



Hall County Regional Planning Commission

**Wednesday, March 14, 2018
Regular Meeting**

Item F5

**Text Amendments Hall County Zoning Resolution Article 2
Section 2.03 Definitions and Article 4 Sections 4.02 Agricultural-
Primary District; 4.03 Secondary Agricultural District**

Staff Contact:

Agenda Item # 8

PLANNING DIRECTOR MEMO TO REGIONAL PLANNING March 2, 2018

SUBJECT: Proposed changes regarding livestock operations in Hall County.

In January of 2017 the Hall County Regional Planning Commission appointed a committee to review livestock zoning regulations within Hall 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, who was appointed in 1990 and is 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 and 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 regulations and a comparison of those regulations with regulations from the surrounding counties. It was concluded that Hall County's regulations, allowing 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 and 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 ag zoning regulation changes as proposed add a localized version of the Livestock Siting Matrix into the decision-making process. They do not proposed to change size categories within the livestock operation mix although earlier versions did contemplate adding a size between 1001 and 5000. They do address newer confinement technologies, such as hoop buildings. The committee did review the Nebraska Department of Agriculture definitions of types of feeding operations based on the manure management and the setbacks proposed by the NDA. The committee is recommending that Hall County continue to divide Livestock Feeding Operations (LFOs) by open lots and environmentally-controlled housing. It is recommended that the separation distances between LFOs and other uses remain as they are in the current regulations. The required separation for environmentally-controlled housing would remain the same for all classes.

The Livestock Siting Matrix is a major change to the regulations. As proposed, the LFO Class II and above (1,001 animal units or more) would need to score at least 75 points to be considered as a permitted use. The first 25 point would come from approval and compliance with Nebraska Department of Environmental Quality (NDEQ) permits and regulations that apply to all LFOs with more than 1,000 animal units. The second 25 points would come from meeting the county separation distances or having impact easements that waive the separation distance. Those 50 points would be required. The other 25 points would be based on management practices including, but not limited to, environmental compliance, water quality protection, odor and dust control, manure application practices, traffic, economic impact and aesthetics.

Another significant change that has been suggested is that the county would recognize impact easements that could be agreed upon by all property owners that would allow feeding operations to locate closer to a neighboring use than the regulations would allow or allow a house to locate closer to a feeding operation than would otherwise be allowed. The Nebraska courts have validated these mutually agreed upon impact easements for livestock operations.

The Planning department did receive a number of comments on the proposed regulations after the meeting in April of 2017 many of the comments referenced both the Livestock Friendly County Designation and the proposed changes. Copies of those comments are included with these proposed changes.

In May of 2017, the Hall County Board authorized the Planning Department to make an application to the State of Nebraska Department of Agriculture for Hall County to be designated as Livestock Friendly. The Livestock Friendly County Designation was officially awarded to the Hall County during the Governor's Breakfast the first Sunday of the 2017 Nebraska State Fair.

_____ Chad Nabity AICP, Planning Director

HALL COUNTY, NEBRASKA

ZONING RESOLUTION

A resolution, consistent with the Comprehensive Development Plan, Adopted for the purpose of promoting health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Hall County, Nebraska, to regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, including tents, cabins, house trailers, and automobile trailers; the percentage of lot areas which may be occupied, building setback lines; size of yards, courts, and other open spaces; the density of population; the uses of buildings; and the uses of the land for agriculture, forestry, recreation, residence, industry, and trade, after considering factors relating to soil conservation, water supply conservation, surface water drainage and removal, or other uses; to divide the County into districts of such number, shape, and area as may be best suited to carry out the purposes of this resolution to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration or use of non-farm buildings or structures, and the use, conditions of use or occupancy of land in the unincorporated areas of the County; to provide for the adoption of a zoning map; to provide for a board of adjustment, its members, powers, and duties; to provide for off-street parking and loading area requirements; to provide for conditional uses by conditional use permit; to provide for the proper subdivision and development of land, as provided in the Subdivision Regulations; to provide for non-conforming uses, to provide for the administration and the enforcement of these provisions, and for the violations of its provisions and the prescribed penalties, and including among others such specific purposes as:

- (1) Developing both urban and non-urban areas;
- (2) Lessening congestion in the streets or roads;
- (3) Reducing the waste of excessive amounts of roads;
- (4) Securing safety from fire and other dangers;
- (5) Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters;
- (6) Providing adequate light and air;
- (7) Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
- (8) Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
- (9) Protecting the tax base;
- (10) Protecting property against blight and depreciation;
- (11) Securing economy in governmental expenditures;
- (12) Fostering the County's agriculture, recreation, and other industries;
- (13) Encouraging the most appropriate use of land in the County; and
- (14) Preserving, protecting, and enhancing historic buildings, places, and districts, all in accordance with the comprehensive plan.

WHEREAS Nebraska Revised Reissued Statutes, 1943, Sections 23-114 through 23-114.05 and 23-164 through 23-174.06 as amended, empowers the County to adopt a zoning and subdivision resolution and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Hall County Board of Supervisors deem it in the interest of the public health, safety, morals, convenience, order, prosperity, and welfare of said County and its present and future residents; and
WHEREAS, the Hall County Board of Supervisors has adopted a Comprehensive Development Plan pursuant to Neb. R. R. S. 1943, Sections 23-114 through 23-114.03, as amended, and known as Hall County Comprehensive Development Plan, 2003, as amended; and

WHEREAS, the Hall County Planning Commission has recommended the division of the unincorporated areas of the County into districts and recommended regulations pertaining to such districts consistent with the adopted Comprehensive Development Plan based on a future land use plan designed to lessen congestion on roads and highways, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the

overcrowding of land, to avoid undue concentration of population, to conserve agricultural land and values, to facilitate sewerage, schools, parks, and other public needs; and

WHEREAS, the County Planning Commission has given reasonable consideration, among other things, to the prevailing agricultural and rural characteristics now predominant in the County, to the character of the districts and their peculiar suitability for the particular permitted uses, with a reasonable understanding of the objective to conserve the value of lands and improvements while encouraging the development of the most appropriate uses of land throughout the County; and

WHEREAS, the County Planning Commission has made a preliminary report, held public hearings, submitted its recommended final report to the County Board of Supervisors; and the County Board of Supervisors have given due public notice of hearings relating to the Comprehensive Development Plan, to the zoning districts, regulations, subdivision regulations, and restrictions, and has held such public hearing; and

WHEREAS, The County Board of Supervisors have deemed it necessary to adopt the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations, and restrictions for the purpose of the conservation of the existing rural agricultural developments and land uses, of providing for the harmonious development and orderly expansion of urban areas radiating outwardly from existing rural communities, for the orderly extension and planned arrangements of county roads, utilities, for adequate sanitary facilities, for safe and health drinking water, and for reducing flood damage potentials; and

WHEREAS, the requirements of Neb. R.R.S. 1943, Section s 23-114 through 23-124.05, Sections 23-164 through 23-174, and Section 23-174.02, as amended, with regard to the recommendations of the Planning Commission, the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations and restrictions and the subsequent action of the County Board of Supervisors have been met;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF SUPERVISORS OF HALL COUNTY, NEBRASKA.

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~~2.03.122 **CONFINED ANIMAL FEEDING OPERATION, MEDIUM** shall mean an farming operation which meets the following minimum numbers:~~

~~200 mature dairy cows~~

~~300 beef cattle or heifers~~

~~750 swine (each 55lbs or more)~~

~~3,000 swine (each under 55 lbs.)~~

~~10,000 ducks (other than liquid manure handling-system)~~

~~1,500 ducks (liquid manure systems)~~

~~9,000 chickens (liquid manure systems)~~

~~37,500 chickens except laying hens (other than liquid manure handling system)~~

~~25,000 laying hens (other than liquid manure handling system)~~

~~300 veal calves~~

~~150 horses~~

~~3,000 sheep or lambs~~

~~16,500 turkeys~~

~~Any combination of animals shall follow the definition of Animal Units in order to establish the intensity of Confined Animal Feeding Operation~~

2.03.123 **CONFINEMENT** shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.

2.03.124 **CONFLICTING LAND USE** shall mean the use of property that transfers over neighboring property lines, negative economic or environmental effects. Including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

2.03.135 **DAIRY FARM** shall mean any place or premises upon which milk is produced for sale or other distribution.

2.03.170 **ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which is roofed, and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept. Does not include Hoop Houses with dry bedding.

2.03.179 **FARM** shall mean an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

2.03.180 **FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

2.03.181 **FARMSTEAD**, In contrast to a farmstead dwelling, a tract of land of not less than one (1) acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.

2.03.182 **FEED LOT** shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.

HOOP HOUSE shall mean a temporary or permanent structure typically constructed with, but not limited to, piping or other material covered with translucent material. Hoop houses are typically used for the purpose of growing food, ornamental crops and livestock, but not for storage of inorganic materials. A hoop house for raising livestock that uses a dry bedding systems shall be treated as an open feed lot. A hoop house for raising livestock with a slatted floor, deep pit or other liquid manure management system shall be treated as environmentally controlled housing."

IMPACT EASEMENT shall mean an easement or deed restriction recorded in the office of the County Register of Deeds. Impact easements shall run with the land. Impact easements are an agreement between property owners where the grantor shall hold the grantee harmless for odor, smoke, dust, or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction. Eg. The owner of a home may grant an impact easement to a Livestock Feeding Operation allowing the operation to expand or locate closer to the home than permitted by the County regulations. Conversely, the owner of a Livestock Feeding Operation may grant an impact easement to allow the construction of a house within the separation distance required between the feeding operation and a new residential structure under different ownership than the feeding operation.

2.03.233 **LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.

2.03.239 **LIQUID MANURE** shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.

2.03.240 **LIQUID MANURE STORAGE PITS** shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.

2.03.241 **LIVESTOCK** (See Animals, Farm)

2.03.242 **LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three 300 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:

One (1) A.U.= One (1) Cow/Calf combination;
One (1) A.U.= One (1) Slaughter, Feeder Cattle;
One (1) A.U.= One-half (1/2) Horse;
One (1) A.U.= Seven Tenths (.7) Mature Dairy Cattle;
One (1) A.U.= Two and One Half (2.5) Swine (55 lbs or more);
One (1) A.U.= Twenty Five (25) Weaned Pigs (less than 55 lbs);
One (1) A.U.= Two (2) Sows with Litters;
One (1) A.U.= Ten (10) Sheep;
One (1) A.U.= One Hundred (100) Chickens;
One (1) A.U.= Fifty (50) Turkeys;
One (1) A.U.= Five (5) Ducks.

LIVESTOCK SITING MATRIX shall mean the matrix attached to this zoning resolution as APPENDIX B as adopted by the Hall County Board of Supervisors for the purposed of determining if a new or existing livestock operation in classes II, III, and IV should be allowed to or considered for expansion or construction.

2.03.243 **LIVESTOCK WASTES** shall mean animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock

- cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.
- 2.03.282 **NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.
- NON-FARM RESIDENCE any residential dwelling not located on a farm.
- 2.03.289 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.03.309 **POULTRY, COMMERCIAL FEEDING** shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.
- 2.03.438 **WASTE HANDLING SYSTEM** shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems
1. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
 2. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
 3. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
 4. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.
- 2.03.439 **WASTEWATER LAGOON** (See Lagoon)
- 2.03.440 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

Article 3: General Regulations

Section 3.23 Building Setback

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest architectural projection of the existing or proposed structure.

All new non-farm residences shall locate no less than at the corresponding distances provided in Section 4.02.08 from an Existing Agricultural Operation or permitted LFO with more than 100 animal units ~~located in any affected adjacent Zoning District.~~

Section 4.02: A-1 Agricultural – Primary District

4.02.01 Intent

The A-1 Agricultural District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock and accessory uses; to prevent encroachment of uses of land that could be mutually incompatible and continue to provide for agricultural uses as a major uses to the economy of the area for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses. The A-1 Agricultural District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The district intends to provide for the location and to govern the establishment and operation of land uses that are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, to provide for the location and to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this district and are appropriate to other property in the area.

The nature of the A-1 Agricultural District and the uses allowed outright or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the A-1 Agricultural District regulations afford such services, amenities and protection to residential uses located therein.

4.02.012 Permitted Principal Uses

The following principal uses are permitted in the Agriculture A-1 District.

- A Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - 1. State Agencies shall govern all use of farm chemicals, including application of pesticides and herbicides, and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - 2. The spreading of manure by a “Farming” Operation. (as defined in Article 2 of this Resolution)
 - 3. Agricultural operations having up to 1,000 A.U.’s are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Hall County Regional Planning Director is done.
 - 4. Operations having up to 1,000 animal units shall locate at least 1,320 feet from a platted residential area, Public Park, recreational area, church, cemetery, religious area, school, historical site, and Residential District.
 - 5. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one- (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.
- B Ranch and farm dwellings, subject to Section 4.02.08.
- C Recreational camps, parks, playgrounds, golf courses, country clubs, tennis courts, riding academies and other similar recreational uses.
- D Single family dwelling subject to Section 4.02.08
- E Utility substation, pumping station, water reservoir and telephone exchange
- F Fire Stations.
- G Churches, seminary and convent.
- H Public and parochial school; college.
- I Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.
- J Private kennels and facilities, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
- K Roadside stands offering agricultural products for sale on the premises.
- L Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and be operated on the premises.

- M Farm and industrial equipment sales.
- N Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept is no closer than 100 feet from the property line
- O All other Permitted Uses as indicated as Permitted within the Zoning Matrix.

4.02.03 Conditional Uses

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the A-1 Agricultural District.

- A Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - A. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - B. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - C. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - D. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - E. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
- B Publicly and privately owned dude ranches, forest and conservation areas, and golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as gun clubs, and archery, trap and skeet ranges.
- C Industrial uses as provided in the Zoning Matrix and the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- D Commercial uses as provided in the Zoning Matrix and the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- E All other Conditional Uses as indicated within the Zoning Matrix, provided the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- F Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations.
- G Radio, cellular and television towers and transmitters and are subject to the requirements of Section 6.01 of the Supplementary Regulations.
- H Airports.
- I Manufacture of light sheet metal products including heating and ventilation equipment.
- J Manufacture and/or processing of agricultural products including but not limited to ethanol plants and mills.
- K Truck and freight terminals.
- L Commercial mining, quarries, sand and gravel pits and accessory uses.
- M Storage of trucks, tractors, and trailers engaged in the transportation of explosives.
- N Race tracks, drag strips and similar uses and associated accessory uses.
- O Wind Energy devices.

- P Community sewage disposal facilities.
- Q Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than 1,000 feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution, see Section 6.04 of the Supplemental Regulations.
- R Lawn and Garden Nurseries.
- S Commercial Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
- T The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
- U The application of livestock manure in Hall County by operations located outside the County.
- V Class II, III, and IV Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Hall County Comprehensive Plan.

4.02.04 Standards for Livestock Feeding Operations

1. The following setbacks and design standards are the minimum sanitation and odor practices for Hall County. In addition, the Hall County Board of Supervisors, when considering the health, safety, and general welfare of the public, may impose more restrictive requirements. These requirements should consider such things as:
 - property values,
 - dust,
 - lighting,
 - waste disposal and
 - Dead livestock.
2. A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law.
2. Agricultural Operations of 1,000 A.U. and under are considered a farm as defined in these Regulations and do not require a Conditional Use Permit.
- 3.
4. All existing LFO's that have been granted a conditional use permit may expand within their designated level; except for the 20,000 and above which requires a new Conditional Use Permit for each expansion beyond 20,000 A.U.'s, as outlined in Table 1, without applying for another conditional use permit. All new LFO's and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than at a distance from non-farm residences or other residences not on an owner's property in any affected Zoning District as hereafter described:
 - A. Livestock Feeding Operations (LFO) will be categorized either as Environmentally Controlled Housing (ECH) Operations or Open Lot Operations. LFOs having more than one type of feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation. Each operation type shall be classified in one of four levels according to total number of animal units (A.U.) in the operation at any one time. Levels will include:
 - Class I Facility = 301-1,000 animal units;
 - Class II Facility = 1,001-5,000 animal units;
 - Class III Facility = 5,001-20,000 animal units; and
 - Class IV Facility = 20,001 or more animal units.

LFOs having more than one type feeding operation at one location shall be categorized according to the total number of animal units.

TABLE 1: LFO SPACING AND DISTANCE (Distances given in feet/miles)

Size of Proposed LFO in Animal Units.	Non-farm or Other Residence and Other LFOs (feet)
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ARTICLE 4: DISTRICTS AND INTERPRETATION OF DISTRICT BOUNDARIES

Class I 301-1000	ECH	1,320
	OPEN	1,320
Class II 1001-5000	ECH	5,280
	OPEN	2,640
Class III 5001-20,000	ECH	5,280
	OPEN	2,640
Class IV 20,000+	ECH	7,920
	OPEN	3,960

ECH = Environmentally Controlled Housing

OPEN = Open Lot Operations

- B. LFOs having more than a 1,000 animal units shall also locate at a distance as specified under the ECH or Open Lots, in Table 1 from a house under different ownership than the owner/operator of the LFO a platted, a residential area, public park, recreational area, church, cemetery (excluding abandoned and personal historic cemeteries), religious area, school, state or nationally designated historical site, and Rresidential Ddistrict. LFO's may locate closer than the specified distance if the owner of said property has granted an impact easement (distance waiver) and filed said documents against the property granting the easement.

- C. All LFO's over 20,000 Animal Units shall be required to obtain a new Conditional Use Permit prior to any expansion, unless it meets the standards of the exceptions in the Exceptions Section.

- D. The producer shall have a Pre-submission meeting with the Hall County Regional Planning Director and Hall County Building Inspector to discuss tentative plans and layouts prior to formal submission of the Conditional Use Permit for Livestock Feeding Operations.
 1. A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (NDEQ) or any other applicable State Agency.
 2. The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit Application for Livestock Feeding Operations.
 3. The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEQ approval if different from the proposed. Said plans shall be filed with the Hall County Regional Planning Director.
 4. Shall also file a copy of all approved NDEQ plans and permits with the Hall County Regional Planning Director within 30 days after they are issued by the NDEQ.
 5. An annual manure management plan shall be submitted to the Hall County Regional Planning Director which shall follow "best possible management practices" as specified by NDEQ in order to protect the environment, as well as the health, safety and general welfare of the public and their property values.
 6. If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area as outlined in Table 1 of this Section. Said area shall also located on the proposed site plan indicated in number (A) above.
 7. All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.
 8. In no event shall any manure storage unit or system be constructed where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in flooded areas of standing water shall be prohibited.
 9. All runoff or waste generated by an LFO facility shall be contained within the associated farming operation, or, on the premises upon which the confined feeding facility or feedlot is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize offer

- and air pollution, and avoid surface or groundwater contamination as regulated by the State of Nebraska.
10. The setbacks from an LFO to any non-farm dwelling, other residence or other LFO are as follows in Table 2:
5. Exceptions:
 - A. Any Class I Livestock Feeding Operation use in existence as of the effective date of this Resolution, and which is located within the minimum spacing distance in Table 1 to any church, school, public use, other LFO or single-family dwelling within the current class or to the next class, may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with **all** of the following limitations:
 1. Such expansion will not decrease the distance from the LFO use to any church, school, public use, other LFO or single-family dwelling not of the same ownership and not on the same premises with said LFO which is less than the minimum prescribed spacing distance.
 2. Any physical expansion of the existing LFO shall be immediately contiguous with the facilities of the existing LFO.
 3. Such expansion may occur in phases over time, but in no event shall such expansion(s) result in a LFO that is more than 50% larger in animal units than the one-time capacity of the use which existed as of the effective date of this Resolution. Any expansion beyond this limitation is prohibited unless a Conditional Use Permit for expansion that meets all requirements is heard by the Planning Commission and authorized by the County Board of Supervisors.
 4. If such expansion results in such LFO being required to obtain a new construction permit from NDEQ, introduction of additional animals shall be prohibited until said permit is issued by NDEQ or other applicable or successor agency has been issued and such LFO shall be operated at all times in a manner consistent with the requirements of said permit and applicable regulations of this Resolution.

4.02.05. Accessory Uses

The following accessory buildings and uses are permitted in the A-1 District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home occupation.
3. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

4.02.06 Lot Requirements and Intensity of Use

1. The following table lists the minimum lot requirements and maximum building requirements in an A-1 District. These requirements shall be followed unless otherwise modified by this Resolution

Uses	Min Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage	Min Lot Area per dwelling unit (sq. ft.)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)			
Permitted Uses	20	100	35	35	20	10%	20,000	35¹
Conditional Uses	20	100	35	35	20	10%	20,000	35¹
Agricultural uses	1	100	35	35	20	10%	20,000	35¹

¹ for structures intended for human occupancy, all others no restrictions.

2. The following requirements are allowed in specific situations within the jurisdiction of Hall County. These requirements are:
 - A. ANY PERSON OR PERSONS WHO:
 - (1) owns a tract of 80 acres or more may sell one tract per 80 acres for a single family dwelling, providing such sale has not been previously exercised on the large tract; and/or

- (2) owns an existing ranch or farm dwelling that is 10 years old or more may sell a tract containing such dwelling;
- (3) providing the following space limitations are complied with:

Min Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage	Max. Building Height (feet)
		Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
20,000	80	30	25	15	40%	35 ¹

¹ for structures intended for human occupancy, all others no restrictions.

4.02.07 Prohibited Uses

1. Any use not specifically listed as a permitted principal use or permitted accessory use.

4.02.08. Supplementary Regulations

1. Residential dwelling units on non-agricultural land existing at the time of passage of these regulations, may construct accessory structures, make repairs, replace, remodel, rebuild or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
2. All new and existing livestock feeding operations and farms with livestock of 10300 animal units or less shall require a no-fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over 31000 animal units shall need to score at least 75 points on the Livestock Siting Matrix found in Appendix B and require a Conditional Use Permit as subject to in Section 4.03, subsection B of this Article.
 - A. New non-farm residences shall be located no less than at the following distances and those shown in Table 2: Non-farm Residential Spacing and Distance, from an existing agricultural operation having between 50 and 3001000 animal units and an LFO based upon the type of operation. New residences may be located closer to an LFO if the owner of such residence has been granted an impact easement from the owner of the LFO and the owner of the residence has granted an impact easement to the LFO.. Both easements shall be filed with the Register of Deeds.

TABLE 2: NON-FARM RESIDENTIALCE SPACING AND DISTANCE (Distances given in feet)

	1000-1000300	301001-1t5,000	5,001-20,000	20,000+
New Residence* near open lots	1,980	1,9803960	3,960	5,940
New Residence* near ECH	1,980	1,9807,970	7,920	11,880

*This shall not prohibit building a residence within the specified distance as part of the farming/feeding operation.

Section 4.03: A-2 – Secondary Agricultural Secondary District

4.03.01 Intent

The intent of this district is to recognize the agricultural uses of land and communities; to encourage the continued use of that land which is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

4.03.02 Permitted Principal Uses

The following principal uses are permitted in the A-2 – Secondary Agricultural Secondary District:

1. Agriculture, farming, dairy farming, livestock and poultry raising, and all uses commonly classed as agricultural, with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions as to the sale or marketing of products raised on the premises; provided that the operation is no more than 500 animal units and, that any building, structure or yard for the raising, confinement, housing, or sale of livestock or poultry shall be located at least 1,320 feet from a neighbor's dwelling, and further provided, that there shall be no feeding, spreading, accumulation or disposal of garbage, rubbish, or offal on any open surface of the land.
2. Churches and publicly owned and operated community buildings, public museums, public libraries.
3. Single-family dwellings, provided the intensity of use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road.
4. Fish hatcheries, apiaries, aviaries.
5. Forests and wildlife reservations, or similar conservation projects.
6. Fur farming for the raising of fur bearing animals.
7. Golf courses and clubhouses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
8. Hospitals, sanitariums, homes for the aged and feeble minded.
9. Private Kennels, provided the buildings and pens shall be located at least 100 feet from the property line and 300 feet from any neighboring residence.
10. Mushroom barns and caves.
11. Nurseries, greenhouses, and truck gardens.
12. Philanthropic or eleemosynary institutions.
13. Picnic groves.
14. Publicly owned parks and playgrounds, including public recreation or service building within such parks, public administrative building, police and fire stations and public utility buildings and structures.
15. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
16. Railroad rights-of-way not including railroad yards.
17. Riding stables and riding tracks.
18. Cemeteries and mortuaries.
19. All Permitted Uses as indicated in the Zoning Matrix.

4.03.03 Conditional Uses

The following conditional uses may be allowed as per Article 5 of this Resolution. Approval shall depend upon the ability of the application to meet specific minimum conditions/requirements. The final consideration may require additional conditions to be met that are specific to the site in question.

1. Airports and heliports.
2. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Governing Body:
 - A. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - B. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - C. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - D. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - E. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
3. Commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
4. Industrial uses as provided in the Zoning Matrix and the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.

- C. Meets minimum sanitary sewer requirements for the proposed use.
- D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- 5. Commercial uses as provided in the Zoning Matrix and the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- 6. All other Conditional Uses as indicated within the Zoning Matrix, provided the following minimum conditions are met:
 - A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
- 7. Farm and industrial equipment sales
- 8. Development of natural resources and the extraction of raw materials, such as rock, gravel, sand and soil and conditions referred to in Section 6.02 of the Supplemental Regulations.
- 9. Wind Energy systems
- 10. The application of manure by any livestock feeding operation (LFO as defined in these Regulations) from inside or outside the County.
- 11. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
- 12. Radio, Cellular and television towers and transmitters and subject to the requirements of Section 6.01 of the Supplemental Regulations.

4.03.04 Permitted Accessory Uses.

The following accessory buildings and uses are permitted in the A-2 District.

- 1. Buildings and uses customarily incidental to the permitted and conditional uses.
 - 2. Home occupation.
 - 3. Temporary buildings and uses incidental to construction work and shall be removed upon the completion or abandonment of the construction work.

4.03.05 Area and Intensity Regulations

In the A-2 - Secondary

Agricultural Secondary District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

The minimum lot requirements shall be as follows:

Uses	Min Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage	Min Lot Area per dwelling unit (sq. ft.)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)			
Permitted Uses	3	100	30	25	15	25%	20,000²	35¹
Conditional Uses	3	100	30	25	15	25%	20,000²	35¹

¹ for structures intended for human occupancy, all others no restrictions.

4.03.06 Prohibited Uses

Any use not specifically listed as a permitted principal use or permitted accessory use.

Hall County Nebraska Animal Feeding Operation Siting Matrix

Livestock Operation Name
 Address
 Legal Description
 Acreage of Property Owned with Operation

BASIC INFORMATION

A Livestock Operation Size		Number		Points	Score
1	Number of animals (for multiple species or production phases, record separately)				
2	Animal Units (see Animal Units tab for calculator)				
		Yes	No		
1	Class II or Larger+ livestock operation (1,001 animal units or more)				
2					
3					

NDEQ STATUS

B Environmental Protection Plans		Yes	No	Points	Score
1	NDEQ has issued letter that no construction and/or operating permit is required			25	
2	All NDEQ construction and operating permit(s) will be in place prior to operation, as required, including the following (if not applicable, write NA):			25	
3	Nutrient Management Plan				
4	Animal Mortality Management Plan				
5	Request for Inspection of Animal Feeding Operation (Title 130 - Form A)				
6	Permit Application (Title 130 - Form B)				
7	Applicant Disclosure (Title 130 - Form C)				
8	Livestock Feeding Operation Narrative				
9	Livestock Feeding Operation Site Plan, Construction Drawings, and Maps				
10	Construction Quality Assurance Plan				
11	Manure Production and Storage/Treatment Calculations				
12	Operation and Maintenance Plan				
13	Chemical Management Plan				
14	Emergency Response Plan				
15	Sludge Management Plan				
16	Livestock Operation Closure Plan				
17	Best Management Practices for Odor Control				
SUBTOTAL (subtotal not to exceed 25 points for this section)					0

SETBACKS/SEPARATION DISTANCES

C Siting relative to dwellings and public places (refer to Separation Distances tab)		Yes	No	Points	Score
1	Separation meets or exceeds county setbacks, or an impact easement / distance waiver is in place			25	
SUBTOTAL (total not to exceed 25 points for this section)					0

OTHER CONSIDERATIONS

D Environmental Compliance Record		Yes	No	Points	Score
1	Owner has operated an animal feeding operation (AFO) for at least 5 years AND is in good standing with all State and Federal enforcement agencies			5	
SUBTOTAL					0
E Water Quality Protection - Livestock Facilities		Yes	No	Points	Score
1	The majority of animals housed within a confinement building			2	
	For only the facility that contains the majority of manure or effluent, select any that describe the livestock waste control facility:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	Open lot with stockpile			0	
3	Vegetative treatment system for runoff			1	
4	Runoff containment structures			2	
5	Roofed manure containment			2	
6	Concrete-equivalent containment structure			2	
7	Clay-lined or Geomembrane-lined containment structure			1	
10	Additional storage capacity (25% or more than NDEQ requirements)			2	
8	Select the smallest separation distance between any well used for domestic purposes and a Livestock Waste Control Facility:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	100 to 150 feet			0	
	151 to 300 feet			1	
	301 feet to 1,000 feet			2	
SUBTOTAL (total not to exceed 15 points for this section)					0

F Odor and Dust Control for Facilities		Yes	No	Points	Score
	Check all that apply for the majority of animal confinement or manure storage:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1	Biofilter treatment of exhaust air from fans (primarily for odor control)			3	
2	Oil/water sprinkling for dust control in animal areas			2	
3	Electrostatic/Ionization system for dust control in animal areas			2	
4	Windbreaks placed to intercept air emissions			2	
5	Solids routinely separated from liquids and:			1	
	Stockpiled for later application to land			0	
	Composted, dried and used for bedding, or equivalently treated.			1	
6	Cover on manure storage or first (settling) cell of multi-cell system			1	
	Impermeable cover with flare or gas treatment			2	
7	Aerobic treatment			1	
8	Anaerobic digester			3	
9	Other supplemental odor reduction measures (supported by verifiable scientific data)			2	
SUBTOTAL					0

G Manure Application Practices		Yes	No	Points	Score
1	Select the <u>primary method of manure application under normal conditions for the majority of manure applied</u> and indicate any <u>control practices followed for application to 50% or more of the land receiving manure</u> :				
1a	Subsurface application (also referred to as "injection")			3	
1b	Surface-applied solids			-2	
	Incorporated within 2 days of application			3	
	Incorporated within 3 to 7 days of application			2	
	Incorporated prior to planting but more than 7 days after application			1	
1c	Surface-applied slurry or effluent (excl. sprinkler irrigation)			-5	
	Application equipment discourages drift and encourages entry into soil			2	
	Incorporated within 2 days of application			3	
	Incorporated within 3 to 7 days of application			1	
1d	Sprinkler irrigation			-3	
	Utilize drop nozzles or distribution hoses			1	
	Utilize a monitoring and alarm system			1	
	Irrigation distribution system has a complete disconnect from the water source or appropriate mechanical devices, as specified by NDEQ, during application			1	
	Irrigation distribution system does NOT have a complete disconnect from the water source during application or appropriate mechanical devices, as specified by NDEQ			-2	
2	Cover conditions for manure application (Indicate all that apply for the selected method and majority of land receiving manure)				
	Conservation tillage is implemented			1	
	No-till farming is implemented			2	
	Application is primarily to fields with a growing crop			1	
	Application is primarily to fields with an established crop canopy			2	
	Cover crops or additional approved erosion-control practices are used			2	
	SUBTOTAL (total not to exceed 6 points for this section)				0
H Manure Application Separation		Yes	No	Points	Score
1	Additional separation provided, above and beyond minimum requirements, from land application areas to closest dwelling or public place. Applies to all application areas.				
	Additional 50 to 100 feet			1	
	Additional 101 to 500 feet			2	
	Additional 501 to 1,320 feet			3	
	Additional 1,321 to 2,640 feet			4	
	Additional 2,641 feet and greater			5	
2	Vegetative buffer (minimum 50 feet width) will be maintained between land application areas and any dwellings or public places			2	
3	Vegetative buffer (minimum 50 feet width) will be maintained between land application areas and any surface waters			3	
4	Vegetative buffers present on 25 to 50% of natural surface drains on all application areas			1	
5	Vegetative buffers present on 51 to 100% of natural surface drains			3	
	SUBTOTAL				0

I Additional Assurance of Environmental Protection		Yes	No	Points	Score
1	Assurance that the following plans will be kept current, displayed and/or readily accessible on site, and included in training procedures during operation:				
	Operation and Maintenance Plan			1	
	Animal Mortality Composting Plan			1	
	Chemical Management Plan			1	
	Emergency Response Plan			1	
	BMP for Odor Control Plan			1	
	Nutrient Management Plan			1	
2	Assurance that earthen livestock waste control facilities having compacted-soil liners will be constructed to meet and be verified as having a permeability rate ≤ 0.125 inch/day			1	
3	Assurance that earthen livestock waste control facilities having geomembrane liners will be installed according to the construction quality assurance / quality control plan and documentation will be maintained			1	
SUBTOTAL					0
J Traffic		Yes	No	Points	Score
1	Main entrance to livestock operation located on minimum maintenance road			-3	
2	Livestock operation has a cost-share agreement with the county for road maintenance			5	
3	Vehicle entrance and turnaround is designed so that traffic will not be required to back into the livestock operation from the county road			3	
4	Heavy vehicle route established that avoids bridges or roads with weight restrictions			3	
5	For the primary application method under normal conditions, the livestock operation can avoid county roads to apply:				
	Up to 25% of manure nutrients generated			1	
	25 to 50% of manure nutrients generated			2	
	More than 50% manure nutrients generated			3	
SUBTOTAL					0

K Authorized Representative and Manager Residency		Yes	No	Points	Score
1	Authorized representative lives or will live within one year of beginning operation:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2	On the site or within the separation distance for odor	<input type="checkbox"/>	<input type="checkbox"/>	5	
3	Between separation distance for odor and 10 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>	3	
4	Between 10 miles and 50 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>	1	
5	Manager lives or will live within one year of beginning of operation:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6	On the site or within the separation distance for odor	<input type="checkbox"/>	<input type="checkbox"/>	5	
7	Between separation distance for odor and 10 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>	3	
8	Between 10 miles 50 miles of the livestock operation	<input type="checkbox"/>	<input type="checkbox"/>	1	
SUBTOTAL					0
L Economic Impact Factors		Yes	No	Points	Score
1	Will add property value as of county permit issue date by:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	\$50,000-\$250,000	<input type="checkbox"/>	<input type="checkbox"/>	1	
	\$250,000-500,000	<input type="checkbox"/>	<input type="checkbox"/>	2	
	\$500,000-\$1,000,000	<input type="checkbox"/>	<input type="checkbox"/>	3	
	More than \$1,000,000	<input type="checkbox"/>	<input type="checkbox"/>	4	
2	Will create the following number of new full-time or equivalent jobs:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	1 to 3	<input type="checkbox"/>	<input type="checkbox"/>	1	
	4 to 9	<input type="checkbox"/>	<input type="checkbox"/>	2	
	10 or more	<input type="checkbox"/>	<input type="checkbox"/>	3	
SUBTOTAL					0
M Landscape and Aesthetic Appearance		Yes	No	Points	Score
	Check all that will apply:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
1	Landscaping plan will be implemented	<input type="checkbox"/>	<input type="checkbox"/>	2	
2	Visual barriers (i.e. fences, gating, trees) will be put in place	<input type="checkbox"/>	<input type="checkbox"/>	2	
3	Animal mortality will be managed so as to not be viewable from a public road	<input type="checkbox"/>	<input type="checkbox"/>	1	
	Handling of animal mortalities will be viewable from public road	<input type="checkbox"/>	<input type="checkbox"/>	-3	
4	Site designed to facilitate clean surface water drainage away from livestock operation	<input type="checkbox"/>	<input type="checkbox"/>	2	
5	Separation distance of at least 1.5 times county required distance from centerline of frontage road to livestock facility	<input type="checkbox"/>	<input type="checkbox"/>	3	
SUBTOTAL					0
Cumulative Points					#REF!

Score (A project that reaches 75 points or above shall be granted a conditional/special use permit by the county) = #REF!

**LEININGER, SMITH, JOHNSON, BAACK,
PLACZEK & ALLEN**

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A. J. LUEBS (1903-1996)
D. STEVEN LEININGER (RETIRED)

April 12, 2017

Hall County Regional Planning Commission
Attn: Chad Nabity
PO Box 1968
Grand Island, NE 68802-1968

Re: Proposed Revisions to Livestock Feeding Operation Zoning Regulations

Dear Chad:

I appreciated the opportunity to attend the hearing on April 5, 2017, and to provide my thoughts on behalf of my clients concerning the proposed change of zoning regulations relating to Livestock Feeding Operations. As further suggested by Chairman O'Neill, I believe it might be of some assistance to provide you with those concerns in a written format.

As I had mentioned, the Siting Matrix referenced in the proposal presented in the Hall County Zoning Review Committee report did not include important definitions that are actually found in the Matrix utilized by the Nebraska Department of Agriculture. I believe these definitions are important to take away subjectivity in respect to the proposed matrix and need to be consistent with definitions and concepts otherwise found in the proposed regulation.

As the course of discussion continued, it became apparent to me that with the exception of the lone situation involving Mr. Kohlhof, there really has been no issue with regard to the existing regulations adopted in 2004. As was the case, those 2004 regulations were not and could not be retroactively applied to existing cattle feeding operations at the time of adoption. Those operations constituted permitted non-conforming uses.

As is evident from your presentation, no other operators have even applied for a conditional use permit under the zoning provisions that have been in effect for almost thirteen (13) years, and there have been no other issues regarding Class I facility operations that have resulted in concerns by a rural residential property. In fact, as you have pointed out, although it is possible for a Class I facility to obtain a no-fee livestock registration permit to prevent residential properties being constructed within a prohibited distance of that facility, such action is rarely, if ever, taken by the Class I facility operators in Hall County.

In light of this lack of general clamor for change, I hope that the current push to revise existing regulations, which have been apparently working fine, does not result in the creation of a greater problem all for the sake of allowing expansion of an operation that knew of the rules and, instead of complying with those rules, has exceeded capacities without county or NDEQ approvals in advance.

As Mr. Hehnke stated, as long as the operation remained at the 1,000-or-under capacity levels, it did not pose a nuisance to his property. However, there are now two Class I facilities operating essentially adjacent to each other due to the technicality that there is a different operator identified as the owner. This has resulted in a situation where there are now 2,000 head of cattle creating the fly and odor concerns expressed by Mr. Hehnke.

In theory, based upon the scenario that there can be one Class I Livestock Feeding Operation in existence on each 20-acre parcel of farm ground, so long as adjacent operations are under separate ownership, under the existing regulations and there could be one Class II livestock Feeding Operation in existence on each 20-acre parcel under the proposal being considered by the Hall County Regional Planning Commission, it would mean that for each 80-acre parcel, so long as the required setback distance from a residential property is maintained, there could potentially be from 4,000 to 20,000 Animal Units affecting adjacent residential properties. Under the current proposal presented by the Zoning Review Committee, despite the concentration of livestock in a limited area, there would be no need to go through the conditional use process even though the combination far exceeds the Class III maximum for which the Siting Matrix would qualify a commonly-owned Livestock Feeding Operation as a permitted use in the A-1 Agricultural District.

It would appear to me that to prevent such potential abuse by creative operators, the regulations need to be revised to provide that no Livestock Feeding Operation of any class not requiring a conditional use permit should be allowed to operate within one (1) mile of any other Livestock Feeding Operation not requiring a conditional use permit.

As I mentioned, one of the most significant revisions being proposed is actually the removal of a provision for policing and enforcement of compliance when the regulations eliminate the need for Livestock Feeding Operations to obtain a conditional use permit before beginning operations if the particular operation does not exceed 5,000 in number. Again, while existing operations have not been required to obtain such a conditional use permit since they were grandfathered as existing non-conforming uses, the fact in point is that those operations are well-known to the communities where they have been established for some time and have a track record of good stewardship to those communities and neighbors who may have moved to encompass them over the years. It is the "new" operator that actually may need additional guidance in the protocol of operation and time to develop a record of compliance that probably needs to be encouraged along the right path through the conditional use process. This is really no different than many types of conditional business uses that are identified throughout the cities and villages of this County.

Automatically identifying a new Livestock Feeding Operation under 5,000 Animal Units as a permitted use by having that proposed operation complete responses to a Matrix without verification will definitely create a potential for fudging actual practices since the proposed Matrix includes responses for its scoring that actually would relate to operational practices after the proposed Livestock Feeding Operation is up and running. There is no procedure for actual verification of future operation nor a method of enforcement or sanction in the event the Matrix proves to be inaccurate in actual practices such that the operator would not have met the 75-point requirement for initial siting approval. At the very least there needs to be a procedure in place for verification of ongoing compliance by a representative of the County and the potential for loss of ability to continue operations for chronically failing to maintain compliance through an administrative procedure invoked by the County.

Finally, I believe any reduction in the spacing for operations of the sizes identified in the current zoning adopted in 2004 actually may provide a basis for all rural homeowners to pursue an action if a Livestock Feeding Operation is permitted under the proposed zoning regulations to operate at reduced distances from their homes. These homeowners who moved to or constructed rural residences in portions of the county with the expectation that Livestock Feeding Operations needed to at least be located by the specified setbacks in place since 2004 may be able to establish a claim against the County for devaluation of their property under color of law.

Although I believe that everyone recognizes the value of livestock operations to Hall County, there does need to be a balance afforded to encourage residential development in rural areas also. It would appear that the existing process affords such a balance and is actually less restrictive than some of the immediately surrounding counties. To date, as I believe was evident from the initial comments to this proposed zoning change, there is actually no pressing need for change other than to appease a single operator who has elected to carry on an operation in an area where he knew the rules in advance and now simply wants to change those rules to meet his individual objectives in a portion of the County where soils immediately adjacent to his operation are of a type that do not support Livestock Feeding Operations in any event.

As you continue to review the need for revisions to existing zoning regulations relating to Livestock Feeding Operations, if the only real reason for changing these regulations is to make it easier for a particular operator to expand an existing use, then that is not a legitimate reason for changing the existing regulations. Zoning regulations are intended to provide a reasonable level of certainty with regard to the location of permitted uses and the procedures for approval of uses that are not simply permitted uses in a particular zone and require further review as a conditional use.

Based upon the comments I heard during this initial presentation, I question any burning need for substantial revision to the existing regulations, although it would appear to be reasonable to revise existing regulations to prevent the siting of multiple low-number Livestock Feeding Operations having separate ownership within less than one (1) mile of each other. Multiple Livestock Feeding Operations with differing ownership obviously circumvent the intent of existing regulations and permit a situation to exist that would not otherwise be permitted if that activity were conducted by a single operator. It is the actual use being made of the land, not the

identity of the user that should be the focus for regulation to avoid the creation of a situation adversely affecting neighbors. Even though such a regulation cannot be applied retroactively to existing situations, such an addition could prevent further closely-located Livestock Feeding Operations with separate ownership of this type developing and resulting in unintended impact upon rural residential property owners.

Again, I appreciated the opportunity to express my concerns both during the public comment portion of your April 5, 2017, meeting and as further supplemented by this letter.

Very truly yours,

LEININGER, SMITH, JOHNSON,
BAACK, PLACZEK & ALLEN



AREND R. BAACK
ARB/skm

cc: K. C. Hehnke

5205-1/626852

Hall County Regional Planning Commission

RE: Proposed revisions to live stock feeding operations

Dear Chad,

Thank you for hosting the public session along with the Hall County Regional Planning commission concerning proposed revisions to Livestock Feeding Operations in Hall County.

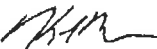
As I mentioned at the meeting I really do not want to see any changes to the rules and regulations that are in place at this time. Should Hall County Regional Planning, choose to amend existing zoning regulations related to Livestock Feeding Operations, as a resident affected by existing operations, I believe that an increase in the distance from homes with the same number of cattle as in the regulations now may be warranted and that some consideration should be given to limiting the number of operators that are permitted to operate in a particular area and result in a higher concentration of cattle than would be permitted by a single operator.

My family and I are living proof that the zoning regulations that are in effect at this time work for both the homeowner and the livestock producer. We had no issues with the current livestock producer until he started going over the 999 allowed head with the setbacks that are now in effect per Hall County Zoning regulations. Once the current feedlot operator started to feed over 1,000 head of cattle is when we started having issues with flies, smell, along with damage to our home and outbuildings exterior due to fly droppings. The amount of flies that are in our home year round would not be acceptable to anyone. Once different operators were allowed to start operating the second feedlot without obtaining a conditional use permit, even though they initially applied for and were denied such a permit because they could not meet the current setbacks, things became even worse.

I also have asked if any other livestock producer has asked for changes to the current regulations and the answer has been "No one has ever asked with the exception of Mr. Kohlhof" since these were completed thirteen years ago. So with that being said why change? I have attended two Hall County supervisors meetings concerning the feedlot that I am having an issue with and both times the Supervisors wanted to know how Hall County Zoning Regulations stand versus our neighboring counties. We now know that Hall County has less stringent zoning regulations than our neighbors zoning regulations with the exception of Merick County. Once again, why would we change ours to become even less stringent? Something needs to be added so there cannot be more than one producer in the same area.

I hope the Hall County Planning Commission along with the Hall County Supervisors will take our situation in consideration for any change because I really don't know why anyone in Hall County would want to end up in the same situation that we are in.

Thank you for your time,



K. C. Hehnke
8406 North 110th Road (Hall County)
Dannebrog NE, 68831
308-380-6559

May 4, 2017

To: Hall County Planning Commission & Officials
Re: Comments Concerning Changes in Livestock and CAFO
Zoning and Land Use Regulations

**Comments of David A. Domina
Lawyer for C & I Cattle Co., Inc., And Ken Kohlhof**

Planners and Officials:

Introduction

1. Ken Koholf and his company, C & I Cattle Co., Inc., became clients in my practice in 2015 as the result of referral by a well-regarded Grand Island lawyer. I think the referral occurred because my practice history includes several dozen livestock operation-related nuisance cases and consultations at the trial court level in Nebraska, and six (6) decisions of the Nebraska Supreme Court and Court of Appeals dealing with nuisance claims.¹ My work has included seminars sponsored by livestock organizations or suppliers to help producers, and communities deal with changes in the livestock industry.
2. The history of land use regulations involving confinement livestock operations in Nebraska started with hog facilities constructed in Holt County in the 1970s. Confinement hog operations produced much of the early controversy in the State. As beef packers consolidated and moved from stockyards to other locations with new plants, cattle feedyards grew dramatically and produced discord with neighbors in a few locations around the State. At this same time, zoning regulations came onto the County regulatory scene. So did extensive livestock regulations by both federal and state agencies.²
3. This history is important for context because the changes in the cattle feeding industry have been dramatic.

¹ The appellate decisions involved livestock operations.

² My own history in this area also includes more than a dozen pending nuisance cases awaiting trial involving industrial annoyances of neighbors from dust and noise, and more than a dozen additional nuisance cases involving industrial odor and sewage annoyances under active investigation.

4. Since 1980, the number of livestock facilities and the United States, and also in Nebraska, has dramatically dwindled. This description of the circumstances appears on the website of the USDA under its economic research compendium:

Feedlots with less than 1,000 head of capacity compose the vast majority of U.S. feedlots, but market a relatively small share of fed cattle. In contrast, lots with 1,000 head or more of capacity compose less than 5 percent of total feedlots, but market 80- to 90-percent of fed cattle. Feedlots with 32,000 head or more of capacity market around 40-percent of fed cattle.

The industry continues to shift toward a small number of very large specialized feedlots, which are increasingly vertically integrated with the cow-calf and processing sectors to produce high-quality fed beef. NASS [Nat'l Ag Statistics Service] [provides monthly Cattle on Feed reports.

<https://www.ers.usda.gov/topics/animal-products/cattle-beef/background.aspx>

5. A public compilation service, Manta, non-scientifically identifies 1508 companies under the heading "beef cattle feedlots in Nebraska." This number is not confirmed but is reported here. This figure is down by nearly 1,000 cattle feedyards in Nebraska since 2004. Mr. Kohlhof's northwest Hall County feedyard is an exception; it is a new, small yard created in 2006.

Feeding Operations are Closely Regulated

6. **Federal Regulation.** A wide expanse of federal regulations apply to cattle feed yards. These include, among others, a) disease eradication, b) animal health surveillance, c) emergency management response, d) Natural Resources Conservation Service requirements, e) Environmental Quality Incentive Programs, f) Livestock Price Reporting programs, g) Conservation of Private Grazing Programs, and h) *especially* Concentrated Animal Feeding Operations regulations. These are just some of the regulatory initiatives at the federal level. Many of these federal regulations apply to issues related to where a feedyard is located and how it operates. An entire additional array of regulations apply to the beef packing plant, and yet another apply to Food Safety.
7. **State Regulation.** Cattle feeding operations are tightly regulated in Nebraska by the Nebraska Department of Environmental Quality. Specifically, Title 130 *Neb Admin Code* §§ 2-001 *et seq.* sets out a comprehensive regulatory code governing facilities, providing for a permit system, placing stringent limitations on

proportionate to the number of animals involved in the operation. Thus, a 3,000-head feedyard has significantly less capacity to produce these conditions than a 5,000, 10,000, 20,000, or 50,000-head operation.

19. Even voluntary easements, consents in writing, or ownership of a nearby home by the feedyard and occupancy by the feedyard owner, do not provide circumstances in which exemptions or exceptions are permitted. The virtually universal trend is away from such intense restrictions and unremitting demands.

Changes Desired by Mr. Kohlhof

20. **Change Existing Setback Requirements; Permit Waivers and Consent Easements** Mr. Kohlhof believes that most cattle feeders in Hall County favor changes in the existing zoning regulation. Core changes should include:

- 20.1. Graduated setback requirements based on the number of animals involved in the operation, and setback requirements not so restrictive as to make Mr. Kohlhof's current operation inoperable.

- 20.2. Provisions providing that setback requirements may be waived by neighbors residing within setback areas. Accordingly, if consent easements are granted authorizing the operation, notwithstanding the proximity of a nearby neighbor, then the consenting neighbor's residence should be excluded from setback requirements. This is a widely-used provision and is widely seen as an appropriate solution. The neighbor and the operator are the persons best situated to determine what circumstances are best for their setting.

21. **Become a Livestock-Friendly County.** The county's regulations should be modified to permit the county to qualify as "livestock-friendly." Mr. Kohlhof is aware the Regional Planning Director has considered the livestock-friendly regulations on past occasions and has not perceived them as especially beneficial to Hall County. Mr. Kohlhof respects the work of Mr. Nabity and believes he has given these matters fair consideration. But, Mr. Kohlhof urges the Committee, Planning Commission, and Supervisors to take the steps necessary to permit Hall County to qualify as "livestock friendly." There are many reasons for this to be done. These are among the most prominent:

- 21.1. The livestock business and production agriculture are the core of Hall County's economic base. Hall County is home to several cattle feeding operations larger than Mr. Kohlhof's. It is home to one of the state's largest beef slaughter plants. The county's employment base is heavily vested in the livestock industry.

28. Caution at adopting the matrix system is urged. Mr. Kohlhof is not against it per se. He urges that if it is adopted, the adopted system must, necessarily, meet the needs of his changing industry and keep pace with other jurisdictions and counties as they adapt.
29. Modifications in the County's setback requirements are needed for all the reasons outlined above. The current setback requirements are not reflective of circumstances created by the number of livestock on hand and distances required to assure reasonable protection against unreasonable conditions being imposed upon a neighbor. No set of regulations involving any industry can eliminate all annoyance. Some annoyance inevitably comes from living in a community with other people. This ranges from slamming car doors in the middle of the night, to sirens on the way to hospitals, to inevitable others that occur on occasion from one source or another. Regulations cannot eliminate annoyances; they can attempt to help keep them within reasonable limits.

Suggested Changes

30. An effort has been made to draft proposed revisions to the existing Hall County Zoning Regulations governing livestock operations in order to allow very specific identification of areas in which changes are perceived as essential. The existing Regulation, in the sections deemed pertinent, appear below. The suggested changes are noted so they can be easily tracked.
31. Mr. Kohlhof urges consideration of changes of these types and in these areas. These areas of concern require attention under either a) the Nebraska Department of Agriculture model "Livestock-Friendly" Regulation, or b) the newer Matrix model. Mr. Kohlhof urges changes of the kinds highlighted, but expresses no other preference for the basic model to be selected.
32. Using the current Regulation as a guide, suggested changes are illustrated below:

4.02.01 Intent

The A-1 Agricultural District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock and accessory uses; to prevent encroachment of uses of land that could be mutually incompatible and continue to provide for agricultural uses as a major uses to the economy of the area for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses. The A-1 Agricultural District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The district intends to provide for the location and to govern the establishment and operation of land uses that are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, to provide for the location and

to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this district and are appropriate to other property in the area.

The nature of the A-1 Agricultural District and the uses allowed outright or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the A-1 Agricultural District regulations afford such services, amenities and protection to residential uses located therein.

The A-1 Agricultural District regulations concerning regulation's Standards for Livestock Feeding Operations are intended to provide for the preservation of lands best suited for commercial feeding of livestock and accessory uses while adopting the standards promulgated by the Nebraska Department of Agriculture for setbacks and other requirements, and providing adequate buffer areas and distances between such operations and neighboring citizens of Hall County, and allowing the county to have the best opportunity to qualify for state and federal benefits available to counties with livestock-friendly zoning and land use laws.

~~4.02.01~~ 4.02.02 Permitted Principal Uses

The following principal uses are permitted in the Agriculture A-1 District.

- I. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises, *provided that where federal or state law provides conditions, restrictions or limitations inconsistent with this Zoning Resolution, the inconsistent portions of this Resolution shall be deemed superseded by applicable state or federal laws or regulations.*
 - A. State Agencies shall govern all use of farm chemicals, including application of pesticides and herbicides, and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - B. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution), *subject to the state and federal restrictions and regulations.*
 - C. Agricultural operations having up to 1,000 A.U.'s are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Hall County Regional Planning Director is done, *provided that such operations shall operate within the constraints of the regulations of the Nebraska Department of Agriculture and the Nebraska Department of Environmental Quality*
 - ~~D. Operations having up to 1,000 animal units shall locate at least 1,320 feet from a platted residential area, Public Park, recreational area, church, cemetery, religious area, school, historical site, and Residential District.~~
 - D. *Setback requirements shall be as provided in Section 4.02.04 of these regulations for livestock feeding operations of each specified class.*

- A. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - B. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - C. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - D. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) offstreet parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - E. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
2. Publicly and privately owned dude ranches, forest and conservation areas, and golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as gun clubs, and archery, trap and skeet ranges.
3. Industrial uses as provided in the Zoning Matrix and the following minimum conditions are met:
- A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
4. Commercial uses as provided in the Zoning Matrix and the following minimum conditions are met:
- A. Meets minimum lot requirements as established by this Resolution.
 - B. Meets minimum off-street parking requirements as established by this Resolution.
 - C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
5. All other Conditional Uses as indicated within the Zoning Matrix, provided the following minimum conditions are met:
- A. Meets minimum lot requirements as established by this Resolution. *Meet minimum lot requirements as established by this Resolution, or different requirements established by model resolutions of the Nebraska Department of Agriculture for Livestock Friendly Counties and recommended recommendations for such counties.*
 - B. Meets minimum off-street parking requirements as established by this Resolution.

- C. Meets minimum sanitary sewer requirements for the proposed use.
 - D. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
 - E. *Notwithstanding other requirements above, constitute a conditional use deemed by the County Board of Supervisors, by a two-thirds majority vote to be sufficiently imbued with the public's interest after consideration of the advantages and disadvantages of the proposed use as to be the best interests of the residents and citizens of Hall County at the location and under the operating circumstances proposed.*
- 6. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations.
 - 7. Radio, cellular and television towers and transmitters and are subject to the requirements of Section 6.01 of the Supplementary Regulations.
 - 8. Airports.
 - 9. Manufacture of light sheet metal products including heating and ventilation equipment.
 - 10. Manufacture and/or processing of agricultural products including but not limited to ethanol plants and mills.
 - 11. Truck and freight terminals.
 - 12. Commercial mining, quarries, sand and gravel pits and accessory uses.
 - 13. Storage of trucks, tractors, and trailers engaged in the transportation of explosives.
 - 14. Race tracks, drag strips and similar uses and associated accessory uses.
 - 15. Wind Energy devices.
 - 16. Community sewage disposal facilities.
 - 17. Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than 1,000 feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution, see Section 6.04 of the Supplemental Regulations.
 - 18. Lawn and Garden Nurseries.
 - 19. Commercial Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.

20. The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
21. The application of livestock manure in Hall County by operations located outside the County.
22. Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Hall County Comprehensive Plan, *or the conditions set forth in a conditional use permit authorized by the County Board of Supervisors.*

4.02.04 Standards for Livestock Feeding Operations

1. The following setbacks and design standards are the minimum sanitation and odor practices for Hall County. In addition, the Hall County Board of Supervisors, when considering the health, safety, and general welfare of the public, may impose more restrictive requirements, *provided that a Conditional Use Permit application providing for minimum standards for setback distances, sanitation, odor practices, and other relevant conditions may be approved on terms authorized by the County Board of Supervisors following a public hearing, by a two-thirds majority vote.* These requirements should consider such things as:

- property values,
- dust,
- lighting,
- waste disposal and
- dead livestock.

The livestock-friendly county regulations and considerations of the Nebraska Department of Agriculture as established by the Department's rules and regulations, and consideration of requirements of the Nebraska Department of Environmental Quality established by its regulations

2. A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law.
3. Agricultural Operations of 1,000 A.U. and under are considered a farm as defined in these Regulations and do not require a Conditional Use Permit.
4. All existing LFO's that have been granted a conditional use permit may expand within their designated level; except for the 20,000 and above which requires a new Conditional Use Permit for each expansion beyond 20,000 A.U.'s, as outlined in Table 1, without applying for another conditional use permit. All new LFO's and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than at a distance from non-farm residences or other residences not on an owner's property in any affected Zoning District *as set forth in this regulation, or any conditional use permit providing for other setback requirements or limitations, which permit is adopted in accord with this Regulation, hereafter described:*
 - A. Livestock Feeding Operations (LFO) will be categorized either as Environmentally Controlled Housing (ECH) Operations or Open Lot Operations. LFOs having more than one type of feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation. Each operation type shall

be classified in one of four levels according to total number of animal units (A.U.) in the operation at any one time.

Levels will include:

Class I Facility = 301-1,000 animal units;

Class II Facility = 1,001-5,000 animal units;

Class III Facility = 5,001-20,000 animal units; and

Class IV Facility = 20,001 or more animal units.

LFOs having more than one type feeding operation at one location shall be categorized according to the total number of animal units.

TABLE 1: LFO SPACING AND DISTANCE (Distances given in miles)

Size of Proposed LFO in Animal Units.		Non-farm or Other Residence and Other LFOs (feet)
Class I 301-1000	ECH	1,320
	OPEN	1,320
Class II 1001-5000	ECH	5,280
	OPEN	2,640
Class III 5001-20,000	ECH	5,280
	OPEN	2,640
Class IV 20,000+	ECH	7,920
	OPEN	3,960

ECH = Environmentally Controlled Housing

OPEN = Open Lot Operations

- B. LFOs having more than a 1,000 animal units shall also locate at a distance as specified under the ECH or Open Lots, in Table 1 from a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, and Residential District.
- C. ~~All LFO's over 20,000 Animal Units~~ *All Class IV LFOs (over 20,000 animal units)* shall be required to obtain a new Conditional Use Permit prior to any expansion, unless it meets the standards of the exceptions in the Exceptions Section.
- D. The producer shall have a Pre-submission meeting with the Hall County Regional Planning Director and Hall County Building Inspector to discuss tentative plans and layouts prior to formal submission of the Conditional Use Permit for Livestock Feeding Operations.
 1. A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan ~~from the Nebraska~~ submitted to the Department of Environmental Quality (NDEQ) or any other applicable State Agency. *Prior NDEQ approval shall not be a prerequisite, but any conditional use permit granted shall become effective only upon approval of all applications for permits required under state or federal law.*
 2. The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit Application for Livestock Feeding Operations.

3. The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEQ approval if different from the proposed. Said plans shall be filed with the Hall County Regional Planning Director.
 4. Shall also file a copy of all approved NDEQ plans and permits with the Hall County Regional Planning Director within 30 days after they are issued by the NDEQ.
 5. An annual manure management plan shall be submitted to the Hall County Regional Planning Director which shall follow "best possible management practices" as specified by NDEQ in order to protect the environment, as well as the health, safety and general welfare of the public and their property values.
 6. If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area as outlined in Table 1 of this Section. Said area shall also located on the proposed site plan indicated in number (A) above, *or as otherwise established by a conditional use permit including other criteria which receives approval by at least two-thirds of the members of the County Board of Supervisors.*
 7. All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.
 8. In no event shall any manure storage unit or system be constructed ~~where the bottom in accord with the requirements of the Nebraska Department of Environmental Quality and all other requirements imposed by state or federal law~~ of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in flooded areas of standing water shall be prohibited.
 9. All runoff or waste generated by an LFO facility shall be contained within the associated farming operation, or, on the premises upon which the confined feeding facility or feedlot is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize offer and air pollution, and avoid surface or groundwater contamination as regulated by the State of Nebraska.
 10. The setbacks from an LFO to any non-farm dwelling, other residence or other LFO are as follows in Table 2:
5. Exceptions:
- A. ~~Any Class I Livestock Feeding Operation use in existence as of the effective date of this Resolution, and which is located within the minimum spacing distance in Table 1 to any church, school, public use, other LFO or single family dwelling within the current class or to the next class, may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with all of the following limitations:~~

*Consent Easements; Waivers***ADD to Regulation:**

Owners of residential properties with in setback requirements applicable to Agricultural Operations and LFOs may give voluntary easements, or written waivers, whereby they consent to, waive objections to, and express their authorization of the Agricultural Operations and LFO(s) described in the easement or waiver. All such waivers must be in writing, signed by all owners of each residential property granting the waiver, and be duly acknowledged and notarized. The waivers must describe the real estate owned by the party granting the waiver, and the location of the Agricultural Operation or LFO with respect to which the Consent Easement or Waiver is granted.

The Consent Easement or Waiver must be filed with the Register of Deeds in the manner prescribed by state law, or delivered to and filed with the officer responsible for filing the official records of Hall County concerning Zoning Change Requests.

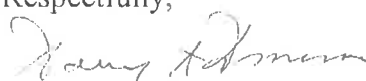
No particular form of Consent Easement or Waiver is required, provided the foregoing requirements are met.

Conclusion

33. Mr. Kohlhof, like colleagues in his industry, is grateful for the efforts invested in identifying changes required. The livestock business will remain integral to the economic well-being of Hall County for the foreseeable future. These suggestions are offered to assist. Discussion about these changes, and improvements upon them, are welcome.

34. Thank you.

Respectfully,



David A. Domina
ddomina@dominalaw.com

**C & I Cattle Company
11125 Loop River Road
West
Dannebrog, NE 68831
(308) 485-5774**

May 3 2017

Comments of Ken Kohlhoff

My name is Ken Kohlhof. I live at 11125 Loop River Road West, Dannebrog, Nebraska 68831, and I conduct livestock feeding operations there. I live just east of there. My residence is in close proximity to the residence of Steve Clark. My cattle feeding business has been located at the present site for more than ten years. I purchased the site of my feedyard in February, 2006. Pens were built and the facility was placed in use in 2006. Later, I purchased real estate from Mr. Clark to use in my cattle feeding operation, though he did not sell me the actual feedlot site itself.

I did not seek a special use permit for the feedyard. Frankly, I did not know one was needed. In late 2006, after my feedyard pens were built and were placed in use, Mr. Clark moved a modular home to his current residential location. He moved closer to the feedyard at that time.

My property and the surrounding property in Hall County is zoned "A-1; Ag". Between 2006 and 2014, my operation expanded somewhat. I continued to operate without applying for a permit because I did not know they were needed. I know now, but did not know until about the first of the year in 2015 that a Conditional Use Permit would be required for my operation when I had more than 999 head on hand.

In March, 2014, the Nebraska DEQ contacted me. We discussed and agreed upon an approximate headcount for the period between June 2009 and March 2014. I admitted that the amounts exceeded 999 head and acknowledged the need for a state permit – though I had not been aware of this need earlier. I voluntarily complied with the state law, including voluntary payment of a negotiated cash sum. At that time, I learned from state officials that I would be required to comply with county zoning rules. This was the 1st I knew of those rules.

Follow up took place over several months of cooperation with the County. This was 1st with telephone calls and then with an effort to understand what was needed. In June

2015, I spoke with the Hall County zoning administrator. He was helpful. He described what I would need to do including application for a special use permit. I made that later and withdrew an application for a CUP. This occurred because I learned the county was working on potential changes in its rules. It was suggested that I withhold the application for a while.

Background

Hall County is an agricultural county. The City of Grand Island continues to try to diversify its economy, but its website notes:

....Agribusiness is a foundation of the community and woven throughout many of the sector. It is a unifying theme between the community's Manufacturing, Transportation and Distribution, and Travel and Tourism targets. It represents the community's past, present, and future identity....

Hall County's home to JBS, one of the state's largest beef processing facilities, and the Hendricks plant where eggs are hatched. It is also home to McCain Foods where onions are processed, and to the Nebraska State Fair, and Husker Harvest Days. These are major Hall County employers, firms, institutions, and events. Hall County has a significant farming sector and it is the home to about a dozen cattle feedyards, the size of mine or larger.

All these critical parts of Grand Island make the County and City work. It is time for the County to become livestock friendly and by doing so to welcome and help production agriculture, including operations like mine. I want to be a good citizen, and to live and work in a County that wants me.

Background: My Operation

I contacted the Hall County officials to obtain a permit to construct additional pens for cattle east of my existing feedyard facilities. Building permits were issued. I did not know of zoning restrictions or concerns at that time. None were mentioned when the building permits were obtained.

I proceeded with construction of new facilities but found myself confronted with problems with zoning rules. This problem could only be solved by selling the newly-constructed facilities to an independent party. This was done. I suffered a financial loss as a result.

Thereafter, I also learned that my existing feedyard on fifty-three (53) acres, adjacent to the Hall-Howard County line in northwest Hall County, was not compliant with county zoning regulations because too many cattle were in my yard. With the help of my

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lawyer, we negotiated with the County Attorney, Jack Zitterkopf, to systematically reduce the animal population and became fully compliant with the law as quickly as possible. This was done on, or somewhat ahead of, schedule. The County Attorney of Hall County was professional about communications with my lawyers about this. So were other Hall County officials.

Several county officials, including members of the Board of Supervisors and others have visited my feedyard facilities since January 2016. Public officials are always welcome. I like to have advance notice so I can be on hand and provide a tour, if requested, but visitors from the County with an interest in our operations are genuinely welcomed.

Employees at my feedyard are committed to keeping our small livestock operation clean, neat, and organized. We are as successful at this as we think we can be. Our efforts include:

- Daily inspections during warm weather to assure we do not have avoidable standing water, and we provide no places for insects to lay their eggs or hatch them.
- Aggressive cleaning of pens and actions to do our best to assure that our cattle live in cleaning facilities, under healthy conditions.
- Avoiding dust during hot, dry seasons by taking appropriate steps to prevent it and managing our animal populations and pen locations.
- Mindfulness that our operations require that we have inventories of feed, hay, bedding, and repair equipment, and that our feedyard, cattle pens are visible from the public road. We work hard to make sure that the view of our facility from the road is as neat, well groomed, and acceptable as our physical circumstances and are business allow.
- We have good relations with our nearest neighbors to the north and try hard to have good relations with our neighbors to the east and south. We try to gently address and breakdown objections to our relations.
- We try to help set a good example for people in the cattle industry. Recently, we invited the cattle feeders in Hall County to visit our facilities and inspect it, and give us their suggestions about anything we might do to improve our location.
- We constantly solicit suggestions from anyone who visits are facility from any walk of life.

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In 2016, I engaged an environmental consultant with much experience in livestock operations. Jack Sukovaty met with my lawyer and me with public officials. Mr. Sukovaty has an extensive career history with the Nebraska Department of Environmental Quality in livestock and other matters. He has developed a plan for submission to assure my facility has all necessary state permits. Those permits can be issued only after I have the County's authorization to conduct my operations.

Since then, I have been working to achieve and assure compliance with all relevant regulations and put myself in a position to allow my feedyard operate at a level that will permit it to continue to be a good neighbor as it is now, and to handle enough cattle to have a chance to be profitable.

Neighbor Relations

Two (2) of my neighbors have complained about my operations. This saddens me. My employees are proud of our efforts to be good neighbors. I hope our neighbors feel welcome at our feedyard.

- My feedyard is in extreme northeast Hall County. It is more than three-eighths of a mile distant from my nearest neighbor's residence to the east. This is Steve Clark. Mr. Clark has complained about my operations. Steve put in his home, after my feedyard went in. He also sold me his farm across the road to the north of my feedyard; this farm is in Howard County. Steve's location due east and slightly north of my facility would be affected by winds only when they are out of the west. This is relatively rare.
- The Clark's live just west of my own home, between my feedyard and my residence. The distance between our homes is only a few hundred feet.
- The second neighbor, Mr. & Mrs. Henke, live in a single-family residence, located well over one-half mile east and south of my feedyard, and high on a hill above my facility. A large, modern, new home was built at this location and later acquired by the Henke's. The Henke's bought their home after my feedyard was built and my feeding operations were in progress.
- The Henke residence is adjoined by pasture land used for cattle grazing.
- I routinely drive by my neighbors' homes to be sure I know what they experience. I have not encountered a time when odors from my facility were experienced when I was driving by the Henke's on the hilltop to the southeast.

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- It would be unlikely there would be odor in the summer because the winds are prevailing south winds. Because of the altitude of my neighbor's facilities, and the distance, it is also not probable that winds would be a particular problem during the winter, as the prevailing northwest winds would tend to generally blow any odor in a southerly direction where it would tend to be intercepted by the natural topography and move west of my neighbor's residence. I have no awareness of odor issues from my facility at this neighbor's location beyond normal, minimal odors associated with farming and livestock in family operations.

My own 53 acre feedyard is designed and sized to accommodate more than 1,000 head of cattle, but fewer than 5,000 head. In the cattle feeding industry of today, this is, truly, a small family-sized feeding operation. It is not possible to make a living in a feedyard of fewer than 1,000 animals in today's market environment. In fact, it is hard to get contracts with a packer to sell animals from a yard as small as mine, and even harder out of smaller yards.

I do market some of my own beef directly to consumers. This farmer-to-market program permits me to deliver a high-quality edible product to neighbors and others. It is my goal to expand this service. Reception to this effort has been very good. I sell my product in Grand Island and elsewhere. Like all persons who visit Grand Island, I know that the City and its tens of thousands of residents do very well coexisting with a beef slaughtering plant, an onion processing plant, nearby livestock facilities, and the city's own operations.

I am aware of these comments on the City of Grand Island website about the wastewater treatment plant:

The City of Grand Island strives to be a good neighbor by taking steps to control odors as part of our normal plant operations. We also consider opportunities for odor control in every upgrade we make to our system. When you consider that Grand Island's WWTP has 10 million gallons of sewage waste a day to deal with-you understand that odor control is a challenge we face. So, what can be done?

Odors at a wastewater treatment plant are usually controlled by a combination of the following:

- Preventing odors from forming by optimizing treatment processes.
- Reducing odors by adding chemicals such as ferric chloride or oxygen.
- Capturing odors by enclosing plant treatment processes to reduce odor release.
- Scrubbing or treating odorous air, using equipment such as biofilters.

City officials and our WWTP staff take pride in our community. The quality and freshness of our outdoor air influences our daily enjoyment of the city. If you smell unpleasant or foul odors outdoors please call or email city administration

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officials and they will investigate. If the odors relate to city operations, including the wastewater treatment plant, the city will take steps to try to control and eliminate the odors. If the odors relate to private citizens' actions or industry operations, officials will note the matter and take action if appropriate.

Of course, we do not use chemicals such as ferric oxide or oxygen to help digest and minimize odors of human and other waste, including livestock waste, like the City of Grand Island. But we do take steps to prevent odors from forming by our aggressive management, and we do eliminate conditions that might otherwise permit odors, or insect populations to develop. The approach to neighbors stated on the City's website is very much like the approach we try to take at our feedyard. We tried to be a neighbor first, and think of others first.

We are careful to prevent fly populations. Livestock feed and livestock waste creates food supplies for flies. Flies fly *to feed sources* and not *away from feed sources*. It is not logical to believe that flies, which might originate at my facility, would leave for food elsewhere. This is particularly true since we keep the fly population at a very low number. We battle it—and the opportunity for it to multiply—throughout every season. We are proud of the success achieved at keeping insect populations, minimal.

Zoning

I favor a change in the Hall County zoning regulations. I believe these changes are important to people in my industry:

- It is important that our government encourage us to do good work, grow good products, and provide good food for people. We are an agricultural county. Beef production and slaughter is one of our biggest industries. Our neighbors are livestock-friendly. Nearly all counties with packing plants in the state (except Douglas and Sarpy counties) have adopted livestock-friendly regulations. Hall County should do so as well.
- Setback requirements should have a relationship to the number of cattle in an operation. Presently they do not. This should be changed.
- The county zoning regulation should allow anyone who has special circumstances and needs a special use permit to ask the county for permission to operate in those special circumstances. At the present time, this is not possible because the regulations do not permit a conditional use permit to be granted where the conditional use permit would require a variance in the setback requirements. This should be permitted.

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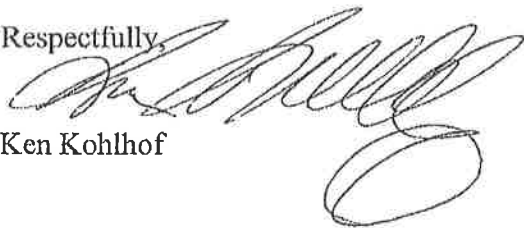
May 3, 2017Page 7

- I believe the zoning regulation should be changed to allow neighbors to consent to operations with other neighbors. For example, I have a neighbor who lives northwest of me just across the road, in Howard County. My relationship with this neighbor is very good. With consent, I dispose of livestock waste on cropland and provide benefits and services to the neighbor who is supportive of and friendly about my cattle feeding operation. A consent easement authorizing operations and permitting us to proceed—in our setting and for others to do the same in their settings—should be authorized and permitted. This should allow neighbors to get along with one another and make arrangements with one another where they can do so on comfortable terms. In this case, if my Howard County neighbors and I enter into a consent easement, I believe the regulation should eliminate that neighbor, and any other neighbor who gives a consent easement, from setback requirements.

I do have some fear that each matrix item could become a debating point and that this might be counterproductive. But more importantly, the matrix system, which can work if used effectively, should contain all of the elements identified above, including a graduated setback distance formula based on the number of animals involved in an operation. Setback requirements in the county are too stringent and are not livestock-friendly. Whatever changes are made by the county must change the setback criteria. This is important to our industry and to me.

Respectfully,

Ken Kohlhof



5/3/17

MAY 16, 2017

Comments prepared for testimony at the Hall County Supervisors Public hearing regarding the topic of livestock zoning regulations in Hall County and the County contemplating submitting an application to the NE. Dept. of Ag. for Livestock Friendly status.

Members of the Hall County Board of Supervisors,

Self introduction.

LIVESTOCK FRINEDLY DESIGNATION

For several years I have had various people approach me, asking why I hadn't encouraged Hall County to pursue attaining the status of being livestock friendly. It most likely will seem rather strange to hear me make these comments and it saddens me to say them, but this is something that I have openly expressed my opinion on in the past. I don't intend to come across as being combative but I have not been an advocate of the concept of Hall County pursuing the status for years because, in my opinion, the motive would not be one of sincerity but rather for political purposes. In past years County Supervisors, both of past as well as some still holding office, have taken actions and positions which are not livestock and agriculture friendly. As an example of this I would site the restructuring of the representation districts. When Hall County restructured the district boundaries the rural representation was effectually gutted, leaving only one voice to represent the entire rural community of Hall County. Not only is it impractical for a single person to have contact with that many residents but even if the individual does a superb job of delivering the message to the remaining Board that is still only one vote.

As written, Legislative Bill 754, most commonly known as the Livestock Friendly Act was originally adopted in 2003. Title 29 of the Nebraska Administrative Code, Chapter 2 (April 2004) serves as the guiding document for how to administer and execute the Act and it states the purpose of the act is for the Director of the Nebraska Department of Agriculture to establish a [process, criteria and standards] and to "recognize and assist efforts of counties to ***maintain or expand their livestock sector.***" It is my opinion that the elected representatives of Hall County, past and present, have not had an interest in either for several years. It wasn't until 2015 that LB 106 was written which directed and authorized the Director to "create and consult with a committee of experts to develop an assessment matrix."

Planning Director Chad Nabity has been promoting the adoption of the county livestock zoning matrix which originally was designed with the intent of being used mandatorily State wide alongside the Livestock Friendly status. Prior to the creation of the "matrix", there were numerous instances and cases across Nebraska where individuals and operations seeking to build new or expand existing facilities were met with inconsistent, random, or onerous and unattainable requirements in order to receive approvals to proceed. There were instances where the actual site was not the issue but personalities and relationships ruled the order of the day in denial of the necessary permit approvals. The "matrix" concept was originally conceived and developed in approximately 2013 by the Board of Directors and several members of the Nebraska Cattlemen, the state's largest representative association of cattle producers. The purpose was to help identify and standardize the zoning requirements, making them consistent from county to county throughout the state so that producers could have some consistency in what requirements were placed on them for expanding existing operations or constructing new facilities. The concept of the matrix was simple. One based on **sound science** to remove inconsistencies and create a tool that used

quantifiable data. The official law directed the Department to create a committee which later stated their mission to identify and use ***“criteria based on public health and safety, practicality, cost effectiveness, objectivity, science, the growth and viability of animal agriculture in Nebraska, balancing the economic vitality of farm operations with protecting natural resources and other community interests”***. The Association was instrumental in the original form of the matrix as well as drafting of the final law and while the original concept was that its adoption should be mandatory for any County seeking the status, the Association’s foremost desire was to see standardization of what requirements would be placed upon producers. The concept of the matrix unfortunately fell victim to some special interest activist groups and individual County boards which progressively chipped away at the ***“science and objectivity” as well as consistency*** concepts and increasingly became more subjective in nature, making the adoption voluntary, substantially diluting the very purpose of providing greater consistency across the State.

Under the leadership of my Grandfather, my father and now myself, our business has survived several historic events from the end of the Great Depression and the dust bowl years to World War II, grain embargoes, the dairy buyout, BSE and the list goes on. The east yard of our operation is located in the very spot it was originally founded in 1934. The west facility was built throughout the 1970’s and early 1980’s. We have made many substantial improvements, adding millions to the assessed value of the land. In the early years of the operation and as I understand Grand Island’s history, I believe what we now refer to as the western edge of the City Limits would have been somewhere around Broadwell Avenue that would later move West to Webb Road, then Hwy. 281 before finally extending West to points near and along Engleman Road in approximately 1984. Since the time of 1984, we have not made one single modification to our east facility which the Nebraska Department of Environmental Quality deems consequential enough to review our operating permit. In fact, since that time I have consciously made decisions that have progressively moved our activities further west, reducing our footprint at the East facility and away from the city in an effort to create a greater buffer to prevent conflicts. In October of 1986 we were granted a permanent status of being grandfathered so as to not require conditional use operating permits of the facilities.

We have an outstanding track record of compliance with all State and Federal regulations, often times modifications are made prior to final enactment of the law requiring them. I have ***never and I repeat never*** had any order or action pending from any governing authority that would have put our continued operations in jeopardy. Even in the case in 2005 when we received 11 inches of rain we did not have an illegal discharge from our facilities and we have never had any material reach and waters of the state. Our operations have been featured in numerous industry publications as well as having been selected to participate in industry to public and consumer outreach efforts educating them on the facts and realities of beef production systems. I have hosted numerous collegiate, state and international tour groups as well as college student interns. All of these experiences have been something that I have enjoyed very much, but they have all also been because of the quality of the management of the facilities, the excellent personnel that we have had involved with our operations and our commitment to assuring that things are done the right way over the years.

While it is an unfortunate fact that not all aspects of animal agriculture as necessarily pleasant and that Hall County is not a major livestock county (comparatively speaking), it is also a fact that livestock production and processing is a major contributor to the overall well-being and financial health of the County and Grand Island. Until fairly recently the topic of Hall Counties livestock zoning has been relatively inconsequential to the majority of our residents. There have been a couple of cases involving truck wash out facilities as well as activities occurring at the JBS Swift

facilities that drew a fair amount of press coverage and debate but it was not until this particular case that the topic of animal agricultural production has risen to a status of interest for many. While there have been a couple of opinion pieces submitted into the paper in the past couple years which have specifically addressed our facilities to which I have received fantastic support from many people of all walks of life and interests and it is very sincerely appreciated but, not one single occasion has been due to our lack of compliance or a negligent violation with any laws or regulations. These instances were solely due to being ill-informed or lack of knowledge on behalf of the individuals submitting the comments. This is ***exactly the reason the matrix concept was conceived.***

In conclusion I have but one simple request of you today – consider the facts of the case as you know them. If you and we are to create or adopt new regulations addressing this issue, do so without bias. I know several of you enough to know that any actions you might take today will consider all of the intended as well as the unintended consequences which invariably are caused through regulation.

Sincerely,

Greg Baxter
T&E Cattle Company
4444 W. 13th Street
Grand Island, NE. 68803



**WILSON
TRAILER COMPANY
GRAND ISLAND**

2314 East Highway 30 ■ P.O. Box 2421

Grand Island, NE 68802-2421 ■ Phone (308) 381-1800

May 23, 2017

Ref: Livestock Friendly in Hall County, NE

Dear Sir,

This is a letter of support for the recent designation of livestock friendly for Hall County, Nebraska. Wilson Trailer Sales in Grand Island is a company owned store who sells livestock trailers to livestock haulers and cattle feeding companies in the Hall County and surrounding areas. Grand Island is home to many businesses who are impacted by county regulations that may handcuff cattle feeders and other livestock related businesses. Hall County should make sure they do all they can to bolster the livestock and all other Ag related production in Nebraska. The proposed new setbacks of 3000 head in 3/8 of a mile and 5000 head in 1/2 mile will ensure those livestock feeders the ability to operate their businesses and still protect the resources and protect communities with common sense practices. Currently I am the Mayor of St. Paul, NE and in 2016 we designated Howard County as Livestock friendly. I am hopeful that your board will listen to the local companies that are affected and act with language to support a Livestock matrix that will encourage scientific and objective criteria when reviewing livestock permits.

Sincerely,

Tracy J. Howard Branch Manager WTC

June 1, 2017

To Whom it may Concern

My name is Marc Vieth and I live in Cairo, and I am currently still involved in the family farming operation , which is located at 130th Rd and Loup River Rd. I would like to express my thoughts and concerns on the livestock setbacks that are currently being discussed and also touch on the benefits to local grain producers from livestock operations in Hall County.

The livestock setbacks have been a concern of mine for some time. I talked with Mr Nabity approximately 10 years ago when the owner of the quarter South of our farming operation came to the regional planning commission wanting to divide his 160 acres into 20 acre lots to sell for residential homes to be built. At that time, I expressed my concerns with Mr Nabity about the what that would mean for possible expansion for our family farm. I also expressed the concern I had about subjects moving to rural Hall County and not fully understanding what that entails from time to time, like dirt blowing off fields or the odor of livestock operations. As you are well aware, there are houses being built all the time on pivot corners or small parcels of land in rural Hall County. For example within one half mile of our farming operation there have been 4 houses that have been built in the last 15 years. I am not against houses being built in rural areas , however I don't feel it is fair to land lock the livestock producer and hinder them from being able to expand their livestock operations.

I would also like to discuss a local feedlot that is located one mile to the east of our farming operation regarding the benefits it creates for local producers. This is the C & I cattle feedlot , whom I do business with. Every year I sell approximately 75,000 to 80,000 bushels of corn to them. This is a huge advantage for local grain producers to be able to sell their products directly to the local livestock producers. I also purchase manure from C & I cattle to spread on our cropland for the nutrients, which saves on

commercial fertilizer having to be applied. This allows my family to purchase all my meat from Nebraska Premier Beef, which is a division of C & I cattle. C & I cattle purchases forage crops from many other local producers as well. There are many other livestock operations in Hall County that also purchase local feed inputs from local producers but this was just an example that I am personally familiar with. For me personally I take pride in being able to sell my crops to a local business and then being able to buy end products from them to feed my family.

The livestock industry is changing and in order to compete we must have the option of growth and expansion. I strongly encourage you to please consider adjusting the current livestock set backs in a way that allow for our local livestock operations to be able to grow and keep pace with the changing dynamics of the world. I think this would be a great time to do this as Hall County is moving forward with the Livestock Friendly Designation. I believe many livestock producers would benefit from the changes, as well as local grain producers.

Thank you taking public input on this important topic related to rural Hall County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marc Vieth', with a long horizontal flourish extending to the right.

Marc Vieth