL DISTRICT

### 7.1 INTENT:

The intent of this District is to preserve land best suited for agricultural uses, including livestock feeding both in small lots and in commercial feedlots, by preventing introduction or encroachment of uses of land which would or could become incompatible with agricultural uses and activities and by controlling the location of residential and other uses which are potentially incompatible with agricultural uses and activities herein permitted.

### 7.2 PERMITTED PRINCIPAL USES:

- A. Any form of agriculture, as defined in Section 17 of this Resolution, including raising of crops, horticultural and agricultural uses, animal and poultry and pasturing including livestock feeding involving two thousand five hundred (2,500) animal units, as defined in Section 17 of this Resolution, but excluding commercial feedlots, as defined in Section 17 of this Resolution, livestock auction barns or yards and grain storage or milling facilities not subordinate to the raising of crops on the same premises, provided that the feeding of livestock in a feedlot, as defined in Section 17 of this Resolution, shall not be located closer to a dwelling unit not under the same ownership and on the same premises as the feedlot, than one-fourth (1/4) mile, measured from the nearest point of the feedlot to the nearest point of the dwelling unit.

Any existing non-commercial feedlot that is located within one-fourth (1/4) mile to an existing dwelling unit not of the same ownership and on the same premises as the feedlot, shall not be deemed a non-conforming use and may be expanded up to a maximum of two thousand five hundred (2,500) animal units, provided such expansion does not bring the boundaries of such feedlot closer to such dwelling unit.

- B. A one-family dwelling, including a mobile home, as a dwelling on a farmstead, as defined in Section 17 of this Resolution.
- C. A single-family dwelling or mobile home, not located on a farmstead as defined in Section 17 of this Resolution, provided such non-farmstead dwelling complies with all of this following conditions:
1. Such dwelling shall be separated from any existing feedlot, as defined in Section 17 of this Resolution, by a distance of not less than one-fourth (1/4) mile and from a commercial feedlot, as defined in Section 17 of this Resolution, by a distance of not less than one half (1/2) mile. Such distance shall be from the nearest edge of the area used or approved under this Resolution for a feedlot to the nearest point of such dwelling.

2. Such dwelling shall be located on a lot that has at least one (1) acre in area, provided that a larger lot may be required if the regulations of the Nebraska Department of Health and Human Services System and/or the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal system.
3. The lot on which such non-farmstead and farmstead dwelling is located shall front on or have access to an existing public roadway that has a hard or improved surface. Such lot may have secondary access from an improved or minimum maintenance roadway.
4. The total number of farmstead and non-farmstead dwellings and mobile homes shall not exceed a total of one (1) per quarter quarter section, as defined in Section 17 of this Resolution, except for a temporary special exception for care of immediate family members as regulated in Section 7.5 of this Resolution, unless a special exception is obtained.

D. Irrigation wells, center pivots, re-use pits and pumps and other irrigation systems and structures in accordance with the following conditions and restrictions:

1. The closest points of any irrigation wells and related well houses, fuel tanks and pivot pads shall not be located closer than ten (10) feet to any road right-of-way line, except:
  - a. That at the intersection of any public roadways, the closest points of any such irrigation wells and related well houses, fuel tanks and pivot pads shall not be located in the triangular area formed by the intersection of the roadway right-of-way lines nearest the property in question and a line connecting points forty-two and one-half (42-1/2) feet from the intersection of said right-of-way lines, or
  - b. That within one hundred (100) feet of any bridge, culvert or other drainage structure under a public roadway, measured from the outermost points of such bridge, culvert or other drainage structure parallel to such roadway, the nearest points of any such irrigation wells and related well houses, fuel tanks and pivot pads shall not be located closer than thirty (30) feet from the right-of-way line of such roadway. Amended 09/28/04, Resolution #38; 04/26/05 Resolution #18.
2. Re-use pits and pumps shall be located so that the points of excavation for re-use pits, lagoons or drainage pits shall be as follows:
  - a. Re-use pits, lagoons or drainage pits which are bermed and have a controlled inlet tube shall have a point of excavation at least twenty (20) feet from any established road right-of-way line.

- b. Re-use pits, lagoons or drainage pits which are not bermed and equipped with a controlled inlet tube shall have a point of excavation at least forty (40) feet from any established road right-of-way.
  - c. Notwithstanding the requirements of paragraphs a. and b. immediately above, all lagoons and pits for the control or treatment of livestock waste shall have a point of excavation at least forty (40) feet from any established road right-of-way.
  - d. At the intersection of any public roadways, no berm or other structure related to a re-use pit or lagoon shall be higher than the lowest elevation of both roadway centerline surfaces that occur within one hundred (100) feet from the intersection of the roadway right-of-way lines nearest the property in question in both directions along said right-of-way lines.
- E. Park and open space recreation uses, rest stops, campgrounds, golf courses, riding academies and other similar uses and surface water retention structures.
  - F. Signs, both on-site and outdoor advertising signs.
  - G. Fuel alcohol plants with less than one hundred thousand (100,000) gallons per year production capacity.
  - H. Government facilities of a minor activity nature such as patrol sheds.
  - I. Churches and church schools, provided such uses shall have sufficient lot area for all structures, activities and vehicle parking and further provided that such uses are located not less than one-half (1/2) mile from any existing feedlot, commercial feedlot or bulk storage facility, as defined in Section 17 of this Resolution and as measured in accordance with paragraph C, subparagraph 1 of this Section.
  - J. On-site wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution. Amended 04/21/09, Resolution #09-35.

7.3 PERMITTED ACCESSORY USES:

- A. Roadside stands,
- B. Feed mills and similar uses associated with livestock feeding operations, excluding meat packing and rendering operations,
- C. Agricultural crop seed sales and storage,
- D. Garages, excluding commercial repair garages,
- E. Grain storage buildings and bins and other out-buildings commonly associated with agricultural activities,

- F. Radio and satellite antennas (satellite dishes), excluding towers of more than one hundred feet,
- G. Other uses appurtenant to the permitted uses and secondary to such permitted uses when established in conformance with all requirements of this District.
- H. Storage of gasoline, diesel fuel, propane or anhydrous ammonia in excess of two thousand (2,000) gallons, provided such storage facility shall be located a minimum of one-fourth mile from any church, school or residential dwelling not of the same ownership as the storage facility. (Amended 04/21/09, Resolution #09-34)

7.4 SPECIAL EXCEPTION USES:

After the provisions of this Resolution related to special exceptions have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Section 12 of this Resolution, permit the following uses as special exceptions in the GA, General Agricultural District:

- A. Cemeteries
- B. Commercial feedlot, as defined in Section 17 of this Resolution, provided such commercial feedlot shall meet all of the following requirements:
  - 1. Such feedlots and feeding operations shall not be located closer than one-half (1/2) mile to any dwelling unit not of the same ownership and on the same premises as such feedlot, nor to any church or school

Measurement of this required distance shall be from the nearest point of the feedlot area in existence or approved for such use to the nearest point of such dwelling unit.

Any existing commercial feedlot that is located within one-half (1/2) mile to an existing dwelling unit not of the same ownership and on the same premises as the feedlot shall not be deemed a non-conforming use and may, if in conformance with the regulations of the Nebraska Department of Environmental Quality and if permitted by the Board of Commissioners in approval of a special exception, be expanded, provided such expansion does not bring the boundaries of such feedlot closer to such dwelling unit, church or school.

- 2. All feedlot runoff, control ponds and basins, methods of manure disposal and similar activities shall be developed to minimize air and water pollution and shall be as required by the Nebraska Departments of Health and Human Services System and/or Environmental Quality and shall be in place prior to the introduction of any livestock or in the case of a feedlot expansion, any additional livestock.



- C. Utility substations, filter bed, sewage and water treatment plants and water supply plants.
- D. Commercial Mines, quarries and sand and gravel pits and production.
- E. Fuel alcohol plants with more than one hundred thousand (100,000) gallons per year production capacity.
- F. Solid waste landfills, solid waste recycling facilities and solid waste transfer station when in compliance with all conditions established by the Board of Commissioners in granting a special exception and when duly licensed or permitted in accordance with the requirements of the Nebraska Department of Environmental Quality.
- G. General welding and agricultural equipment repair businesses, excluding automobile repair and body shop businesses.
- H. Fuel and fertilizer bulk plants, provided such plants are separated from any existing dwelling unit by not less than one-fourth (1/4) mile and are separated from any existing church or school by not less than one-half (1/2) mile, measured from the nearest point on the lot on which such bulk plant is located to the nearest point of the dwelling unit, church, or school.
- I. Industrial uses, as defined in Section 17 of this Resolution and truck repair businesses subject to the following conditions and restrictions:
  - 1. Such uses are located adjacent to or within one-half (1/2) mile of, and have access to a Federal or State Highway, excluding an Interstate Highway, except within one (1) mile of an Interstate Highway Interchange, or located adjacent to and having access to (spur line) an operating railroad line.
  - 2. The characteristics of such uses shall be determined by the Board of Commissioners to be reasonably compatible with the surrounding land uses with regard to traffic generation, noise, odor, dust, vibration and potential air and water pollution and explosion hazards.
  - 3. Such uses shall comply with all performance standards and conditions established by the Board of Commissioners in granting any special exception, as set forth in Section 12 of this Resolution.
- J. Livestock collection centers, excluding auction barns.
- K. Crop dusting businesses and related aircraft landing strips and private landing strips.
- L. Temporary placement of one (1) mobile home on the same lot with an existing dwelling for the purpose of providing care for members of the immediate family or parents of the owner/occupants of the existing dwelling property when such members of the immediate family or parents are disabled, elderly and in need of care

or otherwise in demonstrable need of care by said owner/occupants, subject to the following conditions and restrictions:

1. Placement of the mobile home shall be temporary and shall be limited to the time that the mobile home is needed to provide such care. When such care is no longer needed or the mobile home is no longer occupied by an immediate family or parent of the owner/occupants of the existing dwelling is in need of such care, the mobile home shall be removed within ninety (90) days of the date of non-occupancy unless said mobile home has been so located on the property that subdivision of the property into two (2) lots whereby each resulting lot and the structures thereon would comply in all respects with the lot area, lot width, lot frontage and yard requirements of this District and such subdivision would not result in more than two (2) residential dwellings (farmstead or non-farmstead) in the same quarter quarter section, as defined in Section 17 of this Resolution.
  2. Such mobile home shall be separated from the existing dwelling or any other existing building by a distance of not less than twenty (20) feet.
  3. Such mobile home shall be provided with adequate sewage disposal in accordance with the requirements of the Nebraska Departments of Health and Human Services System and/or Environmental Quality.
  4. Such mobile homes shall have a front yard of not less than thirty (30) feet.
  5. Such mobile home shall not be leased or rented to any person or persons not a member of the immediate family or parents of the owner/occupant of the existing dwelling unless said mobile home and minimum one (1) acre lot has been subdivided from the existing dwelling property and both lots comply in all respects with the requirements of this District, as specified in Paragraph 1. immediately above.
- M. Salvage (Junk) yards, which are income producing, provided such uses are separated from any existing dwelling unit, church or school by a distance of not less than one-half (1/2) mile, measured from the nearest point of the area approved for such salvage yard in accordance with Section 12 of this Resolution and the nearest point of said dwelling unit, church or school is located, when in conformance with the following provisions:
1. A remediation fund or bond for clean up of facility in the event of abandonment may be required at the discretion of the York County Board of Commissioners.
  2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such

a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.

3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special exception permits granted under this section may be subject to annual review by the County Board with written notice of hearing of such review given to permit holder at last known address.

In making any decision granting a special exception permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

- N. Farmstead and non-farmstead dwellings and mobile homes that exceed a total of one (1) dwelling per quarter quarter section.
- O. Commercial uses that are agricultural or highway oriented and are determined to be compatible with adjacent uses of property, and be adjacent to and have access to an existing railroad line or a state or federal highway.
- P. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
  1. Applications for a Special Exception Permit shall include: 1) a site plan indicating proposed location of the tower facility with all potential guy wire anchor locations and ground entry locations of such guy wires, 2) identification of all structures within a quarter (1/4) mile of the tower, 3) drawings and photographs of proposed tower, attached equipment and construction materials, 4) fencing, wall or landscaping appropriate for size of proposed facility, 5) applications should identify municipal and private airports and airstrips within 3 miles of proposed tower location.
  2. Towers shall be located a minimum distance of equal to or greater than the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
  3. Towers shall be set back from abutting public roads by a distance equal to or greater than the tower height.

4. Towers must comply with the regulations of the Federal Aviation Administration (FAA) and any other State or Federal agency with jurisdiction involving such tower.
  5. Towers shall be in conformance with Municipal Airport three-mile zoning regulations and be setback from the approach zones of private airstrips.
  6. The tower shall not be painted with bright colors or equipped with lights unless specifically required by a governing State or Federal agency for safety reasons. If required by the governing agency, lights shall meet, but not exceed the minimum standards of such agency.
  7. Adequate security measures shall be utilized at the base of the tower to prevent vandalism or the potential of injury.
  8. No proposed tower shall be located within five (5) miles of an existing tower, without notification to owners of record of the existing tower and approval of the York County Board of Commissioners.
  9. Towers with the ability for co-locating of additional communications providers or for County operational and emergency communication equipment/services is strongly recommended.
- Q. Other uses comparable with above stated special exception uses and which are consistent with the Intent of this District.
- R. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution. Amended 04/21/2009, Resolution #09-35.

7.5 PROHIBITED USES:

All other uses and structures which are not specifically allowed in this District as permitted uses, accessory uses or as special exception uses shall be prohibited.

7.6 MINIMUM LOT AREA:

- A. The minimum lot area for a farmstead dwelling shall be twenty (20) acres.
- B. The minimum lot area for a non-farmstead dwelling shall be one (1) acre, provided that a larger lot may be required by the standards and requirements of the Nebraska Departments of Health and Human Services System and/or Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems.
- C. The minimum lot area for uses identified as special exception uses in this District shall be the lot area appropriate for such uses, as determined by the Board of Commissioners, in the granting of any such use in accordance with Section 12 of this Resolution, provided that no lot shall be smaller than one (1) acre.

7.7 MINIMUM LOT WIDTH AND FRONTAGE

- A. The minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty-six (66) feet, except that the minimum lot width and frontage for uses identified as special exception uses in this District shall be the lot width and frontage appropriate to such use, as determined by the Board of Commissioners, in the granting of any such use in accordance with Section 12 of this Resolution, provided that no lot shall have a width less than one hundred fifty (150) feet or a minimum of less than sixty-six (66) feet.

7.8 MINIMUM YARD REQUIREMENTS:

- A. FRONT YARD - There shall be a minimum front yard of thirty (30) feet from the established road right-of-way, provided however, that any grain bin or building used for grain storage which requires filling by use of a portable auger, elevator or conveyor or requires overhead probing of stored grain shall be set back from any existing primary voltage electric power distribution line owned and maintained by a public utility by distance at least equal to the height of the highest filling or probing opening on such bin or building plus eighteen (18) feet or the distance prescribed in Section 234 of the latest published edition of the National Electrical Safety Code, whichever is greater.

The owner of such bin or grain storage building may opt to pay whatever cost are necessary to meet the requirements of Section 234 of the latest edition of the National Electric Safety Code in order to reduce the set back requirement, but under no circumstances shall the front yard set back for any such bin or grain storage building be less than thirty (30) feet from the established road right-of-way.

- B. REAR YARD - There shall be a rear yard of a depth not less than ten (10) feet.
- C. SIDE YARD - Each side yard shall not be less than ten (10) feet.
- D. All signs larger than two feet by three feet, other than temporary signs or official County, State or Federal directional or information signs, shall be in conformance with the above referenced front, rear and side yard setback requirements. Ground signs (affixed to the ground along the length of the sign) or signs of a low height shall not be taller than a height of two and one-half (2 ½) feet when such signs by the nature of their location impede vehicular or pedestrian safety along roads or driveway entrances.

7.9 MAXIMUM HEIGHT:

- A. The maximum height of a residential dwelling shall be thirty-five (35) feet. There shall be no other height restrictions on non-residential structures, except as regulated by airport hazard zoning, regardless of zoning jurisdiction, applicable to land within York County, Nebraska.

## SECTION 8: ICD – INTERSTATE COMMERCIAL DISTRICT

### 8.1 INTENT

The intent of this District is to provide for the continued agricultural use of land adjacent to Interstate 80 interchanges while recognizing the transition between agricultural uses and non-agricultural commercial and industrial uses.

### 8.2 PERMITTED PRINCIPAL USES:

- A. Agricultural uses, excluding feed lots and commercial feeding of livestock or poultry.
- B. Irrigation wells, center pivots, re-use pits and pumps and other irrigation systems and structures in accordance with the condition and restrictions specified in Section 7.2, Paragraph D of this Resolution.
- C. Highway oriented commercial uses limited to those businesses selling products and services for the direct needs of the highway or interstate traveler, including gasoline and diesel fuel sales, convenience stores, motels, recreational vehicle campgrounds, restaurants, and truck and auto plazas. (Amended 08/15/06, Resolution #43)
- D. Signs, both on-site and outdoor advertising signs.

### 8.3 PERMITTED ACCESSORY USES:

- A. Other uses or structures commonly associated with, appurtenant to and clearly secondary to the uses permitted when established in conformance with the requirements of this District.
- B. Storage of gasoline, diesel fuel, propane or anhydrous ammonia in excess of two thousand (2,000) gallons, provided such storage facility shall be located a minimum of one-fourth mile from any church, school or residential dwelling not of the same ownership as the storage facility. (Amended 04/21/09, Resolution #09-34)

### 8.4 SPECIAL EXCEPTION USES:

After the provisions of this Resolution relating to special exceptions have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Section 12 of this Resolution, permit the following uses as special exceptions in the ICD – Interstate Commercial District:

- A. General commercial uses, other than highway oriented commercial uses as set forth in Section 8.2, Paragraph C of this Resolution, and industrial uses, as defined in Section 17 of this Resolution, subject to the following conditions and restrictions:

1. Such uses can demonstrate legitimate reason(s) why a location near an Interstate 80 interchange is necessary and that a non-interchange location would not be feasible for the business or industry proposed.
2. Any adult establishment, as defined in Section 17 of this Resolution, shall meet and comply with the following requirements:
  - a. No adult business shall be located closer than 1,000 feet to any similar use and not closer than 1,000 feet to any residential dwelling of any type, any church, synagogue or other religious use, any school, or any park or public use area, as defined in Section 17 of the Resolution district. Measurement of this minimum distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest wall of the building housing an adult establishment to the nearest wall of any residential dwelling, the nearest wall of any church, synagogue or other religious building, the nearest wall of any school, the nearest property line of any park or public use area or the nearest wall of any other adult establishment.
  - b. Any adult establishment shall front on and have vehicular access to a hard surfaced county road and shall not be more than 1,320 feet from a State highway, Federal highway or Interstate highway.
  - c. Any adult establishment shall be screened to a height of six (6) feet along all adjoining property lines, except for the vehicular entrance to said establishment to prevent any direct visibility of the adult establishment from adjoining properties.
  - d. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be prohibited at all times.
  - e. Such uses shall not diminish or impair established property values in adjoining or surrounding property.
  - f. Such use shall be in accord with the intent, purpose and spirit of this Resolution and the Comprehensive Development Plan of York County, Nebraska.
  - g. Applications for any adult establishment under the terms of the Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.

h. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.

i. Prohibited activities of Adult Businesses:

- 1) No adult business shall employ any person under the age of eighteen (18)
- 2) No adult business shall furnish any merchandise or services to any person who is under the age of eighteen (18).
- 3) No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use.
- 4) No operator of any adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Resolution or any other laws of the State of Nebraska.
- 5) No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway or other public or semi-public area.

3. Such uses shall comply with all performance standards and conditions established by the Board of Commissioners in granting any special exception, as set forth in Section 12 of this Resolution.

(Section 8.4 Paragraph A amended on 08/15/06, Resolution #43)

B. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:

1. Applications for a Special Exception Permit shall include: 1) a site plan indicating proposed location of the tower facility with all potential guy wire anchor locations and ground entry locations of such guy wires, 2) identification of all structures within a quarter (1/4) mile of the tower, 3) drawings and photographs of proposed tower, attached equipment and construction materials, 4) fencing, wall or landscaping appropriate for size of proposed facility, 5) applications should identify municipal and private airports and airstrips within 3 miles of proposed tower location.



2. Towers shall be located a minimum distance of equal to or greater than the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
3. Towers shall be set back from abutting public roads by a distance equal to or greater than the tower height.
4. Towers must comply with the regulations of the Federal Aviation Administration (FAA) and any other State or Federal agency with jurisdiction involving such tower.
5. Towers shall be in conformance with Municipal Airport three-mile zoning regulations and be setback from the approach zones of private airstrips.
6. The tower shall not be painted with bright colors or equipped with lights unless specifically required by a governing State or Federal agency for safety reasons. If required by the governing agency, lights shall meet, but not exceed the minimum standards of such agency.
7. Adequate security measures shall be utilized at the base of the tower to prevent vandalism or the potential of injury.
8. No proposed tower shall be located within five (5) miles of an existing tower, without notification to owners of record of the existing tower and approval of the York County Board of Commissioners.
9. Towers with the ability for co-locating of additional communications providers or for County operational and emergency communication equipment/services is strongly recommended.

C. Other uses comparable with the above stated permitted uses and which are consistent with the Intent of this District.

#### 8.5 PROHIBITED USES:

All other uses which are not specifically allowed as permitted uses, accessory uses or as special exception uses shall be prohibited in this District.

#### 8.6 MINIMUM LOT AREA:

A. The minimum lot area for permitted uses in this District shall be one (1) acre.

B. The minimum lot area for uses identified as special exception uses in this District shall be the lot area appropriate for each use, as determined by the Board of Commissioners in granting of any special exception in accordance with Section 12 of this Resolution, provided that no lot shall be smaller than one (1) acre.

8.7 MINIMUM LOT WIDTH AND FRONTAGE:

- A. The minimum lot width shall be two hundred (200) feet and the minimum lot frontage shall be eighty (80) feet, except that the minimum lot width and frontage for uses identified in this District as special exception uses shall be the lot width and frontage appropriate to each use, as determined by the Board of Commissioners in the granting of any special exception in accordance with Section 12 of this Resolution, provided that no lot shall have a width less than two hundred (200) feet and a frontage less than eighty (80) feet.

8.8 MINIMUM YARD REQUIREMENTS:

- A. FRONT YARD - There shall be a minimum front yard of a depth of forty (40) feet from the established road right-of-way line.
- B. REAR YARD - There shall be a rear yard of a depth not less than fifty (50) feet.
- C. SIDE YARD - Each side yard shall not be less than forty (40) feet.
- D. All signs larger than two feet by three feet, other than temporary signs or official County, State or Federal directional or information signs, shall be in conformance with the above referenced front, rear and side yard setback requirements. Ground signs (affixed to the ground along the length of the sign) or signs of a low height shall not be taller than a height of two and one-half (2 ½) feet when such signs by the nature of their location impede vehicular or pedestrian safety along roads and driveway entrances.

8.9 MAXIMUM HEIGHT:

The maximum height of all buildings shall be thirty-five (35) feet and the maximum height of any other structure including onsite signs shall be one hundred (100) feet.

Amended District Name on 12/30/08, Resolution #08-97

## SECTION 8A: WPO WELLHEAD PROTECTION OVERLAY DISTRICT

### 8A.1 INTENT:

The intent of this district is to overlay any of the primary zoning districts herein established and described in Sections 7 and 8 of this Resolution in order to assist incorporated municipalities within adjoining York County, which may operate water wells in or near the County in providing protection from contamination of such wells through regulation of land uses which have the potential for contamination of the groundwater source(s) from which said wells derive water. This overlay district shall not apply nor be applied to any non-municipal privately owned water supply system which may qualify under Title 179, Nebraska Department of Health, Chapter 2 as a public water supply system.

The intent of this district is also to protect existing and future agricultural uses, which are in balance with the natural environment, which are compatible with existing agricultural uses and which will not present unacceptable potential for contamination of the municipal water supply wells, from unreasonable or over-regulation by said municipalities with regard to wellhead protection.

### 8A.2 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS OVERLAY DISTRICT:

This Overlay District shall not be applied to any wellhead protection area, existing or future, of any municipality unless a voluntary application requesting application of this Overlay District is submitted to the County by a municipality. Prior to the application of this overlay district to any lands in York County, the municipality, which maintains and operates water supply wells within or adjoining the County for which the wellhead protection areas include lands within York County, shall make application to the York County Planning Commission and York County Board of Commissioners seeking application of this district to specified lands within the County. Prior to making such application and prior to approval of any application of this overlay district to any lands within the County, the municipality making such application shall have first complied with all other requirements of the Wellhead Protection Area Act (Neb. Rev. stat. 46-1501 through 45-1509) and the additional requirement listed as follows:

1. Delineation of the wellhead protection area(s) based upon a twenty (20) year time of travel recharge zone, as defined by the Nebraska Department of Environmental Quality.
2. Approval of such wellhead protection area(s) by the Nebraska Department of Environmental Quality (*Refer to limitation in Section 8A-3 herein*).
3. Completion and mapping of any inventory of potential contamination sources within the wellhead protection area(s), including identification of abandoned wells.
4. Formulation of emergency/contingency/long-range plans in the event of disruption of the supply of water from wells in the wellhead protection area(s).

5. Formulation, adoption and enforcement of land use control regulations for those portions of wellhead protection area within the corporate limits and zoning jurisdiction area of the municipality which are appropriate to minimizing the potential for contamination of the water supply system of the municipality.
6. Formulation and implementation of an on-going public involvement/education program to permit public comment in the establishment of a wellhead protection program and a plan to provide public information regarding the program and voluntary cooperation with the same.
7. Development of a program to install and maintain Wellhead Protection Area signs on roadway around the wellhead protection area(s).
8. The municipality shall execute an interlocal agreement with York County, in which the County shall agree to impose and enforce the regulations set forth in this overlay district to all lands located within the district to ensure the protection of the municipality's wellheads. The municipality shall agree to accept the wellhead protection regulations set forth in this overlay district, agree to pay to the County any fees negotiated between such municipality and the County for the administration of these wellhead protection regulations in those land areas under the County's zoning jurisdiction, agree to pay all legal costs associated with any legal challenge to the requirements of this overlay district, and agree to hold the County harmless from any liability related to the requirements of this district, except for any liability resulting from improper administration and enforcement of the requirements of this district by the County, together with other terms and conditions which are acceptable to the parties involved in any such interlocal agreement.

#### 8A.3 LIMITATION ON APPLICATION OF THIS OVERLAY DISTRICT:

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

#### 8A.4 AMENDMENT OF OFFICIAL COUNTY ZONING MAP:

Whenever the requirements of Section 8A.2 of this Resolution have been complied with, and the County Planning Commission and County Board of Commissioners have conducted public hearings regarding application of this overlay zoning district in accordance with Section 14 of this Resolution and the County Board of Commissioners has acted to approve the application of a wellhead protection overlay district, the boundaries of such wellhead protection area (overlay zoning district), defined in accordance with Section 8A.3 above, shall be indicated on the York County Official Zoning Map and such map shall be signed in accordance with the requirements of Section 1 of this Resolution.

8A.5 PERMITTED AND ACCESSORY USES:

Any use or structure indicated as an allowable use, permitted use or accessory use in the primary zoning district(s) on which this wellhead protection overlay district is overlain, shall be allowed or permitted in accordance with the zoning permit requirements set forth in such primary zoning district(s), except when specifically prohibited in Section 8A.7 of this Resolution and except when otherwise allowable, permitted or accessory use is listed as a special exception in Section 8A.8 of this Resolution. All such allowable, permitted and accessory uses shall comply with the additional wellhead protection restrictions set forth in Section 8A.8 of this Resolution.

8A.6 SPECIAL EXCEPTION USES:

Any use listed as a special exception in the primary zoning district(s) on which this wellhead protection overlay district is overlain, except the uses specifically prohibited in Section 8A.7 of this Resolution, may be authorized as a special exception in accordance with the requirements and procedures specified in Article 12 of this Resolution, provided the authorization of any special exception shall comply with applicable limitations of Section 8A.8 of this resolution.

8A.7 PROHIBITED USES AND STRUCTURES:

Except for existing uses rendered non-conforming by the application of this Section, which shall be regulated in accordance with Section 4 of this resolution, uses and structures which are prohibited in the primary zoning district(s) on which this district is overlain, shall be prohibited and, regardless of whether prohibited in the primary zoning district(s), the following uses and structures shall be specifically prohibited on any land area on which this wellhead protection overlay district is applied:

1. Feedlots and Commercial Feedlot uses,
2. Landfills and refuse recycling centers,
3. Bulk storage of gasoline, diesel fuel, other fuels, fertilizers or chemicals.

8A.8 EXISTING USES AND STRUCTURES:

Uses existing as of the effective date of any application of this overlay district, whether allowable, permitted or prohibited uses shall be allowed to be continued, provided that uses prohibited in the primary zoning district in which such uses are located, prohibited in this overlay zoning district or otherwise not in conforming with the requirements of the primary and overlay zoning district regulations shall be considered nonconforming uses and shall be regulated in accordance with Section 4 of this Resolution.

#### 8A.9 WELLHEAD AREA PROTECTION REQUIREMENTS:

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

- A. Storage of gasoline, diesel fuel, fuel oil or other similar fuels, whether on a farm or ranch or in association with another land use, shall comply with the rules and regulations of Title 126 and 159, administered by the Nebraska Department of Environmental Quality or other responsible agency or department. Storage and gasoline, diesel fuel, fuel oil, or other similar fuels, whether on a farm or ranch or other land area, in excess of one thousand one hundred (1,100) gallons shall be prohibited, except when a special exception for a commercial or industrial uses is authorized. In any such authorization, a condition of approval shall be compliance with the rules and regulations of such Title 126 and 129.
- B. Fuel storage associated with any irrigation well engine shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30 and with Title 126, administered by the Nebraska Department of Environmental Quality, in the event of a fuel release.
- C. Fuel storage, except when associated with a commercial or industrial use authorized as a special exception (Item A above) and except for any fuel storage associated with any irrigation well engines (Item B above) shall not be permitted within one thousand (1,000) feet of any well protected under this wellhead protection overlay district.
- D. Storage of fertilizers, herbicides, pesticides and other materials, determined by the united States Environmental Protection Agency to be hazardous materials, shall be prohibited, except for the seasonal storage of quantities of such materials on a farm per growing season and such authorization includes a condition that all such uses shall comply with the applicable rules and regulations of Title 118, 121, 126, 128, 159, and 198, administered by the Nebraska Department of Environmental Quality and other agencies.
- E. No septic tank, tile field or other on-site sewage disposal system, associated with any residential, commercial, industrial or other type of land use, shall be located within one thousand (1,000) feet of any well protected under this wellhead protection overlay district, provided that existing septic tanks, tile fields or other on-site sewage disposal system may continued to be used and may be replaced, and further provided that if a lot of record, as defined in Section 17 of this Resolution, exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one septic tank and tile field or other on-site sewage disposal system may be established, provided such tank, tile field or other system complies with the requirements of Title 124 of the Nebraska Department of Environmental Quality

- F. Domestic, irrigation and any other water wells shall not be located closer than one thousand (1,000) feet of any well protected under this wellhead protection overlay district, provided that any existing wells may continue to be operated and further provided that if a lot of record, as defined in Section 17 of this Resolution, exists as of the effective date of application of this wellhead protection overlay district, and the entirety of said lot of record lies within the land area on which this wellhead protection overlay district is applied, one (1) residential domestic well may be established, provided such well shall be constructed in accordance with the rules and requirements of Title 178.
- G. Any application of fertilizers, pesticides, or herbicides to the land through an irrigation system (chemigation) shall comply with the requirements of Title 195.
- I. If any land area contained within a wellhead protection overlay zoning district is also part of a special protection area or ground water management area, established under the Groundwater Management Protection Act, all uses within such areas, including agricultural uses, shall comply with the action plan and best management practices established for such areas by the local Natural Resource District(s).

8A.10 MINIMUM LOT AREA REQUIREMENTS:

The minimum lot area for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain.

8A.11 MINIMUM LOT WIDTH AND FRONTAGE REQUIREMENTS:

The minimum lot width and frontage for any lot in this overlay district shall be as set forth in the primary zoning district(s) on which the district is overlain.

8A.12 MINIMUM BUILDING SETBACK REQUIREMENTS:

The minimum setback for all regulated structures and buildings in this overlay district shall be as set forth in the primary zoning district(s) on which this district is overlain, provided that the minimum setback requirements from protected wells, as set forth in Section 8A.8 of this Resolution, shall be complied with.

8A.13 MAXIMUM HEIGHT:

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

District added as per Resolution #19, dated 04/26/05

SECTION 8B: RCI – RURAL COMMERCIAL/INDUSTRIAL DISTRICT

8B.1 INTENT

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

8B.2 PERMITTED PRINCIPAL USES:

- A. Any form of agriculture, as defined in Section 17 of this Resolution, including raising of crops, horticultural and agricultural uses, animal and poultry and pasturing including livestock feeding involving two thousand five hundred (2,500) animal units, as defined in Section 17 of this Resolution, but excluding commercial feedlots, as defined in Section 17 of this Resolution, livestock auction barns or yards and grain storage or milling facilities not subordinate to the raising of crops on the same premises, provided that the feeding of livestock in a feedlot, as defined in Section 17 of this Resolution, shall not be located closer to a dwelling unit not under the same ownership and on the same premises as the feedlot, than one-fourth(1/4) mile, measured from the nearest point of the feedlot to the nearest point of the dwelling unit.

Any existing non-commercial feedlot that is located within one-fourth (1/4) mile to an existing dwelling unit not of the same ownership and on the same premises as the feedlot, shall not be deemed a nonconforming use and may be expanded up to a maximum of two thousand five hundred (2,500) animal units, provided such expansion does not bring the boundaries of such feedlot closer to such dwelling unit.

- B. A one-family dwelling, including a mobile home, as a dwelling on a farmstead, as defined in Section 17 of this Resolution.
- C. A single-family dwelling or mobile home not located on a farmstead as defined in Section 17 of this Resolution, provided such non-farmstead dwelling complies with all the following conditions:
1. Such dwelling shall be separated from any existing feedlot, as defined in Section 17 of this Resolution, by a distance of not less than one-fourth (1/4) mile and from a commercial feedlot, as defined in Section 17 of this Resolution, by a distance of not less than one half (1/2) mile. Such distance shall be from the nearest edge of the area used or approved under this Resolution for a feedlot to the nearest point of such dwelling.



2. Such dwelling shall be located on a lot that has at least (1) acre in area, provided that a larger lot may be required if the regulations of the Nebraska Department of Health and Human Systems and/or the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal system.
  3. The lot on which such non-farmstead dwelling is located shall front on or have access to an existing public roadway that has a hard or improved surface. Such lot may have secondary access from an improved or minimum maintenance roadway.
  4. The total number of farmstead and non-farmstead dwellings and mobile homes shall not exceed a total of one (1) per quarter quarter section, as defined in Section 17 of this Resolution, except for a temporary special exception for care of immediate family members as regulated in Section 7.5 of this Resolution, unless a special exception is obtained.
- D. Irrigation wells, center pivots, re-use pits and pumps and other irrigation systems and structures in accordance with the following conditions and restrictions:
1. The closest points of any irrigation wells and related well houses, fuel tanks and pivot pads shall not be located closer than ten (10) feet to any road right-of-way line, except:
    - a. That at the intersection of any public roadways, the closest points of any such irrigation wells and related well houses, fuel tanks and pivot pads shall not be located in the triangular area formed by the intersection of the roadway right-of-way lines or
    - b. That within one hundred (100) feet of any bridge, culvert or other drainage structure under a public roadway, measured from the outermost points of such bridge, culvert or other drainage structure parallel to such roadway, the nearest points of any such irrigation wells and related well houses, fuel tanks and pivot pads shall not be located closer than thirty (30) feet from the right-of-way line of such roadway.
  2. Re-use pits and pumps shall be located so that the points of excavation for re-use pits, lagoons or drainage pits shall be as follows:
    - a. Re-use pits, lagoons or drainage pits which are bermed and have a controlled inlet tube shall have a point of excavation at least twenty (20) feet from any established road right-of-way line.
    - b. Re-use pits, lagoons or drainage pits which are not bermed and equipped with a controlled inlet tube shall have a point of excavation at least forty (40) feet from any established road right-of-way.

- c. Notwithstanding the requirements of paragraphs a. and b. immediately above, all lagoons and pits for the control or treatment of livestock waste shall have a point of excavation at least forty (40) feet from any established road right-of-way.
  - d. At the intersection of any public roadways, no berm or other structure related to a re-use pit or lagoon shall be higher than the lowest elevation of both roadway centerline surfaces that occur within one hundred (100) feet from the intersection of the roadway right-of-way lines nearest the property in question in both directions along said right-of-way lines.
- E. Park and open space recreation uses, rest stops, campgrounds, golf courses, riding academies and other similar uses and surface water retention structures.
- F. Signs, both on-site and outdoor advertising signs.
- G. Fuel alcohol plants with less than one hundred thousand (100,000) gallons per year production capacity.
- H. Government facilities of a minor activity nature such as patrol sheds.
- I. Churches and church schools, provided such uses shall have sufficient lot area for all structures, activities and vehicle parking and further provided that such uses are located not less than one-half (1/2) mile from any existing feedlot, commercial feedlot or bulk storage facility, as defined in Section 17 of this Resolution and as measured in accordance with paragraph C, subparagraph 1 of this Section.
- J. General welding and agricultural equipment repair businesses, excluding automobile repair and body shop businesses.
- K. Fuel and fertilizer bulk plants, provided such plants are separated from any existing dwelling unit by not less than one-fourth (1/4) mile and are separated from any existing church or school by not less than one-half (1/2) mile, measured from the nearest point on the lot on which such bulk plant is located to the nearest point of the dwelling unit church, or school.
- L. Signs, including permanent (non-portable) business identification signs and off-premise advertising signs (billboards) in accordance with the following restrictions:
  - 1. Non-portable business identification signs:
    - a. The total number of permanent business identification signs, excluding off-premise advertising signs (billboards), shall not exceed three (3) per premises,
    - b. The minimum setback from the front lot line and the right-of-way line of any State or Federal Highway for any monument or freestanding sign shall be twenty (20) feet, the maximum height shall not exceed twenty (20) feet and the maximum sign face area shall not exceed one hundred (100) square feet, provided that for each additional foot that such sign is set back from the front

lot line, the sign height may be increased by one (1) foot and the maximum sign face area may be increased by three (3) square feet and further provided that the maximum height shall be fifty (50) feet and the maximum sign face area shall be three hundred (300) square feet. Signs with a setback from the front lot line and right-of-way line of any State or Federal Highway greater than fifty (50) feet shall have a maximum sign surface area of four hundred (400) square feet and a maximum height of thirty five (35) square feet.

- c. The total sign face area of all signs on the premises, including freestanding, wall-mounted, or wall-projection signs, excluding off-premise advertising signs (billboards), shall not exceed five hundred (500) square feet, except on any premise where a sign with a setback from the front lot line and right-of-way line of any State or Federal Highway greater than fifty (50) feet is proposed the total sign surface area of all on-premise signs, excluding off-premise advertising signs (billboards) shall be one thousand seven hundred (1,700) square feet.
- d. No sign shall be located closer than three hundred (300) feet to any residential dwelling.

2. Off-premise advertising signs (billboards):

- a. The minimum setback from the front lot line and the right-of-way line of any State or Federal Highway shall be thirty (30) feet, the maximum height shall not exceed thirty five (35) feet and the maximum sign face area for each sign face shall not exceed three hundred (300) square feet.
- b. Regardless of the location of commercial or industrial premises, any off-premise advertising sign (billboard) shall be located a minimum distance of one-fourth (1/4) mile from any other off-premise advertising sign (billboard) on either side of the roadway to which such sign is oriented, measured from the nearest point of one such sign to the nearest point of another such sign. Further, any off-premise advertising sign (billboard) shall be located a minimum distance of three hundred (300) feet from the nearest wall of any neighboring residential dwelling, church, school or the nearest boundary of any public use area.
- c. Double-deck off-premise advertising signs (billboards) shall be prohibited.
- d. Lighting of any such off-premise advertising sign (billboard) shall be so directed and/or shielded to prevent any direct lighting of adjoining property or any roadway right-of-way.
- e. No off-premise advertising sign (billboard) shall be constructed on any premises in this District until the commercial or industrial use permitted on or approved for such premises shall have first been constructed and be in operation.

- f. All on and off-premise advertising signs (billboards) oriented to any State or Federal Highway shall also be subject to the requirements and limitations imposed by the Nebraska Department of Roads and where any such requirements or limitations impose a greater restriction, requirement or limitation, such shall apply.
  - g. No off-premise advertising sign (billboard) shall be located closer than three hundred (300) feet to any residential building.
- M. On-site wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution. Amended 04/21/09, Resolution #09-35

8B.3 PERMITTED ACCESSORY USES:

- A. Roadside stands,
- B. Feed mills and similar uses associated with livestock feeding operations, excluding meat packing and rendering operations,
- C. Agricultural crop seed sales and storage,
- D. Garages, excluding commercial repair garages,
- E. Grain storage buildings and bins and other out-buildings commonly associated with agricultural activities,
- F. Radio and satellite antennas (satellite dishes), excluding towers of more than one hundred feet,
- G. Other uses appurtenant to the permitted uses and secondary to such permitted uses when established in conformance with all requirements of this District.
- H. Storage of gasoline, diesel fuel, propane or anhydrous ammonia in excess of two thousand (2,000) gallons, provided such storage facility shall be located a minimum of one-fourth mile from any church, school or residential dwelling not of the same ownership as the storage facility. (Amended 04/21/09, Resolution #09-34)

8B.4 SPECIAL EXCEPTION USES:

After the provisions of this Resolution relating to special exceptions have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Section 12 of this Resolution, permit the following uses as special exceptions in the RCI – Rural Commercial Industrial District:

- A. Cemeteries
- B. Commercial feedlot, as defined in Section 17 of this Resolution, provided such commercial feedlot shall meet all of the following requirements:

1. Such feedlots and feeding operations shall not be located closer than one-half (1/2) mile to any dwelling unit not of the same ownership and on the same premises as such feedlot, nor to any church or school.

Measurement of this required distance shall be from the nearest point of the feedlot area in existence or approved for such use to the nearest point of such dwelling unit.

Any existing commercial feedlot that is located within one-half (1/2) mile to an existing dwelling unit not of the same ownership and on the same premises as the feedlot shall not be deemed a non-conforming use and may, if in conformance with the regulations of the Nebraska Department of Environmental Quality and if permitted by the Board of Commissioners in approval of a special exception, be expanded, provided such expansion does not bring the boundaries of such feedlot closer to such dwelling unit, church or school.

2. All feedlot runoff, control ponds and basins, methods of manure disposal and similar activities shall be developed to minimize air and water pollution and shall be as required by the Nebraska Departments of Health and Human Services System and/or Environmental Quality and shall be in place prior to the introduction of any livestock or in the case of a feedlot expansion, any additional livestock.
- C. Utility substations, filter bed, sewage and water treatment plants and water supply plants.
  - D. Commercial Mines, quarries and sand and gravel pits and production.
  - E. Fuel alcohol plants with more than one hundred thousand (100,000) gallons per year production capacity.
  - F. Solid waste landfills, solid waste recycling facilities and solid waste transfer station when in compliance with all conditions established by the Board of Commissioners in granting a special exception and when duly licensed or permitted in accordance with the requirements of the Nebraska Department of Environmental Quality.
  - G. Industrial uses, as defined in Section 17 of this Resolution and truck repair businesses subject to the following conditions and restrictions:
    1. The characteristics of such uses shall be determined by the Board of Commissioners to be reasonably compatible with the surrounding land uses with regard to traffic generation, noise, odor, dust, vibration and potential air and water pollution and explosion hazards.
    2. Such uses shall comply with all performance standards and conditions established by the Board of Commissioners in granting any special exception, as set forth in Section 12 of this Resolution.

- H. Livestock collection centers, excluding auction barns.
- I. Crop dusting businesses and related aircraft landing strips and private landing strips.
- J. Temporary placement of one (1) mobile home on the same lot with an existing dwelling for the purpose of providing care for members of the immediate family or parents of the owner/occupants of the existing dwelling property when such members of the immediate family or parents are disabled, elderly and in need of care or otherwise in demonstrable need of care by said owner/occupants, subject to the following conditions and restrictions:
  - 1. Placement of the mobile home shall be temporary and shall be limited to the time that the mobile home is needed to provide such care. When such care is no longer needed or the mobile home is no longer occupied by an immediate family or parent of the owner/occupants of the existing dwelling is in need of such care, the mobile home shall be removed within ninety (90) days of the date of non-occupancy unless said mobile home has been so located on the property that subdivision of the property into two (2) lots whereby each resulting lot and the structures thereon would comply in all respects with the lot area, lot width, lot frontage and yard requirements of this District and such subdivision would not result in more than two (2) residential dwellings (farmstead or non-farmstead) in the same quarter quarter section, as defined in Section 17 of this Resolution.
  - 2. Such mobile home shall be separated from the existing dwelling or any other existing building by a distance of not less than twenty (20) feet.
- K. In making any decision granting a special exception permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.
- L. Farmstead and non-farmstead dwellings and mobile homes that exceed a total of one (1) dwelling per quarter quarter section.
- M. Commercial uses that are agricultural or highway oriented and are determined to be compatible with adjacent uses of property, and be adjacent to and have access to an existing railroad line or a state or federal highway.
- N. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following:
  - 1. Applications for a Special Exception Permit shall include: 1) a site plan indicating proposed location of the tower facility with all potential guy wire anchor locations and ground entry locations of such guy wires, 2) identification of all structures within a quarter (1/4) mile of the tower, 3) drawings and photographs of proposed tower, attached equipment and construction materials, 4) fencing, wall or landscaping appropriate for size of proposed facility, 5)

applications should identify municipal and private airports and airstrips within 3 miles of proposed tower location.

2. Towers shall be located a minimum distance of equal to or greater than the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
  3. Towers shall be set back from abutting public roads by a distance equal to or greater than the tower height.
  4. Towers must comply with the regulations of the Federal Aviation Administration (FAA) and any other State or Federal agency with jurisdiction involving such tower.
  5. Towers shall be in conformance with Municipal Airport three-mile zoning regulations and be setback from the approach zones of private airstrips.
  6. The tower shall not be painted with bright colors or equipped with lights unless specifically required by a governing State or Federal agency for safety reasons. If required by the governing agency, lights shall meet, but not exceed the minimum standards of such agency.
  7. Adequate security measures shall be utilized at the base of the tower to prevent vandalism or the potential of injury.
  8. No proposed tower shall be located within five (5) miles of an existing tower, without notification to owners of record of the existing tower and approval of the York County Board of Commissioners.
  9. Towers with the ability for co-locating of additional communications providers or for County operational and emergency communication equipment/services is strongly recommended.
- O. Other uses comparable with above stated special exception uses and which are consistent with the Intent of this District.
- P. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution. Amended 04/21/09, Resolution 09-35

#### 8B.5 PROHIBITED USES:

All other uses which are not specifically allowed as permitted uses, accessory uses or as special exception uses shall be prohibited in this District.

#### 8B.6 MINIMUM LOT AREA:

- A. The minimum lot area for a farmstead dwelling shall be twenty (20) acres.

- B. The minimum lot area for a non-farmstead dwelling shall be one (1) acre, provided that a larger lot may be required by the standards and requirements of the Nebraska Departments of Health and Human Services System and/or Environmental Quality with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems.
- C. The minimum lot area for uses identified as special exception uses in this District shall be the lot area appropriate for such uses, as determined by the Board of Commissioners, in the granting of any such use in accordance with Section 12 of this Resolution, provided that no lot shall be smaller than one (1) acre.

8.B7 MINIMUM LOT WIDTH AND FRONTAGE

- A. The minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty-six (66) feet, except that the minimum lot width and frontage for uses identified as special exception uses in this District shall be the lot width and frontage appropriate to such use, as determined by the Board of Commissioners, in the granting of any such use in accordance with Section 12 of this Resolution, provided that no lot shall have a width less than one hundred fifty (150) feet or a minimum of less than sixty-six (66) feet.

8.B8 MINIMUM YARD REQUIREMENTS:

- A. FRONT YARD - There shall be a minimum front yard of thirty (30) feet from the established road right-of-way, provided however, that any grain bin or building used for grain storage which requires filling by use of a portable auger, elevator or conveyor or requires overhead probing of stored grain shall be set back from any existing primary voltage electric power distribution line owned and maintained by a public utility by distance at least equal to the height of the highest filling or probing opening on such bin or building plus eighteen (18) feet or the distance prescribed in Section 234 of the latest published edition of the National Electrical Safety Code, whichever is greater.

The owner of such bin or grain storage building may opt to pay whatever cost are necessary to meet the requirements of Section 234 of the latest edition of the National Electric Safety Code in order to reduce the set back requirement, but under no circumstances shall the front yard set back for any such bin or grain storage building be less than thirty (30) feet from the established road right-of-way.

- B. REAR YARD - There shall be a rear yard of a depth not less than ten (10) feet.
- C. SIDE YARD - Each side yard shall not be less than ten (10) feet.
- D. All signs larger than two feet by three feet, other than temporary signs or official County, State or Federal directional or information signs, shall be in conformance with the above referenced front, rear and side yard setback requirements. Ground signs (affixed to the ground along the length of the sign) or signs of a low height shall not be taller than a height of two and one-half (2 ½) feet when such signs by the



nature of their location impede vehicular or pedestrian safety along roads or driveway entrances.

8.B9 MAXIMUM HEIGHT:

- A. The maximum height of a residential dwelling shall be thirty-five (35) feet. There shall be no other height restrictions on non-residential structures, except as regulated by airport hazard zoning, regardless of zoning jurisdiction, applicable to land within York County, Nebraska.

District added as per Resolution #08-21, dated 03/31/2008 ,

SECTION 9: SUPPLEMENTAL DISTRICT REGULATIONS:

9.1 APPLICATION:

The general regulations set forth in the following sections qualify and supplement all District regulations and are declared to be a part of this Resolution and applicable to all zoning Districts.

9.2 YARD REQUIREMENTS:

Minimum yards shall be required along all public roadways as provided in the District regulations. Any yard abutting a roadway shall be deemed a front yard for purposes of determining yard depth requirements.

Minimum yards shall be required as provided in the District regulations with the following exceptions:

- A. Application - Any yard so placed or oriented that none of the specific terms of this Resolution are applicable shall necessitate a determination by the Zoning Administrator of a suitable dimension consistent with the intent of the yard requirements within the zoning district.
- B. Front Yard Encroachments - No structure or part thereof shall project into a required front yard except:
  - 1. An eave, cornice, overhang, awning, balcony, or bay window not exceeding four (4) feet projection from the building wall.
  - 2. The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental or architectural features, provided such features do not project more than eighteen (18) inches from the building wall.
  - 3. Unenclosed, uncovered steps, entrance platforms, ramps, terraces or landings not over eighteen (18) inches above grade level and not projecting more than ten (10) feet from the building wall.
- C. Side and Rear Yard Encroachments - No structure or part thereof shall project into a required side or rear yard except:
  - 1. An eaves, cornice overhang, awning, balcony or bay window not exceeding four (4) feet projection from the building wall.
  - 2. The ordinary projection of belt courses, sills, lintels, chimneys and other similar ornamental or architectural features, provided such features do not project more than eighteen (18) inches from the building wall.

3. Unenclosed, uncovered steps, entrance platforms, ramps, terraces or landings not over eighteen (18) inches above grade level and not projecting more than five (5) feet from the building wall.

### 9.3 DIVISION OF LOTS:

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

### 9.4 PARKING AND STORAGE OF CERTAIN VEHICLES

Storage of vehicles without current license plates registered to such vehicles or in inoperable condition shall be prohibited in any zoning district unless such vehicles are stored in entirely enclosed buildings or are screened from view from any existing dwelling unit or public roadway by trees, shrubs or fences or combination thereof which provide a solid and opaque screen the year round and further provided that such storage of such vehicles shall be solely for salvaging of such vehicles for use by the owner of such vehicles and not for sale or resale either wholesale or retail to the public. Further such storage without any salvaging, conducted to avoid proper disposal of such vehicles or the storage of such vehicles on a premises where such vehicles are not owned by the owner of the premises or members of said owner's immediate family shall be prohibited in all zoning districts.

### 9.5 INTERSECTION VISIBILITY:

At roadway intersections and roadway railroad crossings nothing shall be erected or placed more than two and one-half (2.5) feet above the centerline grade of the intersecting roadways and/or rail line within a triangular area formed by the intersection of the roadway right-of-way nearest the property in question and a line connecting points forty two and one-half (42.5) feet from the intersection of said right-of-way lines or the right-of-way lines of the roadway and the rail line, except for single pole utility structures, railroad crossing signs, road directional and safety signs, and agricultural crops. Amended 9/28/04, Resolution #38; 4/26/05, Resolution #18.

#### NEW RAILROAD CROSSING SITE DISTANCE RESTRICTIONS:

For any new public highway – rail grade crossings the minimum site distances shall be determined according to the following Table. The site triangle must be clear of all permanent obstructions such as buildings, structures or topography.

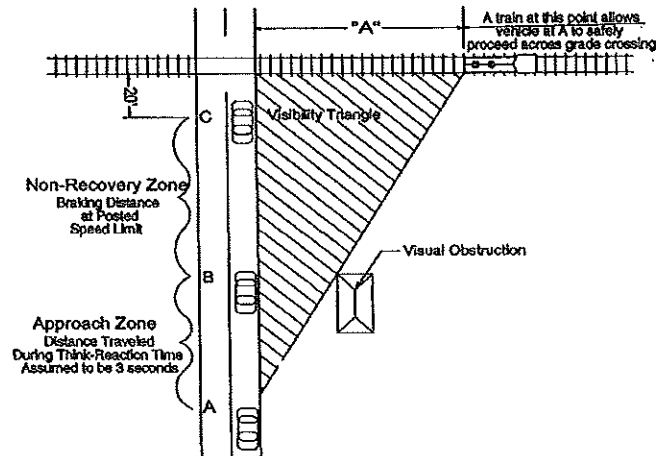


Figure 2.0101

**Required Design for Combination of Highway and Train Vehicle Speeds**

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

Added 8/11/09, Resolution #09-59

9.6 EASEMENTS:

No building or structure shall be placed or erected over any public utility easement, except for lot line fences, provided such fence shall be subject to the paramount right of the utility to install, repair, maintain or replace its installations. Removal and replacement of any fence constructed over such an easement shall be the express responsibility of the owner of the fence. In requesting any zoning permit or special exception or variance approval the applicant shall provide all applicable easement information and the applicant shall have the sole and complete responsibility for the accuracy of such information.

9.7 FENCES, WALLS, LANDSCAPING AND CENTER PIVOT IRRIGATION SYSTEMS

Agricultural fences, ornamental and retaining walls, security fences, installation of irrigation wells, center pivot irrigation systems and related structures shall be permitted in all zoning districts without requiring a zoning permit, provided however, that installation of irrigation wells and pivot irrigation system shall require the issuance of a Certificate of Zoning Compliance to verify compliance with the requirements of Section 7, Subsection 7.2, Paragraph D, Subparagraph 1 prior to initiation of any installation and further provided that any fences, walls, and landscaping shall comply with the following restrictions:

- A. Barbed wire, smooth wire, open mesh, open panel or open chain link fences may be located at the right-of-way line of any public roadway and compliance with the intersection visibility requirements of Section 9.5 of this Resolution shall not be required.
- B. Other ornamental, screen or partially opaque fences or ornamental fences or retaining walls may be located at the right-of-way line of any public roadway, provided such fences or walls do not exceed fifty-two (52) inches in height and such fences and walls comply with the intersection visibility requirements set forth in Section 9.5 of this Resolution.
- C. Any fence in excess of fifty-two (52) inches in height, except those fences identified in Paragraph A of this Section, shall not be located closer than ten (10) feet to the right-of-way line of any public roadway and shall comply with the intersection visibility requirements set forth in Section 9.5 of this Resolution.
- D. In all zoning districts, no trees, shrubs, bushes or parts thereof, shall be placed within ten (10) feet of the right-of-way line of any public roadway or within the intersection visibility area set forth in Section 9.5 of this Resolution.
- E. Irrigation wells and pivot pads of any center pivot irrigation systems shall be so located relative to the right-of-way of any public roadway so as to comply with the requirements of Section 7, Subsection 7.2, Paragraph D, Subparagraph 1 of this Resolution.
- F. For purposes of clarification, if there is no readily recognized right-of-way line along any County roadway, said line shall be deemed to be located thirty-three (33) feet from the centerline of said County roadway. Further, nothing in this Resolution shall be interpreted to regulate the location, height or composition of fences or walls located away from any public roadway right-of-way line, except as regulated above.  
Amended 4/26/05 Resolution #18.

## 9.8 WIND ENERGY SYSTEMS

### A. INTENT:

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

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

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

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

1. **AGGREGATE WIND ENERGY CONVERSION SYSTEM (WECS) PROJECT:** A utility grid wind energy conversion system project (WECS) or projects that is / are developed and operated in a coordinated fashion, but which have multiple entities separately owning one (1) or more of the individual WECS(s) within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregate project.
2. **AMBIENT:** The sound pressure level exceeded ninety percent (90%) of the time.
3. **ANSI:** American National Standards Institute.
4. **dB(A):** The sound pressure level in decibels utilizing the "a" weighted scale defined by ANSI for weighting the frequency spectrum to mimic the human ear.
5. **DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
6. **FALL ZONE:** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
7. **FEEDER LINE:** Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
8. **IMPACT EASEMENT:** An easement or deed restriction, recorded in the office of the York County Registrar of Deeds, which runs with the land, which is granted to the

owner of an industrial use, a confined or intensive animal feeding use, a waste handling facility use, a wind energy conversion system or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, noise, visual or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

9. METEOROLOGICAL TOWER: A temporary tower, base plate, anchors, guy wires, hardware, anemometers, wind direction vanes, booms to hold equipment, data loggers, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed, direction and flow characteristics over a period of time at a given location. For the purpose of this regulation, such towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct and operate a WECS project which shall be in place on the premises not more than one (1) year from the date of completion of installation.
10. MODIFICATION: Any change to the on-site WECS that materially alters the size, type, capacity or location of the WECS. Like-kind replacement and normal repairs shall not be construed to be a modification.
11. NET METERING: The difference between the electricity supplied to a customer over the electric grid system and the electricity generated by the customer's WECS that is fed back into the grid system over a billing period.
12. OCCUPIED BUILDING: A residential dwelling, school, hospital, church, public library or other building use for public gathering that is occupied by or used by humans for its intended purpose
13. ON-SITE WIND ENERGY CONVERSION SYSTEM: An on-site wind energy system with no or one (1) tower, intended to primarily serve the needs of the use on the premises where such system is located. Such system may be connected to the electric grid through net metering, but the primary use shall be to generate electricity to serve the needs of the use on the premises where such system is located.
14. OPERATOR: The entity responsible for the day-to-day operation and maintenance of any WECS, WECS project of substation, including any third-party subcontractors.
15. OWNER: The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean 1) the property owner from whom land is leased for locating the WECS(s) unless the property owner has an equity interest in the WECS(s) or 2) any person holding a security interest in the WECS(s) solely to secure an extension of credit or person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS(s) at the earliest practicable date.
16. PUBLIC CONSERVATION LANDS: Land owned in fee title by State or Federal Government agencies and managed specifically for conservation purposes, including

but not limited to wildlife management areas, parks, wildlife refuges and waterfowl production areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

17. ROTOR: A component of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
18. SCADA TOWER: A free-standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.
19. SHADOW FLICKER: Alternating changes in light intensity caused by the moving blades of a wind energy system which cast a repeating pattern of shadows on the ground and stationary objects, such as a window of a dwelling.
20. SOUND PRESSURE: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of sound measured at the receiver.
21. SOUND PRESSURE LEVEL: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
22. SUBSTATION: The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection to the utility grid transmission lines.
23. SYSTEM HEIGHT: The vertical distance from ground level to the tip of the wind generator blade when at its highest point from the ground.
24. TOWER HEIGHT: The height above grade of the fixed portion of the tower, excluding the wind generator.
25. TRANSMISSION LINE: The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
26. UTILITY GRID WIND ENERGY SYSTEM: A wind energy conversion system which is designed and constructed to provide electricity to an electric utility grid.
27. WIND ENERGY CONVERSION SYSTEM (WECS): A system with all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation and transformer, in any.
28. WIND ENERGY CONVERSION SYSTEM PROJECT (WECS Project): The WECS(s) and associated support facilities including, but not limited to, roads,



transformers, electrical cabling, substations, operation and maintenance buildings, SCADA towers within the boundaries of the project site.

29. WIND GENERATOR: The blades and associated mechanical and electrical conversion components mounted on top of a tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

30. WIND SITE ASSESSMENT: An assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

C. ZONING PERMIT REQUIRED: Issuance of a zoning permit shall be required prior to construction of any on-site or utility grid WECS. Failure to comply with the permitting requirement or any requirement or standard of this section shall constitute a violation of this Resolution.

D. ON-SITE WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:

1. Application Requirements: Applications for an on-site WECS shall contain a scaled site plan containing the following information together with attachments which provide non-map data indicated:

- a. Property lines and physical dimensions of the property where the on-site WECS is proposed, including the right-of-way lines of any public road that is contiguous to the property.
- b. Location, dimensions and types of existing major structures on the property and height to the top of the canopy of any tree(s) of other obstruction within three hundred feet (300') of the proposed WECS location.
- c. Location of the proposed WECS, foundation, guy wire anchors and associated equipment.
- d. Setback distances of the WECS as set forth in the regulation.
- e. Location of overhead utility lines.
- f. WECS specifications, including manufacturer, model, rotor diameter, tower height, tower type and nameplate generation capacity.
- g. Sound level analysis prepared by the manufacturer or qualified engineer.
- h. Electrical components in sufficient detail to allow for determination of compliance with applicable electrical codes.
- i. Evidence of compliance or non-applicability with the Federal Aviation Administration requirements.

- j. For on-site WECS which will be connected to the power grid, a copy of the application for interconnection with the electric utility provider.
2. Standard and Requirements: On-site WECS shall be permitted in the applicable zoning district when in compliance with the following standards and requirements:

- a. SETBACKS: The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road rights-of-way or nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district, except that guy wire anchors shall have a minimum setback from property lines of ten (10) feet.

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

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

- b. SYSTEM HEIGHT: The maximum system height shall be forty (40) feet above the highest tree canopy of other obstruction within three hundred feet (300') of the WECS, provided that no system height shall exceed one hundred twenty feet (120').
- c. SOUND LEVEL: The on-site WECS shall not exceed sixty (60) decibels using the "A" scale (dBA), as measured at the property lines, except during short-term events such as severe wind storms and utility outages.
- d. SHADOW FLICKER: The on-site WECS shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide a map of such shadow flicker impacts based upon high and low sun angles for the proposed site.
- e. SIGNS: There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification.
- f. AVIATION: Any on-site WECS proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
- g. VISUAL IMPACTS:
  - 1) Screening of ground mounted electrical and control equipment from public roads and occupied buildings on abutting properties shall be provided by means of fencing and /or landscaping or a combination thereof.

- 2) The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
  - 3) The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
- h. ACCESS: The WECS tower shall be designed and installed so as not to provide step bolts, ladders or other means of access for a minimum height of eight feet (8') from ground level and the applicant shall provided evidence as to how all ground mounted equipment shall be secured to prevent unauthorized access.
  - i. DESIGN SAFETY: On-site WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
  - j. CONTROLS AND BRAKES: Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirements shall be provided by the manufacturer.
  - k. CODE COMPLIANCE: On-site WECS(s) shall comply with the electrical codes applicable in the County and / or the National Electrical Code.
  - l. UTILITY CONNECTION: If the on-site WECS is to be connected to the utility grid, the applicant shall submit written verification that the utility serving the site of the proposed WECS has been notified and that the proposed interconnection complies with the requirements of said utility.
  - m. ABONDONMENT:
    - 1) At such time that an on-site WECS is scheduled to be abandoned or discontinued, the owner of said WECS shall notify the Zoning Administrator of the proposed date of abandonment or discontinuance of operation.

- 2) Upon abandonment or discontinuation of use, the owner of the on-site WECS shall physically dismantle all above ground components of the WECS within ninety (90) days from the date of abandonment or discontinuation of use.
- 3) In the event that an owner of an on-site WECS fails to give notice of abandonment or discontinuation of use, the WECS shall be considered to be abandoned or discontinued if the system is out-of-service for a twelve (12) consecutive months. After such twelve (12) consecutive months the Zoning Administrator shall issue a written Notice of Abandonment by certified mail to the owner of the WECS at the address indicated for the site of the WECS in the County Treasurers Office. The owner of the WECS shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date of receipt of such notice to present evidence that the WECS has not been abandoned or discontinued. The Zoning Administrator shall review any such response to determine if the WECS has been abandoned or discontinued. If it is determined that said WECS has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to the owner of said WECS. If, after review of the owner's response, it is determined that said WECS has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the owner of the WECS.

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

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

#### E. UTILITY GRID WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:

##### 1. Application Requirements:

- a. Preliminary Project Application: At the option of the applicant, a preliminary project application may be filed. Such application shall be intended to consider the proposed project from a local land use perspective without submission of the required studies, detailed site plan and formal details of the project. Such application shall place local citizens, neighboring property owners and the general

public on notice that a property or series of properties is under consideration for a utility grid wind energy conversion system project and shall give the applicant some awareness of the potential issues associated with the proposed project without having to incur all of the costs associated with a Final Project Application.

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

Action to approve any Preliminary Project does not indicate a final approval of the proposed project, but shall be interpreted to mean that such project may be approved in final form upon positive results from the studies required in the Final Project Application, the acceptance of a detailed site plan and compliance with all other standards and requirements of this regulation.

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

- b. Preliminary Project Application Requirements: The following mapped information and other data and exhibits shall be required in a Preliminary Project Application:
  - 1) The name(s) of the proposed owners of the utility grid WECS project, the names of the proposed operators of said WECS project, their respective business structures together with evidence of the financial capability of the proposed owners and operators to successfully implement, operate and maintain the proposed project.
  - 2) A general site plan of the project area indicating:
    - a) The proposed boundaries of the property or properties to be included in the project.
    - b) The probable number, tower heights, diameter of rotors and location of such towers.
    - c) The public roadways included in or on the border of the project boundaries.
    - d) The location of occupied buildings within and abutting the proposed project boundaries.
    - e) The proposed location of any meteorological tower(s) to be constructed to evaluate the proposed project area.
  - 3) Color renderings or computer generated visual simulations, in color, showing the probable WECS towers, generators and rotors from at least four (4) viewable angles on the perimeter of the proposed project boundaries.

- c. Preliminary Project Application Review: In reviewing and acting on a preliminary utility grid wind energy conversion system project proposal, the Planning Commission and County Board of Commissioners shall consider the following:
  - 1) The likelihood of the proposed project meeting or exceeding the minimum standards and requirements set forth under the Final Project Application section of this regulation.
  - 2) With regard to visual impacts of the proposed project and the typical human reaction of “not in my back yard”, the Planning Commission and County Board of Commissioners shall consider the historic impacts, or lack thereof, of the development of previously popular television reception towers and antennae, satellite dishes, and the current impacts, or lack thereof, of cellular and other communication towers, pivot irrigation systems and electrical transmission towers and lines when considering whether the potential visual impacts of the proposed WECS project on neighboring properties are acceptable in the rural areas of the County.
  - 3) The particular issues of concern with regard to final action on the proposed utility grid WECS project.
- d. Final Project Application: Application for a final Utility Grid WECS Project approval shall include the following information:
  - 1) The name(s), address(es) and telephone number(s) of the project applicant(s).
  - 2) The name, address and telephone number of the project owner.
  - 3) The legal description and address of the project.
  - 4) A written narrative describing the proposed Utility Grid WECS Project, including an overview of the project, the generating capacity of the WECS Project, the number, type, height or range of heights of the wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers and a description of ancillary buildings, structures and facilities.
  - 5) Affidavit(s ) or similar evidence of agreement between the property owner(s) and the WECS Project owner or operator demonstrating that the WECS Project owner or operator has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the WECS Project.
  - 6) A scaled site plan map or maps of the proposed Utility Grid WECS Project indicating:
    - a) The boundaries of the proposed WECS Project indicating all properties within and adjacent to such boundaries.

- b) The location of each wind turbine together with setback distances from occupied buildings, utility lines, and public roads.
  - c) The location of public roads within and bordering the proposed WECS Project together with access roads and turnout locations proposed within the project.
  - d) The location of all proposed substations and the location of electrical cabling within the project area.
  - e) The location, size, height and type of all ancillary equipment, buildings and structures proposed within the project area.
- 7) A decommissioning plan complying with the requirements of this regulation.
  - 8) A shadow flicker analysis in accordance with the requirements of this regulation.
  - 9) Evidence of notification of the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries and an analysis of potential electromagnetic interference.
  - 10) Environmental Analysis in accordance with the requirements of this regulation.
- e. Standard and Requirements: Utility Grid WECS projects may be approved as a condition use / special exception in the applicable zoning district when in compliance with the following standards and requirements:
- 1) SETBACKS: The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road right-of-way lines or the nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	4	1.1	1.5

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

- 2) SYSTEM HEIGHT: No limitation.

- 3) **SOUND LEVEL:** The utility grid WECS sound levels shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at the property lines of abutting properties. The applicant shall provide modeling and analysis that will confirm that the utility grid WECS project will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. If after installation of the project, an abutting property owner shall file a written complaint regard sound pressure levels, the owner of the utility grid WECS project shall cause sound pressure levels to be measured by a qualified third party according to the procedures in the most current version of ANSI S12.18 utilizing a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Zoning Administrator within 30 days of the date of notice to the utility grid WECS project owner of the sound level complaint.
- 4) **SHADOW FLICKER:** The utility grid WECS towers shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide an analysis which shall identify the location(s) of shadow flicker from sun-rise to sun-set over the course of a year which would impact occupied buildings on property abutting the project boundaries to verify that the standard set forth herein shall be complied with.
- 5) **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification. Visible high voltage warning signs shall be placed on all pad-mounted transformers and substations. Emergency contact signs shall be placed at or near the project main operation and maintenance building and the primary entrance to the project area. The sign at the primary entrance shall also warn of the potential for falling ice.
- 6) **AVIATION:** Any utility grid WECS project proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
- 7) **VISUAL IMPACTS:**
  - a) All WECS towers shall be of monopole design.
  - b) The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
  - c) The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or



lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.

- 8) ACCESS: Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface and all access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- 9) DESIGN SAFETY: Utility grid WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
- 10) CONTROLS AND BRAKES: Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirements shall be provided by the manufacturer.
- 11) CODE COMPLIANCE: All WECS(s) shall comply with the electrical codes applicable in the County and / or applicable State codes and / or the National Electrical Code.
- 12) ELECTROMAGNETIC INTERFERENCE: The project owner shall notify the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries upon application. No utility grid WECS project shall be located where its proximity to existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication system would produce electromagnetic interference with signal transmission or reception unless the applicant shall provide a replacement signal to the affected party(s) that will restore the transmission or reception to at least the level present before operation of the WECS project.
- 13) ENVIRONMENTAL IMPACT: The applicant shall have a third party, qualified professional conduct and analysis to identify and assess any potential impacts on wildlife and endangered species and public conservation lands, with particular emphasis on areas where birds or bats are highly concentrated, significant bird migration flyways and areas that have landscape features known to attract large numbers of raptors.

- 14) DECOMMISSION PLAN: The applicant shall submit a decommissioning plan, which shall include at a minimum:
- a) The anticipated life of the project,
  - b) The estimated decommissioning costs of removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
  - c) The method of ensuring that funds will be available for decommissioning,
  - d) The anticipated manner in which the project will be decommissioned, and
  - e) The time period in which the decommissioning shall be completed.
- 15) PUBLIC ROAD IMPACTS: The applicant shall, in coordination with representatives from York County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and /or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The owner of the WECS shall be responsible for restoring the roads, streets and bridges to pre-construction conditions where the impacts on such roads, streets and bridges is beyond normal wear under pre-existing conditions.
- 16) EMERGENCY SERVICES: The applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.
- 17) PUBLIC INQUIRIES AND COMPLAINTS: The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life the project. Said owner and operator shall make a reasonable effort to respond to the public's inquiries and complaints and shall maintain a record of such inquiries and complaints, together with actions taken and dates thereof and shall make such records available to the Zoning Administrator upon request.  
(9.8 Added as Amended 04/21/2009, Resolution #09-35)

SECTION 10: ADMINISTRATION AND ENFORCEMENT, ZONING PERMITS AND CERTIFICATES OF ZONING COMPLIANCE

10.1 ORGANIZATION

The administration of this Resolution is hereby vested in the York County Planning Commission, the York County Board of Zoning Adjustment, the York County Board of Commissioners, the Zoning Administrator designated by the Board of Commissioners and the York County Attorney.

10.2 AUTHORITIES

Planning Commission:

- A. Hear and recommend action by the Board of Commissioners regarding all applications for amendments to this Resolution and the Official Zoning Map.
- B. Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.
- C. Review periodically the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.
- D. Invoke any authorized legal remedy for the enforcement of this Resolution.
- E. The planning commission shall be comprised of seven members who are appointed by the Board of Commissioners as provided by Neb. Rev. Stat. S 23-114.01 (Reissue 1991) as amended.
- F. The County Board shall designate the Chairman, Vice Chairman and Secretary of the Planning and Zoning Commission at the second meeting of the commissioners in January of each even-numbered year.

Board of Zoning Adjustments:

- A. Hear and determine appeals from and review any order, requirement, decision or determination made by the Zoning Administrator when such order, requirement, decision or determination is appealed by the person or persons affected by such order, requirement, decision or determination.
- B. Hear and authorize specific appeals at variance with the requirements of this Resolution that would not be contrary to the public interest, where, owing to special conditions demonstrated and after written findings of legitimate hardship, as defined and specified in Section 11.2 of this Resolution, a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship.

- C. Hear and decide appeals regarding the interpretation of zoning district boundaries as indicated on the Official Zoning Map in accordance with the requirements of the Resolution.
- D. Prescribe uniform rules of procedure pertaining to investigations, applications and appeals and public hearings.
- E. Invoke any legal remedy for the enforcement of this Resolution including full power to order discontinuance of use and stays of work on any premises.

Board of Commissioners:

- A. Hear and decide special exceptions upon which it is required to act under the terms of this Resolution.
- B. Consider and adopt amendments to this Resolution after review and recommendation by this Planning Commission and establish a schedule of fees and charges for the administration of this Resolution.
- C. Provide for the proper and constant enforcement of this Resolution through the appointment of a Zoning Administrator and sufficient budget to enable the Planning Commission, Board of Zoning Adjustment, Zoning Administrator and the Board of Commissioners to carry out the responsibilities assigned to them under this Resolution.

Zoning Administrator:

- A. Issue in the name of the County, zoning permits and certificates of zoning compliance and maintain records thereof.
- B. Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution and report said findings and violations to the Commission and/or Board of Zoning Adjustment for the purpose of ordering compliance thereof.
- C. Provide interpretation of this Resolution and Official Zoning Map when necessary and such other technical and clerical assistance as the Commission, Board of Zoning Adjustment and the Board of Commissioners may require.
- D. Provide and maintain public information and provide for the timely publishing of legal notices and other notifications with regard to all zoning matters.
- E. Maintain permanent records and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits and certificates of zoning compliance, variances, special exceptions, appeals and applications therefore together with all records of meetings and hearings pertaining to this Resolution.

10.3 RESPONSIBILITIES:

- A. It is the intent of this Resolution that all questions of interpretation and enforcement regard this Resolution shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from a decision of the Zoning Administrator, and that recourse from the decisions of the Board of Zoning Adjustment shall be to the courts as provided by law, except as provided in Section 13 of this Resolution.
- B. It is further the intent of this Resolution that the duties of the Board of Commissioners shall be limited to those specified in Section 10.2 of this Resolution and shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this Resolution.
- C. If the Zoning Administrator shall find that any of the provisions of this Resolution are being violated, he/she shall notify the person or persons responsible for such violation in writing, indicating the nature of the violation and ordering the action or actions necessary to correct and eliminate such violation. The Zoning Administrator shall have authority to order discontinuance's of unauthorized or illegal uses of land, buildings or structures; removal of illegal buildings or structures or of illegal additions to any building or structure; discontinuance's of any work being done in violation of the requirements of this Resolution; or other legal action necessary to ensure compliance with or prevent violation of the provisions of this Resolution.
- D. The Zoning Administrator, operating through the County Attorney shall have express authority to initiate and carry out any and all legal actions appropriate and necessary to enforce the provisions of this Resolution, in accordance with the provisions of this Resolution, without further authorization by the Board of Commissioners. Adoption of this provision by the Board of Commissioners is expressly intended to authorize the Zoning Administrator operating through the County Attorney to initiate and carry out all legal actions appropriate and necessary to enforce the provisions of this Resolution that is or may be required under any applicable law of the State of Nebraska.

10.4 ZONING PERMITS REQUIRED:

No building or other structure shall be erected, moved, added to or structurally altered without a zoning permit therefore, issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Commissioners in the form of an approved special exception, as provided in this Resolution.

10.5 APPLICATION FOR A ZONING PERMIT:

- A. All applications for a zoning permit shall be accompanied by plans in triplicate, showing the actual dimensions and shape of the lot to be built upon, the sizes and locations on the lot of all existing buildings and other structures, if any, and the location and dimensions of the proposed building(s) and/or structure(s) or alteration thereof.
- B. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed uses of the building and land, existing or proposed buildings or alterations, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot, soil conditions, the proposed number of animal units and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Resolution.
- C. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he/she shall have marked the copy of the plans as approved or disapproved and attested to same by his/her signature on such copy. If a zoning permit is refused, the Zoning Administrator shall state the reason(s) for such refusal in writing and attach same to the applicant's copy of the plans. The original set of plans and one copy similarly marked shall be retained by the Zoning Administrator.
- D. When a zoning permit is issued for the erection, alteration of any building within the County's jurisdiction, the Zoning Administrator shall, if the cost of the improvement is one thousand dollars (\$1,000) or more, issue a duplicate of such permit to the County Assessor.

10.6 CERTIFICATE OF ZONING COMPLIANCE FOR NEW, ALTERED, NON-ALTERED OR NON-CONFORMING USES:

- A. It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this Resolution.
- B. No certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all applicable provisions of this Resolution unless the Administrator shall receive a written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Commissioners in the form of an approved special exception, as provided by law.
- C. Zoning Permits or Certificates of Zoning Compliance issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications and

no other use, arrangement or construction. If the Zoning Administrator determines that the construction or development under any permit is not proceeding according to the applicable regulations of this Resolution, plans filed with said permit application or additional requirements or conditions upon which such permit was issued or is otherwise proceeding in violation of law, the permit shall be revoked.

- D. Failure to obtain Zoning Permits, Certificates of Zoning Compliance and failure to comply with the plans and applications under which such permits or certificates were issued shall be a violation of this Resolution and punishable as provided in Section 15 of this Resolution.

#### 10.7 EXPIRATION OF ZONING PERMIT:

If the work described in any approved zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be given to the person(s) affected. Amended 3/31/2008, Resolution #08-23.

If work described in any approved zoning permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator and written notice of such cancellation shall be given to the person(s) affected together with written notice that further work, as described in the canceled permit, shall not proceed unless and until a new zoning permit has been obtained.

## SECTION 11: BOARD OF ZONING ADJUSTMENT

### 11.1 ESTABLISHMENT AND PROCEDURE:

A Board of Zoning Adjustment is hereby created and shall be known as the York County Board of Zoning Adjustment. The Board of Zoning Adjustment shall be appointed by the Board of County Commissioners and shall consist of five (5) members, plus one (1) additional member designated as an alternate who shall attend meetings and serve only when one (1) of the regular members is unable to attend for any reason.

One (1) member only of the Board of Zoning Adjustment shall be appointed from the membership of the York County Planning Commission by the Board of Commissioners and the loss of membership on the Planning Commission shall also result in the immediate loss of membership on the Board of Zoning Adjustment and the appointment of another Planning Commission member to the Board of Zoning Adjustment.

The members appointed to the Board of Zoning Adjustment shall be appointed for a term of three (3) years and be removable for cause by the Board of Commissioners upon written charges and after public hearing. No member of the Board of Commissioners shall be a member of the Board of Zoning Adjustment. Vacancies shall be filled by appointment for the unexpired term of any member whose term becomes vacant.

The Board of Zoning Adjustment shall annually elect one (1) of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the elected Chairperson's absence, and appoint a Secretary who may be an officer or an employee of the County. Each member so elected shall serve until a successor has been selected.

The Board of Zoning Adjustment shall adopt rules in accordance with the provisions of this Resolution necessary to conduct its affairs. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his/her absence, the Vice-Chairperson, may administer oaths and compel attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep written minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Records of all official actions shall be kept in the Office of the County Clerk and shall be open to public inspection during reasonable business hours.

A quorum for the Board of Zoning Adjustment shall be a minimum of three (3) members. Action by the Board of any question shall require a concurring vote of four (4) members in order to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.



## 11.2 POWERS AND DUTIES:

The Board of Zoning Adjustment shall have the following powers and only the following powers:

### A. ADMINISTRATIVE REVIEW:

To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by any administrative official or agency based on or made in the enforcement of this Resolution or any regulation relating to the location or soundness of structures;

### B. ZONING MAP INTERPRETATION:

To hear and decide, in accordance with the provisions of this Resolution, request for interpretation of any map. (Refer to the requirements of Section 2 of this Resolution).

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

1. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of this Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of particular requirements of this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the Board of Zoning Adjustment, upon an appeal relating to such property, shall have the power to authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Resolution. No such variance shall be authorized by the Board of Zoning Adjustment unless the Board finds that:
  - a) The strict application of the regulations would produce undue hardship;
  - b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

- c) The authorization of such variance shall not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of such variance;
  - d) The granting of such variance is based upon reasons of demonstratable and exceptional hardship as distinguished from variations for purposes of the owner's convenience, profit or caprice.
2. No variance shall be authorized unless the Board shall find that the condition or situation of the property concerned or the intended use of the property is not of so general and recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Resolution.

C. REQUIREMENT FOR WRITTEN APPLICATION AND CONDITIONS:

A variance from the terms of this Resolution shall not be granted by the Board of Zoning Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator demonstrating that special conditions and circumstances exist which are peculiar to the land, building or structure involved and which are not applicable to other lands, buildings or structures in the same zoning district; that the literal interpretation of the provisions of this Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Resolution; that the special conditions and circumstances do not result from the action(s) of the applicant; and that granting the variance requested will not confer on the application any special privilege that is denied by the Resolution to other land, buildings or structures in the same zoning district.

D. EFFECT OF NON-CONFORMANCE:

Non-conforming use of neighboring land, structures, or buildings in the same zoning district, and permitted or non-conforming use of land, structures or buildings in other zoning districts shall not be considered grounds for issuance of a variance.

E. PUBLIC HEARING AND FINDINGS OF THE BOARD OF ZONING ADJUSTMENT:

Prior to acting on any powers granted to it under this Resolution, the Board shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of the County at least ten (10) days prior to such public hearing and such notice shall fix the time, place and subject of the hearing. A copy of such notice shall be mailed to each party of interest. In addition, a copy of said notice shall be mailed by certified mail to all property owners of record who own property or a sign, as described in Section 14 of this Resolution shall be posted on or near the property in question. Any party may appear in person or be represented by an agent or attorney and be heard.

The Board of Zoning Adjustment shall:

- a) Make a finding that the application submitted is complete and in compliance with the requirements at this Section;
- b) Make written findings that the particular reasons set forth in the application justify the granting of the variance in accordance with the limitations for granting such variance as described in Section 11.2, Subsection D, Items 1, 1a, 1b, 1c, 1d and Item 2 and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;
- c) Made a written finding that the granting of the variance will be in harmony with the general purpose and intent of this Resolution and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

F. CONDITIONS IMPOSED:

In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Resolution. Violation of such conditions or safeguards when made a part of the written terms under which the variance is granted shall be deemed a violation of this Resolution and punishable under Section 15 of this Resolution.

G. USE VARIANCES:

Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Resolution in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said zoning district.

The Board of Zoning Adjustment shall attach a condition to any variance granted by the Board that such approval shall be acted upon by the applicant within one (1) year from the date of such approval and if such approved variance has not been acted upon within this time limitation such approval shall automatically be revoked and the applicant must then reapply.

11.3 BOARD HAS POWERS OF ADMINISTRATIVE OFFICER ON APPEALS:

In exercising the above mentioned powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partially, or modify the order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

11.4 APPEALS:

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, or any taxpayer or any officer, department, board or bureau of the County may seek review of such decision by District Court for the County in the

manner provided by the laws of the State of Nebraska, particularly Chapter 23, Laws of Nebraska. Such petition for review shall be presented to the Court within fifteen (15) days after the filing of the decision of the Board in the office of the County Clerk.

SECTION 12: SPECIAL EXCEPTIONS:

12.1 GENERAL POWERS:

The York County Board of Commissioners may grant special exceptions to property owners for the use of their property in conformance and compliance with the limitations and procedures set forth in this Section.

The granting of a special exception shall only allow property owners to put their property to a special use if such use is among those uses specifically identified in the zoning districts as special exception uses.

The power to grant special exceptions shall be the exclusive authority of the Board of Commissioners and the Board of Commissioners has formally adopted and shall comply with the following standards and procedures.

12.2 APPLICATION REQUIREMENTS:

A written application for a special exception shall be initiated by a property owner or authorized agent of such owner and shall be submitted to the Zoning Administrator on forms prescribed by the Zoning Administrator. Such application shall indicate the Section of this Resolution under which the special exception is being sought and, at a minimum, the following information:

1. A legal description of the property on which the proposed special exception is requested, including the specific size and dimensions of the area on which the proposed special exception would be located if less than the total property owned by the applicant.
2. The size and locations of all existing and proposed buildings and structures.
3. A detailed description of the use(s) proposed and the activities involved with such use.
4. The location(s) of access to a public roadway.
5. The type and locations of any easements affecting the property.
6. A description of provisions made for adequate water supply, sewage disposal and public utilities.
7. Parking, loading and refuse disposal and collection facilities.
8. A description of all landscaping and screening proposed including type, location(s) and height.
9. The locations of residential dwellings and other non-agricultural land uses within three-fourths (3/4) mile of the property in question.

10. An indication of surface water drainage onto, through and off the site.
11. For industrial use, as defined in Section 17 of this Resolution, a description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, vibration, glare, and potential air, water and explosion hazards.
12. Business and other signs and outdoor lighting proposed.

Said application shall be signed by the applicant or the applicant's authorized agent and the applicant shall pay a processing fee as specialized in Section 13 of this Resolution.

12.3 BOARD OF COMMISSIONER'S PROCEDURE, CONSIDERATION AND HEARING:

- A. Prior to consideration of a special exception request, the Board of Commissioners shall instruct the Zoning Administrator to give public notice in the legal newspaper of the County at least ten (10) days prior to a public hearing to be held to consider such special exception request. Such notice shall fix the time and place of such public hearing and shall contain a description of the location and type of special exception being requested. A copy of such notice shall be mailed to the applicant at the same time that public notice is published. In addition, a copy of such notice shall be mailed, be certified mail, to all owner's of the land within three-fourths (3/4) mile of proposed site of the special exception at least ten (10) calendar days prior to the date of such public hearing.
- B. At public hearing, the Board of Commissioners shall hear the applicant's petition and all comments by the public in attendance and shall review the special exception request in accordance with the requirements of Section 12.4 immediately below. The Board shall act to approve or disapprove the request, provided, that if the Board approves such request it shall specify conditions and limitations to assure compliance with the items listed in Section 12.4 immediately below and if the Board disapproves the request, it shall state the reason(s) for such disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within one (1) week of such disapproval.
- C. Upon approval of a special exception, the Board of Commissioners shall cause a written statement of such approval and all conditions and limitations attached to such approval to be mailed to the applicant within one (1) week of the date of approval.

12.4 RULES GOVERNING REVIEW AND APPROVAL OF SPECIAL EXCEPTIONS:

- A. In reviewing any special exception, the Board of Commissioners shall consider all aspects of the proposed use including, at a minimum, those aspects of use listed below to determine the acceptability of the proposed use and its location. In granting any special exception, the Board of Commissioners shall attach specific conditions, requirements or limitations regarding each aspect listed below to assure continued acceptability of the special exception use. Such conditions, shall be made either by reference to a site plan of the proposed use or by attaching specific written statements.
- B. At the minimum, the aspects of acceptability shall include:
1. Both ingress and egress to the property for which the special exception is sought and the existing and proposed buildings and structures thereon is appropriate with particular reference to automobile and pedestrian safety, traffic flow and site distances, convenience and access in case of fire or catastrophe.
  2. Off-street parking and loading areas are appropriate relative to capacity, convenience and safety.
  3. Refuse disposal and other service facilities are appropriate relative to capacity, convenience and safety.
  4. Public utilities availability, capacity and location are appropriate for the special exception proposed.
  5. Water supply and sewage disposal facilities are appropriate relate to size, capacity, topography, soil conditions and surface water drainage.
  6. Landscaping and screening, with reference to type, dimensions, height and location(s) is appropriate with regard to protection of adjoining property.
  7. The number, size and location(s) of building(s) and other structures are appropriate relative to the size of the site, convenient access and neighboring properties.
  8. Front, side and rear yards are in compliance with the requirements of the District in which the special exception use is proposed.
  9. Signs, if any, and proposed exterior lighting is appropriate relative to adjoining properties and traffic safety on the site and the roadway from which access to the site is proposed.
  10. Provisions to prevent potential air, land and water pollution are appropriate relative to compliance with all applicable Federal and State regulations.

11. For industrial uses, the types of operations to be conducted on the site will not result in inappropriate levels of traffic, noise, odor, dust, vibration or glare and potential air, water and explosion hazards are satisfactorily controlled.

C. In consideration of a special exception application, the Board of Commissioners, may prescribe any additional appropriate conditions and safeguards in conformity with this Resolution to assure compatibility of the special exception with the adjacent properties.

#### 12.5 EXPIRATION OF SPECIAL EXCEPTION PERMITS:

Any approved special exception must have been commenced within one (1) year of the date of the approval of such special exception by the Board of Commissioners and all development associated with such special exception shall be completed within two (2) years of the date of approval of such special exception by the Board of Commissioners or such approval is automatically revoked. Any special exception revoked in accordance with this Section shall only be permitted after reapplication for such special exception and approval of such special exception by the Board of Commissioners.

The special exception permit may be extended beyond the two (2) year time period at the discretion of the County Board of Commissioners.

Additional structures related to the intent of the special exception permit, may be allowed with the approval of an additional zoning permit.



SECTION 13: SCHEDULE OF FEES, CHARGES AND EXPENSES:

The Board of Commissioners shall establish a schedule of fees and charges and a collection procedure for zoning permits, certificates of zoning compliance, appeals, rezoning applications, special exception applications and variance applications and other matters pertaining to the effective administration of this resolution. The schedule of fees shall be posted in the office of the Zoning Administrator and County Assessor. Said schedule of fees may be altered or amended only by the Board of Commissioners.

Until all applicable fees and charges have been paid in full by the applicant, no action shall be taken on any application or permit.

SECTION 14: AMENDMENTS:

The regulations, restrictions and boundaries set forth in this Resolution may from time to time be amended, supplemented, changed, modified or repealed, provided that such modification or repeal shall in each instance be proposed in a resolution presented to the Board of Commissioners for adoption and public hearings are held on such modification or repeal by the Planning Commission and the Board of Commissioners in the same manner and notification as required for the adoption of this Resolution.

A proposal for amendment may be initiated by the Board of Commissioners, the Planning Commission or upon application of the owner of property under the jurisdiction of this Resolution.

Prior to the consideration of amending, supplementing, changing, modifying or repealing of this Resolution, notice of public hearings by the Planning Commission and Board of Commissioners shall be provided as follows:

1. At least ten (10) days prior to the date of public hearing, a notice fixing the time and place of such public hearing shall be given by publication thereof in the legal newspaper of the County in general circulation and in the local newspaper of any county which has territory within three (3) miles of the property affected by such action. Such public notice shall fix the time and place of the public hearing together with a description of the amendment proposed and shall be published once at least ten (10) calendar days prior to the public hearing.
2. In addition to the publication notice prescribed above, a notice shall be posted in a conspicuous place on the property for which action is pending. Such notice shall be in the form of a sign not less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1 ½) inches in height. Such sign shall be so placed upon the affected premises that it is easily visible from the road nearest the same and shall be posted on the affected premises at least ten (10) days prior to the date of the public hearing at which the petition regarding the affected property will be conducted. Such posted notice shall be given for both the public hearing by the Planning Commission and the public hearing by the Board of Commissioners, provided that the times and place of the public hearings may be posted on the same sign.
3. At the option of the Board of Commissioners, in place of the posted sign, the owners and occupants of the real estate within three-fourths (3/4) mile of the real estate affected by the petition may be mailed, by certified mail a notice of the time and date of such public hearing together with a description of the action requested at least ten (10) days prior to such public hearing.
4. It shall be unlawful for anyone to remove, mutilate, destroy or change such posted sign notice. Any person or persons so doing shall be deemed guilty of a misdemeanor.

The provisions of this Section in reference to public notice by posted sign or certified mail shall not apply in the event of:

1. A proposed change in the regulations, restrictions or district boundaries apply throughout the entire area of an existing zoning district or of the County.
2. Additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas or parts of areas already within a zoning district or the County.

In these instances only the publication of notice in the legal newspaper of the County at least ten (10) days prior to such public hearings shall be required.

#### 14.1 AMENDMENT PROCEDURES:

The procedure for the consideration and adoption of any amendment to this Resolution shall be in like manner as that required for consideration and adoption of this Resolution. For action on zoning map and amendments to the text of this Resolution, a quorum of the Planning Commission shall be four (4) members. Passage of a motion of the Planning Commission to approve an amendment shall require a simple majority of all Planning Commission members and shall constitute a recommendation of approval to the Board of Commissioners.

Passage of a motion to disapprove an amendment shall require a simple majority of all Planning Commission members and shall constitute a recommendation of disapproval to the Board of Commissioners.

When the Planning Commission submits a recommendation of approval or disapproval regarding any amendment, the Board of Commissioners may act to agree or disagree with said recommendation and shall act to approve or disapprove amendment. Passage of a motion to approve an amendment by a simple majority of all members of the Board of Commissioners shall constitute approval of the amendment. Similarly, passage of a motion to disapprove an amendment by a simple majority of all members of the Board of Commissioners shall constitute denial of the amendment.

Should any amendment approved by the Board of Commissioners shall serve to modify the location of district boundaries as established on the Official Zoning map or in any way effect the information contained on the Official Zoning Map, the Board of Commissioners shall cause the Official Zoning Map to be modified to reflect the approved amendment and such change shall be witnessed by the signature of the Chairman of the Board of Commissioners.

SECTION 15: VIOLATIONS:

15.1 COMPLAINTS REGARDING VIOLATIONS:

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

15.2 PENALTIES FOR VIOLATION:

Violation of the provisions of this Resolution or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or special exceptions, shall constitute a misdemeanor. Any persons who violates this Resolution or who fails to comply with any of its requirements shall, upon conviction thereof, be punished by a fine or imprisonment as provided by the provisions of Section 23-114.05 R.R.S., or other applicable statute and in addition shall pay all costs and expenses associated with the case. Each and every day that such violation continues after notification of any violation shall constitute a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, engineer, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

15.3 REMEDIES:

In case any building or structure is erected, constructed, reconstructed, altered, repaired, moved, converted or maintained or any building, structure or land is used in violation of this Resolution, the Zoning Administrator shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, movement, conversion, maintenance or use; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION 16: LEGAL STATUS PROVISIONS:

16.1 SEPARABILITY CLAUSE:

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

16.2 PURPOSE OF SECTION, PARAGRAPH AND SENTENCE HEADINGS:

The titles appearing in connection with the sections are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court, or other tribunal in construing and interpreting the terms and provision of this Resolution.

16.3 REPEAL OF CONFLICTING RESOLUTIONS:

All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

16.4 EFFECTIVE DATE:

This Resolution shall take effect and be in force from and after its passage by the Board of Commissioners according to law.

## SECTION 17: DEFINITIONS

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

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adult Companionship Establishment: Shall mean an establishment which provides the service of engaging or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult Establishment. Shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas” including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

Adult Hotel or Motel. Shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

Adult Massage Parlor, Health Club. Shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Adult Mini-Motion Picture Theater. Shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

Adult Motion Picture Arcade. Shall mean any place to which public is permitted or invited wherein coin or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

Adult Motion Picture Theaters: Shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

Adult Novelty Business. Shall mean a business which has a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

Adult Sauna. Shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot aid as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Agriculture: The use of land for the purposes of raising and harvesting crops, for raising, breeding, pasturing and management of livestock or fowl, dairying, truck farming, forestry or orchards or for the non-commercial on-farm storage or processing of agricultural products and bee keeping and other similar agricultural uses.

Animal Units: For purposes of this Resolution, an animal unit shall be the term used to describe the relationship of various animals assigned a base unit of one (1). The following multipliers are used in determining animal units:

Slaughter Steers or Heifers	=	1.0
Cow-Calf Herds	=	1.3
Dairy Cattle	=	1.4
Swine	=	0.4
Sheep	=	1.0
All Fowl	=	0.05

Example:	2,500	Steers/Heifers.....	=	2,500	Animal Units
	1,923	Cow-Calves.....	=	2,500	" "
	1,785	Dairy Cattle.....	=	2,500	" "
	6,250	Swine.....	=	2,500	" "
	2,500	Sheep.....	=	2,500	" "
	50,000	Fowl.....	=	2,500	" "

Areas of Special Flood Hazard: The land within a community subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A on the official Flood Insurance Rate Map.

Base Flood: Means the flood having one percent chance of being equaled or exceeded on any given year.

Basement: Means any area of the building having its floor (below ground level) on all sides.

Buildable Area: The portion of a lot remaining after required yards have been provided.

Building: A structure having a roof and intended to be used for sheltering people, animals, property or business or industrial activity.

Bulk Storage: The storage of materials for sale, distribution and use by persons other than the owner of the premises on which such materials are stored. (Amended 4/21/09, Resolution #09-34)

Certificate of Zoning Compliance: A permit stating that the premises have been inspected after the erection, construction, reconstruction, alteration or moving of a building or structure, or after the change in the use or character of land, referred to herein, and that the proposed use of the building(s), structures and land complies with the provisions of this Resolution. Said permit shall be issued by the Zoning Administrator.

Commission (Planning Commission): The York County, Nebraska Planning Commission.

Commercial Feedlot: The use of land where the feeding of livestock including cattle, swine, sheep, horses, fowl, fur-bearing animals or other livestock in pens, lots or concentrations of such animals or fowl is conducted and the number of such livestock or fowl exceeds two thousand five hundred (2,500) animal units, as defined in Section 17 of this Resolution.

Compatible: A compatible land use relationship is present when a land use is suitable for direct association with other land uses because of consistency with the intent of the zoning district, similar or comparable characteristics and mutually harmonious relationship with respect to protecting the use, value and employment of property taxes.

Commercial Business: A business, other than farming or ranching or industrial use, that provides goods and services for a fee or profit.

Comprehensive Plan: The York County, Nebraska Comprehensive Plan and any amendments thereto as adopted by resolution by the Board of Commissioners.

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

Dwelling, Single-family: A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

Existing Manufacture Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

Expansion of Existing Manufacture Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacture homes are to be affixed, (including the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads.)



Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family of families.

Farmstead: An area of twenty (20) acres or more on which is located at least one dwelling unit and on which farm products of a value of one thousand dollars (\$1,000) or more are normally produced each year.

Feedlot: A location of the confined feeding of livestock, including cattle, swine, sheep, horses, fowl, fur-bearing animals or other livestock in buildings, lots, pens, pools, ponds which are normally not used for the raising of crops where the number of such animals or fowl is equal to or less than two thousand five hundred (2,500) animal units, as defined in this Section.

Flood: Means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the over-flow of inland or tidal waters. (2) the usual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM): Means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the community.

Floodproofing: Means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: Means the channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Frontage Lot: The length of the property abutting on one side of roadway measured along the right-of-way line or dividing line between the property and the roadway.

Habitable Floor: Any floor used for living which includes working, sleeping, eating, cooking or recreation or combination thereof. A floor used only for storage purposes is not a habitable floor.

Height: The vertical dimension measured from the average elevation of the finished lot grade at the base of the buildings or structure to the highest point of the building or structure, excluding chimneys, antennae or other similar appurtenances.

Historic Structure: Means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

Home Occupation: An occupation conducted in a dwelling unit provided that:

- a. No person other than members of the family residing on the premises shall be engaged in such occupation;
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square-foot in area, non-illuminated, and mounted flat against the wall of the principal building;
- d. No home occupation shall be conducted in an accessory building;
- e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard;
- f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Incompatible: An incompatible land use relationship is present when a use is unsuitable for direct association with other surrounding uses because it is contradictory, incongruous and not consistent with the intent of the zoning district or displays characteristics which are not harmonious with respect to protecting the use, value and enjoyment of surrounding property.

Industrial Use: A business, other than farming, ranching or commercial business where the primary activity is the manufacturing or fabrication of goods for sale. Sale of such goods and related services shall be a secondary activity to such manufacturing or fabrication activity. If the sale of goods and related services is a primary activity with only minor manufacturing or fabrication, the use shall be considered a commercial business.

Loading Space, Off-Street: Space logically and conveniently located for bulk pickups and deliveries, sealed to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking spaces.

Lot: A parcel of land occupied or intended for occupancy by a use permitted in this Resolution, including one main building together with its accessory buildings, the open spaces and parking spaces required by this Resolution, and fronting upon a street.

Lot Measurements:

- a. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- b. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the eighty (80) percent requirement shall not apply.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lowest Floor: Means the lowest floor of the lowest enclosed area (including basement). An unfurnished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a buildings lowest structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

Massage Establishment. Shall mean a building, room, place or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by

any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, osteopath or licensed massage therapist with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per State Statute 7-1278 through 71-1283, Nebraska Revised Statutes. 1943.

Massage Parlor: (See Adult Uses).

Mobile Home: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more that thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

Mobile Home Park: Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

Modular Home: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

New Construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

Non-farming Building: All buildings except those utilized for agricultural purposes on a farmstead of twenty (20) acres or more which produces one thousand (1,000) dollars or more of farm products each year.

100-Year Flood: Means the condition of flooding having a one percent change of annual occurrence.

Outdoor Advertising Signs: The provision of outdoor displays or display space on a lease or rental basis and in conformity with the outdoor advertising standards as set forth in this Resolution.

Principally Above Ground: Means that at least 51 percent of the actual cash value is above ground.

Recreational Vehicle: Means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping travel, or seasonal use.

Regulatory Flood Elevation: Means the water surface elevation of the 100-year flood.

Salvage (Junk) Yard: Any property used for dismantling of vehicles, machinery or other items, including farm machinery and boats, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking, or for the storage or keeping of junk, including scrap metals and other scrap materials.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided however, that the following shall not be included in the application of the regulations herein:

- a. Signs not exceeding one square foot in area and bearing only property numbers, post box number, names of occupants or premises, or other identification of premises not having commercial connotations;
- b. Flags and insignia of any government except when displayed in connection with commercial promotion;
- c. Legal notices; identification, informational, or directional signs erected or required by governmental bodies;
- d. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
- e. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, on-site: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises, and conforming to the on-site standards contained in this Resolution. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Special Exception: A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district by which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.

Special Flood Hazard Area: Is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

Specified Anatomical Areas. Shall mean anatomical areas consisting of:

1. Less than completely covered and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Shall mean activities of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquierism, sapphism, zooerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s)
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal or human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

Start of Construction: [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub.L. 97-348)] includes substantial improvement, and means that date the zoning permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements was within 90 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling;

nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Street Line: The right-of-way of a street.

Structure: Means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

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

Substantial Improvement (as relates to floodplain management): Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alterations of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Quarter Quarter Section: That portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four (4) sides, has two (2) sides that coincide with two (2) section lines or one (1) section line and one (1) quarter section line and contains one sixteenth (1/16) of the land area contained in the square section.

Use: The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Variance: A relaxation of the terms of this Resolution where such variance will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the requirements of the Resolution would result in unnecessary and undue hardship not generally shared by other properties in the same zoning district. As used in this Resolution, a variance is authorized only for height, area and size of structure or size of yards and open space. Establishment or expansion of a use otherwise prohibited in the zoning district shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the applicant for such variance.

Vehicle: Any device originally constructed with wheels and a motor designed to convey persons or objects that is required by Nebraska law to be licensed and carry a license plate.

Violation: Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

Yard: A required open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard the minimum horizontal distance between the lot line and the main building shall be used.

Yard, Front: A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, Side: A yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

Yard, Rear: A yard across the full width of the lot between the back line of the main building and the back line of the lot.

(Section 17 Amended on 08/15/06, Resolution #43; Amended on 04/21/09, Resolution #09-34)