



Hall County Regional Planning Commission

**Wednesday, April 5, 2017
Regular Meeting**

Item 2

Hall County Zoning Review Subcommittee-Livestock Friendly Designation

Staff Contact: Chad Nabity

Agenda Item # 8.b.

PLANNING DIRECTOR MEMO TO REGIONAL PLANNING March 28, 2017

SUBJECT: Proposed regarding Livestock Friendly County (LFC) designation for Hall County.

In January of 2017 the Hall County Regional Planning Commission appointed a committee to review livestock zoning regulations within the County. The committee was composed of five planning commissioners - all four of those appointed by Hall County, Pat O'Neill, Len Rainforth, Judd Allan, and Greg Robb, and Les Ruge of Alda, the longest-serving planning commissioner. The Planning Commission requested that the Hall County Board assign one or two members of the board to the committee as well, Steve Schuppan and Karen Bredthauer were appointed. The committee began meeting in the latter part of January and has met several times since then to review the A-1 zoning regulations, livestock definitions, livestock operation siting matrix as developed for the Nebraska Department of Agriculture (NDA) and the Livestock Friendly County designation through the Nebraska Department of Agriculture.

The committee began with a review of the current Hall County agriculture zoning regulations and a comparison of those regulations with regulations from the surrounding counties. It was concluded by the committee, that Hall County's regulations, which allow 1,000 animal units as a permitted use on a farming operation, were less strict than Adams, Buffalo and Howard Counties. Hamilton County regulations do not provide any guidance regarding the size of operation. Merrick County regulations would permit 2,500 animal units without a conditional use permit. Hamilton, Merrick Howard and Adams counties have all been designated as Livestock Friendly by the Nebraska Department of Agriculture.

The Nebraska Department of Agriculture created the LFC Designation following a similar model in Minnesota after authorization by the Nebraska Legislature with the passage of LB 754 in 2003. A report on the LFC program was produced in response to LR 320 and presented to the Unicameral in December 2006.

Any Nebraska County can apply for the LFC designation following a public hearing by the county board and passage of a resolution declaring an interest in developing the livestock and processing sectors of the county economy, the importance of livestock to the economic well-being of the county, commitment to working with other jurisdictions in the county to implement livestock development, commitment to compliance with the Livestock Waste Management Act and commitment to enter into a letter of understanding with the Nebraska Department of Agriculture.

The process of becoming designated as LFC does include gathering assurances from other jurisdictions in the county that they are supportive of the livestock industry. Cairo and Doniphan have both allowed existing feeding operations to expand within their zoning jurisdictions. Grand Island is home to the Nebraska State Fair with numerous ag and livestock shows, and home to JBS where 5,000 head of cattle are slaughtered every day. Livestock is extremely important to the economic vitality of the area. After the county board has passed a resolution declaring their interests, each of the communities will also be asked to pass a resolution or send a letter of support for the declaration.

While the various communities are considering their support of the declaration, staff will gather the remaining data needed for the application, including the current zoning regulations, and map, wellhead protection areas, and comprehensive plan.

The designation as a Livestock Friendly County does not convey any specific benefit to the county or producers within the county, but does encourage the Nebraska Department of Agriculture to highlight agricultural-based development within Hall County. If at some point conflicts develop between the goals of Hall County and the NDA Livestock Friendly County program, Hall County can, after a public hearing, rescind their resolution of interest.

Chad Nabity AICP, Planning Director



Program Summary

The Nebraska Unicameral Legislature has directed the Nebraska Department of Agriculture (NDA) to develop a Livestock Friendly County program to recognize counties that support Nebraska's livestock industry. The Livestock Friendly County program assists counties and agriculture producers promote the Nebraska livestock industry.

What is the Livestock Friendly County program?

- The Nebraska Livestock Friendly County program is a voluntary program that recognizes counties that actively support the livestock industry. NDA partners with counties in the program to encourage development of the livestock industry in the county.

How does the Livestock Friendly County program work?

- Counties must apply to NDA to be designated as a Livestock Friendly County. Application materials are available from NDA, and any county may apply.
- The county board is required to hold a public hearing and pass a resolution asking NDA to designate the county as a Livestock Friendly County. The county submits an application to NDA. Local producer and community groups can work together to ask the board to submit a Livestock Friendly County application to NDA.
- Counties that are accepted by NDA may include the Livestock Friendly County designation in materials promoting the county. The information gathered as part of the application process will also be a valuable resource for local producers and others interested in supporting the county.

How will NDA evaluate county applications?

- Each county is different. There are a wide variety of activities and regulations adopted by Nebraska counties that support the livestock industry. NDA will look at all of the things county government and groups in the county are doing to support livestock.
- If the county is zoned, NDA will evaluate county zoning regulations that apply to livestock operations. The Livestock Friendly County regulations include examples of things counties can do to be considered livestock friendly, but a county can apply even if they do not fit any of the examples given.

Why should a county apply for the Livestock Friendly County designation?

- Every county has something to gain from pursuing the Livestock Friendly County (LFC) designation. However, designation is not something the state does to a

county, but rather it is recognition for the work the county does to establish a thriving livestock industry.

- Nebraska's agriculture economy depends on livestock. Livestock is Nebraska's largest agriculture industry with nearly 50% of all agriculture receipts originating from livestock sales. Livestock processing is the largest single employment class in Nebraska and provides many jobs in rural communities.

Frequently Asked Questions

Does a county give up zoning authority and local control by participating in the Nebraska Department of Agriculture's Livestock Friendly County program?

No. Applying for or receiving a Livestock Friendly County (LFC) designation under the Department program does not in any way affect a county's ability to zone. There is nothing in the statute that created the LFC program or in the regulations that govern the Department's administration of the program that allows for the state to take over the county's responsibility for zoning. Zoning is a function given to the county by the Nebraska Legislature in Neb. Rev. Stat. §23-114 and following. The LFC program, created by the Legislature as a promotional program, was codified to §§54-2801 and 54-2802. Neither the statute nor the regulations speak about the State, or any of its agencies, controlling zoning.

The only authority the Department has under the program is to evaluate how the county has used its zoning powers in terms of treatment of the livestock industry and to make a determination as to whether or not the county is consistent in its approaches with livestock and whether the county and its actions related to the livestock industry warrant an LFC designation.

Can my county be designated as a Livestock Friendly County if it has setbacks that are different than those outlined in the Department's regulations?

Yes. The regulations governing the Department's LFC program were carefully crafted recognizing the unique differences in landscape and needs in the individual counties across Nebraska. The regulations include a series of criteria in which individual counties will be evaluated by the Director of Agriculture. The setback distances identified in the regulations, like most of the other evaluation criteria, are not definitive, but rather are guidance for the Director in evaluating county applications. The regulations clearly provide opportunities for counties to have practices different than those identified in the guidance (like the setbacks).

The Livestock Friendly County program will cost too much to comply with in both dollars and personnel time.

There is no better way to address the concern of too much financial and personnel cost than to refer to the application form. The county need only originate a resolution and a narrative to apply. The balance of the application requirements are that the county attach copies of documents that already exist. The regulations require an annual report from program participants. The annual report is a simple update of changes to any of the county's filed documents and a description of activities taken by the county to nurture and support livestock during the preceding year.

The Livestock Friendly County program is nothing more than a way to force big livestock operations into my county.

The type of economic activity that is allowed in any county is controlled by that county. A county designated a LFC county, through its own zoning regulations, would retain control of zoning for any livestock operation, just as it does now. Whether a county has been designated an LFC county does not influence in any way the activities that are allowed in that county.

Why should our county seek a Department Livestock Friendly County designation when our county can self declare without going through the Department's certification process?

Working with the Department to secure an LFC designation brings with it recognition and credibility that cannot be achieved simply through self-declaration.

Like any third-party appraisal, the purpose of the Department LFC program is to give the applying county an unbiased evaluation of how the county's zoning regulations and other requirements on livestock production are affecting the future development and growth of the industry in the county. A self-declaration does not provide the same unbiased appraisal as is provided by going through the Department LFC certification program.

Applying for the Department designation sends a strong message of commitment to local farmers and businesses that rely on livestock production. It recognizes their importance to the local community and economy and demonstrates a willingness to have county regulations and actions evaluated to ensure the county is doing all that it can to foster a good environment for growth of those businesses and operations.

The program doesn't do anything there is no incentive to becoming designated a Livestock Friendly County.

While the LFC program itself does not bring with it a direct financial incentive to the county, the incentive to the county for participating in the program is clear - the promotion and growth of the livestock industry within a county, in general, carries both substantial direct and indirect benefits to the county's local economy. Local livestock production generates jobs, an additional marketing outlet for local crop producers, increased tax dollars, and markets for ethanol co-products and other benefits too numerous to list. The Legislature intended this program for economic development in all counties that participate.

Although a specified financial incentive is not currently attached to the LFC program, it is not out of the realm of possibility in the future. The idea of having a direct financial incentive to counties that obtain Department LFC designations was discussed by lawmakers at the time of the program's creation but did not come to fruition due in part to the State's financial difficulties at the time.

My county doesn't get anything for participating in the program except a logo to use on promotional materials and on our county letterhead.

Department staff participate in trade missions and trade promotion throughout the year. The Department is continually promoting the agricultural products of this state, and promoting Nebraska as a positive place to conduct agricultural business. Counties designated as LFC counties will be promoted as such during these trade missions and promotions. It's important to note that Nebraska commodity boards and agricultural associations also travel extensively in support of the agriculture industry. They, too, would have the option of promoting LFC counties in their numerous contacts. Essentially, a county receives free advertising to a state, national, and international audience advertising that is designed to help the county grow its economy. Without a formal designation, counties will be missing out on numerous exposure opportunities for future economic development.



Nebraska Department of Agriculture

Application for Designation as a Livestock Friendly County

County: _____

Contact Information:

Name: _____

Title: _____

Department: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

E-mail: _____

In the following sections, check all items that apply to your county. For each item checked, include the appropriate document or other information clearly marked with the corresponding exhibit.

Declaration of the County Board (to be completed by every applicant):

- ☐ Attach, as Exhibit A, a formal declaration adopted by the county board in a duly enacted resolution following a public hearing, which includes, but is not limited to, the following:
- ☐ An expression of interest in developing the livestock production and processing sectors of the county's economy.
 - ☐ An acknowledgment that livestock is important to the economic well-being of the county.
 - ☐ An assurance that the county intends to work with all other governmental jurisdictions within its boundaries in implementing livestock development within the county.
 - ☐ A commitment to compliance with the Livestock Waste Management Act.
 - ☐ A commitment to enter into a letter of understanding with the Department of Agriculture agreeing to:
 - Develop a plan to support the livestock industry in the county, and
 - Submit reports as directed by the Department of Agriculture.

Narrative Describing Fulfillment of Intent (to be completed by every applicant):

- ☐ Attach, as Exhibit B, a narrative describing how the county meets the overall intent of Neb. Rev. Stat. §§54-2801 and 54-2802 (see attached), including steps taken to support the livestock industry within the county and actions taken or information provided to avoid conflicting land uses.

Zoning Adopted by the County (to be completed if the applicant has adopted zoning):

- ☐ Attach the following exhibits if the county has adopted zoning pursuant to Neb. Rev. Stat. §23-114.
- ☐ County comprehensive development plan and zoning resolution (attach as Exhibit C-1).
 - ☐ Zoning regulations applicable to animal feeding operations (attach as Exhibit C-2).
 - ☐ Zoning map indicating districts in which animal feeding operations are a permitted use (attach as Exhibit C-3).
 - ☐ Any other procedures, guidelines, or other requirements applicable to livestock producers in the county (attach as Exhibit C-4).
 - ☐ The conditional use permits, including any conditions or requirements, for animal feeding operations granted by the county board during the prior 24 months (attach as Exhibit C-5).
 - ☐ The written statement of fact, if available, for any applications by animal feeding operations for conditional use permits granted or applications for conditional use permits denied during the prior 24 months (attach as Exhibit C-6).
 - ☐ Any zoning regulations related to rural housing development (attach as Exhibit C-7).

Animal Feeding Operations Restrictions (to be completed if jurisdictions other than the county impose restrictions on animal feeding operations):

- ☐ Attach the following exhibits if any city, village, or other governmental jurisdiction within the county imposes restrictions on animal feeding operations.
- ☐ The ordinances or regulations applicable to animal feeding operations (attach as Exhibit D-1).
 - ☐ Map designating areas subject to such ordinances or regulations (attach as Exhibit D-2).
 - ☐ Resolution or written statement of the city council, village board, or board of any other governmental jurisdiction within the county acknowledging that livestock is important to the economic well-being of the area and expressing an interest in supporting the livestock production and processing sectors (attach as Exhibit D-3).

Wellhead Protection Area (to be completed if the following applies):

- ☐ Attach the following exhibits if any controlling entity has designated a wellhead protection area, as both terms are defined in the Wellhead Protection Area Act.
- ☐ Map identifying the wellhead protection area designated by the controlling entity and approved by the Director of the Department of Environmental Quality in accordance with the Wellhead Protection Area Act that are applicable to animal feeding operations (attach as Exhibit E-1).
- ☐ The wellhead protection plan or other document containing the applicable controls approved by the Director of the Department of Environmental Quality in accordance with the Wellhead Protection Area Act that are applicable to animal feeding operations (attach as Exhibit E-2).

Other Considerations (not required, but this is where your county can demonstrate what you do to make your county livestock friendly):

- ☐ Identify and attach other information the county wishes to have considered in this application for designation as a livestock friendly county. You may wish to refer to the general principles, evaluation criteria and standards the Department will consider when evaluating applications for approval. These are found in the Nebraska Administrative Code, Title 29, Chapter 2, Subsections 008.04 and 008.05 (see attached). Please provide complete details about all attachments. Identify the attachments as Exhibit F and following.

Authorization (to be completed by every applicant):

Signature: _____

Print name: _____

Title: _____

Authorized representative of _____ County

Date: _____

Return completed form with exhibits to:

Livestock Friendly County Program
Nebraska Department of Agriculture
P.O. Box 94947
Lincoln, NE 68509-4947

For questions, contact:

Mr. Steve Martin
Ag Promotion and Development Division
Telephone: (402) 471-4876
Fax: (402) 471-2759
E-mail: steve.martin@nebraska.gov



Nebraska Department of Agriculture

Annual Report of a Livestock Friendly County

County: _____

Annual Report for the Calendar Year: _____

1. LFC Contact Information: _____

Name and Title: _____

Address: _____

City/State/Zip: _____

Telephone: _____ E-mail _____

Please submit the following information by January 31.

2. Changes to zoning regulations, processes, and/or zoning map for the agricultural zone(s).

- ☐ Attach copies of any changes from the past year.
- ☐ No Changes

3. Conditional/Special Use Permits

- ☐ Attach copies of any conditional/special use permits approved and denied in the past year for livestock activity.
- ☐ No conditional/special use permits applications in the past year.

4. Description of Activities

- ☐ Include a summary of activities undertaken by county officials, extension, or private groups to support and nurture the livestock industry. (This can include recognition/appreciation days, consumer education activities, or any other activity.)
- ☐ A summary of any livestock development activity that did not need a conditional/special use permit. (This would include expansions, repopulations, new construction, and any new or expanded support businesses (feed mill, veterinarian, etc.).)
- ☐ No known activities or growth

5. Livestock Development Contact – please provide contact information for a county economic development or similar person:

Name and Title: _____
Address: _____
City, State, Zip: _____
Telephone: _____
E-mail: _____

Return completed form with exhibits to:

Livestock Friendly County Program
Nebraska Department of Agriculture
P.O. Box 94947
Lincoln, NE 68509-4947

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Telephone: (402) 471-4876
E-mail: steve.martin@nebraska.gov

To: The Committee, and The Hall County Board

From: Randy Stueven

Date: 3/28/17

The committee that is working on studying livestock friendly and subdivision is only focusing on livestock friendly. Subdivision is left out. Title 29 requires subdivision to be part of the discussion. No input from the Home Builders Association, what about the Board of Realtors, none of them. The only voice is livestock. They are ready to push through a resolution to adopt livestock friendly before any discussion on subdivision. If this livestock designation takes place without subdivision there is no reason to discuss subdivision, it is over in rural areas. Grand Island is a metropolis, do they really want to do this? Lancaster, Seward, Sarpy, and Douglas Counties have not done this. Why? Local control, they are not going to jeopardize development. There is plenty of room for livestock and they don't need to constrict growth by this restrictive branding and marketing scheme.

This came about because of Nuisance laws and the industry does not want to deal with their neighbors. This came about because of the change in raising livestock. In the past 3 or 4 decades livestock has gone from being raised on open ranges and many local farms, to Confined Animal Feeding Operations, or known as CAFO's. The processing industry is also behind this. Just 20 years ago we had big discussions on large hog operations. This is where livestock friendly got its financing, large hog feeders, industry, not local farmers. Large corporations, not local farmers pushed this and are the ones that benefit from it.

This is what was the law of the land was for many many years until corporations started to push the local farmer out of the market place. Similar things are happening in the grain market today. This is what we called a nuisance, this is the land rights we use to have and are being given away by self-serving bureaucrats.

"A nuisance may be defined as whatever is injurious, offensive to the senses, indecent, or an obstruction to the free use of property so as materially to interfere with the comfortable enjoyment of life or property. It is anything that unlawfully worketh hurt, inconvenience, or damage. It is a term applied to that class of wrongs that arise from the unreasonable, unwarrantable, or unlawful use by a person of his own property, real or personal, or from his own improper, indecent, or unlawful personal conduct, working an obstruction of or injury to the right of another or the public, and producing such material annoyance, inconvenience, discomfort, or hurt, that the law will presume a consequent damage. There must not only be a violation of a right, but an essential inconvenience, annoyance, or discomfort must result therefrom. A party is entitled to free use and enjoyment of his own property, but must so use it as not to interfere with the rights of others. Enjoy your property in such a manner as not to injure that of another person, This is the maxim of the law."

The industry, in efforts to prevent those suits went to the legislature to restrict ones ability to and restrict the public from seeking such action. This is what brought about these land right restrictions so innocently called "Livestock Friendly". There is a history of the legislature trying to shield livestock production from nuisance laws.

The industry had the legislature address things like this,

1. "The Department of Agriculture has promulgated regulations under the statute that touch on county zoning efforts. A large part of the evaluation criteria and standards found in the regulations speak directly to types of requirements typically found in county zoning ordinances. One overarching regulatory theme is that the requirements counties place on animal feeding operations should be objective and science based."
2. The industry is not done with the legislature. They also say "The state has not, however, repealed or changed the zoning statutes that have vest zoning authority in counties since the 1960s. Why would the industry want the legislature to repeal zoning regulations?"
3. "Once a county has been designated livestock friendly it may use that designation in its promotional materials. This designation is subject to a yearly review, however, and the county is under a continuing duty to report any changes in its zoning requirements or its comprehensive development plan to the Department of Agriculture."
4. It is also stated "But, the concerns about local control remains: "The loss of local control is a concern expressed by many in the zoning community."."

This is not my opinion, the research is there, the regulations and language is clear. This is a branding and marketing devise that contains a set of regulations that does not appear to work well for the general welfare of this county. Grand Island is a metropolis, Lincoln and Omaha are also, more counties say they are not interested than say OK. Why? LOCAL CONTROL, it is what the propaganda tries to confuse.

It is premature to move this forward to the County Board. It is far from being ready and compliant.

1. Chad needs to show the sections and show just how did we comply with that. This is not unreasonable it is the same thing required of him in the application.
2. I asked Chad to show me what he was directed to do from the board. It is clear from the conversation and Chad's first agenda that livestock and subdivision was to be considered for review. It did not say revise livestock to the point of passing regulations discouraging subdivision in rural hall county.
3. Northwest's Administrator Matt Fisher, and 2 board members came to the County Board expressing just how important rural subdivision was to their tax base. It was expressed, for years subdivision was only done when the land was annexed into the city first. Northwest was not successful like Adams Central and Hastings in getting

an inter-local agreement over annexation. Grand Island Public Schools was not interested in doing that. Northwest has been losing population through annexation, Ag land values are through the roof. Many issues were discussed that shows subdivision is very important for a healthy tax base, and enough people to support a growing school district. After that conversation I was put on that committee because of my position on subdivision. That should help show subdivision and livestock were to be reviewed together. Most of the County Board is obviously looking for a way that both are to be able to exist and just where should that be, and how.

4. The Home Builders Association, the Board of Realtors, and others that have an interest in land use regulations need involved. The livestock industry has been very well represented in this committee. There should be one person from each Village Board and one from the Grand Island City Council, they have to commit to this also. No thought was given to any other interest other than livestock.

5. It says in:

008.05A (3) In areas with significant existing non-agriculture uses and areas near cities and villages programs that permit reasonable modernization and expansion of existing animal feeding operations in a manner that is compatible with nonfarm land uses.

008.05B (1) Expression of commitment in a resolution of the city council or village board.

008.05C County has taken steps to reduce nonfarm development and nonfarm residential density and to discourage land uses that conflict with animal agriculture in areas identified for agriculture or predominately used for agricultural production.

008.05C (2) Density restrictions allowing for not more than one dwelling for every quarter- quarter section of land unless additional dwellings are occupied by employees or operators of the farm or ranch or in areas designated for nonfarm rural housing (based on proximity to surrounding natural resources, cities or villages and ability to efficiently provide county services.).

008.05C (3) Education programs communicating impacts of agriculture activities to developers considering non-agriculture activities in rural areas.

008.05C (4) County has completed rural housing study analyzing housing patterns and density and identifying areas suitable for livestock development.

008.05C (5) Activities by the county or groups within the county to determine the economic impact of animal feeding operations on the county.

008.05C (6) Conditional use permit not required in identified livestock zones for animal feeding operations meeting established specifications.

In Chad's message on the 22nd he mentions the Department of Agriculture changes in the legislation not being the same as the original. Those changes are describing the authority, it did not change Title 29, or its regulation requirements. In his message he shows the language from this. It references the rules in 54-2802 (4), look at the rules language on the first page, and you see Title 29, chapter 2. The very regulations I have been talking about.

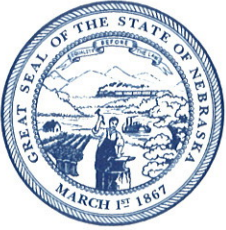
I do not agree with increasing the setback distances beyond what the setbacks suggested distance. These setbacks are designed to be free of odor and dust 93% of the time. With your distances you say it will be more like 96% dust and odor free beyond the setbacks. I believe the best method is least restrictive, I would prefer to use the winds as the determining factor.

Chad says he will not support any request for subdivision that would displace irrigated ground. He said anyone can apply, but he will not recommend a favorable vote, and it has to get past his board. Chad says if I want to get a land owner out in the hills that does not have irrigation, then he will recommend that for subdivision. How mind boggling is that. We are changing livestock regulations because of complaints. There is no mechanism to monitor the producers compliance, ask Chad about it and he will say, we will use complaints, really? We don't want subdivision out there, that is where the livestock will most likely locate. We don't want to pave roads. Just what is he thinking? Water rights can be sold, transferred, or leased now. Subdivision just off of existing paved roads makes way more sense. Regulations that allow neighbors the ability to use their land for their own use, the way they want. If a farmer in that setback has a family member that wants to build a house on their own land, can't be done without permission from the livestock entity. If the producer family wanted to build in the same location, that is no problem, that should not be.

If the committee had a proper makeup, and understood the regulations, its work would be credible. This committee will not be able to do the job until it has a good legal opinion on how and if we should proceed with livestock friendly designation consideration.

Subdivision is important to Northwest and its future. Grand Island Public School has no interest in coming together to assure Northwest can survive the constant annexation. Northwest continues to educate those same students, but now are Grand Island students. Northwest is a very important entity. They have a multi-million dollar budget, facilities worth millions of dollars. All paid for by the tax payers from Hall, Merrick, and Howard County. It was greatly appreciated to have the County Board express their concern about subdivision and improving the tax base.

This is why Chad's comments about rural subdivision, and Mr. Schuppan saying, I don't care about Northwest, are concerning. It makes me want to ask, Well, does Hall County want Northwest around or not? Chad said in the paper, if Northwest wants to improve their tax base, develop in Merrick, and Howard County. He did not want us to try to get development going in rural Hall County again. Supervisor Schuppan doesn't care to allow rural subdivision in the northwest area of hall county. He does point out just how many subdivisions there are in his area. Yes, Doniphan has many, and to the great benefit their school district. Doniphan was not trying to become a metropolis, Grand Island was.



Pete Ricketts
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March 28, 2017

The Livestock Friendly County (LFC) program, as defined by the legislature and in regulations under Title 29, is a program that evaluates how a county uses its zoning powers in the rural parts of the county. In particular the LFC is looking for fair and consistent application of the county regulations. The program does not require changes to the county regulations, the program only evaluates county regulations, processes and procedures. Nebraska Department of Agriculture (NDA), who administers this program, cannot require changes to county zoning regulations, our only power is to either approve an application for designation or deny an application for designation. Also, 008.04 – Principles, is guidance for the evaluators to follow in looking at an application.

As to the question regarding the Evaluation Criteria and Standards, Section 008.05 A-F

A careful reading of the 008.05 introductory paragraph shows that this section is guidance for NDA to evaluate applications. This is not directions or requirements for the county to follow. As NDA evaluates an application based on those six criteria we are to look for certain activities that prove or substantiate the county's LFC claim. The "A through F" sections are the standard the county should be meeting, the following numbered sections are, as stated in the Lettered sections, examples of activities a county could be doing to satisfy that section. If a county is not doing one of those exact activities then we look for other activities that would satisfy that section. However, if a county is not doing any of those activities and does not satisfy a particular section that does not disqualify the county. As stated under 008.05, "the criteria is not weighted and the Director may determine that a county satisfies a specific criterion if it has no regulations regarding that area."

For example, if a community either can't or won't submit a resolution to support the LFC program, the county can satisfy 008.05B by other examples of their work with other governmental entities as proof that the county satisfies this section. Example could be where the county and communities all work together to support an economic development director or entity.

Again, a county does not have to complete all or any of the numbered items under the A-F sections to prove that they satisfy the section. This is just a short list of examples of activities that fit under that section.

In regards to subdivisions, one thing to point out is that in the county's comprehensive plan the goals for land use in the agriculture zone include limiting or reducing encroachment by non-farm residences into productive farm land. The plan does address subdivisions and rural residences and where they are appropriate.



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After designation there is a required annual report. This report asks for an update on the county contact person, a contact for economic development matters, and if there are any changes to the zoning regulations. Keeping contacts for county zoning and new business development updated helps all parties stay in touch and working together. If there are changes to zoning, then there is a re-evaluation to ensure that a county still meets the definition of livestock friendly. Most programs require some update or re-certification to ensure the person or entity continues to meet standards. If there are no changes, then all that is needed is updated contact information.

Finally, in all of this it is important to remember that NDA is a 3rd party verifier for this program. The legislature set the standards, the county – in believing that they meet or exceed the standards – applies, and NDA evaluates that application against the legislature's standards. If a county meets the standard they are approved. If not they are denied. If a designated county were to change regulations to a point where they no longer meet standards then our only power is to remove them from the LFC designated list; we cannot change a county's regulations.

If you have further questions about the program please let me know.

Steve Martin

Ag Promotion Coordinator | AG PROMOTION & DEVELOPMENT

Nebraska Department of Agriculture

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