



# **Hall County Regional Planning Commission**

**Wednesday, May 2, 2018**

**Regular Meeting**

## **Item 1**

### **14. Discussion- Text Amendment of Hall County Zoning Resolution. Livestock Regulations**

**Staff Contact:**

## **Agenda Item # 14**

### **PLANNING DIRECTOR MEMO TO REGIONAL PLANNING**

**April 18, 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 propose 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 were included in the March 14 Regional Planning Commission packet and are available online or from the office.

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.

At the March 2018 Regional Planning Commission meeting a hearing was held on the proposed changes. The commission chose to take no action on the proposed changes and referred them back to the committee for further discussion. The commission specifically directed the committee to consider expanding the number of classifications to allow a classification between the type I and type II operations as had been previously considered and to eliminate the need for conditional use permit for at least some of the operations with more than 1000 animal units. The commission also wanted to clarify the ability of people living in the primary agricultural zone to house animals for 4-H projects and similar activities.

The committee decided to recommend no changes to the minimum size for the type I operation. Their suggestion is that operations with between 301 and 1000 animal units continue to be classified as a type I LFO. The previous version would have classified any operation with less than 1001 animal units as a type I LFO. This should also help address 4-H projects and other activities.

At the meeting on April 4, 2018, the planning commission discussed the proposed changes. Some areas were identified that needed slight rewording. Andy Baack spoke and identified some areas that appear to create conflicts, changes have been made to address those conflicts.

At the May 2, 2018 meeting the Planning Commission will again review and discuss the proposed changes. The committee agreed that this should be brought back to the Commission for discussion purposes. Prior to making a final recommendation to the Hall County Board regarding any proposed changes the planning commission will advertise and hold a public hearing to gather additional public comments. A recommendation will not occur before the June 6, 2018 regular meeting of the Hall County Regional Planning Commission.

\_\_\_\_\_ 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.

**Definitions**

- 2.03.09 **ACREAGE** shall mean any tract or parcel of land that does not qualify as a farm or development.
- 2.03.23 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.03.24 **AGRICULTURAL OPERATIONS** (see "Farming")
- 2.03.25 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.03.79 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.03.92 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
- 2.03.104 **COMMERCIAL FEEDING OPERATION** (See Livestock Feeding Operation)
- 2.03.112 **COMPATIBLE USES** shall mean a land use that is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.03.114 **CONDITIONAL USE** shall mean a use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 2.03.115 **CONDITIONAL USE PERMIT** shall mean a permit issued by the ~~Planning Commission and~~ County Board that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 5 and any additional conditions placed upon, or required by said permit.

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

~~700 mature dairy cows~~

~~1,000 beef cattle or heifers~~

~~2,500 swine (each 55lbs or more)~~

~~10,000 swine (each under 55 lbs.)~~

~~30,000 ducks (other than liquid manure handling system)~~

~~5,000 ducks (liquid manure systems)~~

~~30,000 chickens (liquid manure systems)~~

~~125,000 chickens except laying hens (other than liquid manure handling system)~~

~~82,000 laying hens (other than liquid manure handling system)~~

~~1,000 veal calves~~

~~500 horses~~

~~10,000 sheep~~

~~55,000 turkeys~~

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

**2.03.122 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 or~~ system for the disposal of livestock wastes and are located within the required setback distance based on class size as further defined within these regulations regardless of ownership.

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.

2.03.242a **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 purpose of determining if a new



*livestock operation in classes II, III, and IV should be allowed or if an existing operation should be allowed to expand into classes II, III or IV.*

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.
2. All new non-farm residences shall locate no less than at the corresponding distances provided in Section 4.02.08 from an Existing *permitted* LFO with more than *100,300* 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.

**4.02.02 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~~ *Keeping of livestock on properties of less than 20 acres at a density not to exceed 2 animal units per acre regardless of other setback requirements*
- ~~NP~~ *Class II Livestock Feeding Operations provided they meet the minimum setback/separation requirements with 25 points (or have impact easements) and NDEQ requirements with 25 points (NDEQ requirements must be met prior to operation) and score at least 25 additional points for a minimum score of 75 points on the Livestock Siting Matrix found in Appendix B*
- OO 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 County Board:
  - 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.

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| 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 | <b>Class III, and IV</b> 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.
3. A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law.
4. 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
5. 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 = 300-1,000 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.

6.

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

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

ECH = Environmentally Controlled Housing

OPEN = Open Lot Operations

- B. LFOs having more than a ~~1,000-300~~ 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 ~~Residential District~~. 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) |                   |  |                             |
| <b>Permitted Uses</b>   | <b>20</b>            | <b>100</b>            | <b>35</b>         | <b>35</b>        | <b>20</b>        | <b>10%</b>        | <b>20,000</b>                            | <b>35<sup>1</sup></b>       |
| <b>Conditional Uses</b> | <b>20</b>            | <b>100</b>            | <b>35</b>         | <b>35</b>        | <b>20</b>        | <b>10%</b>        | <b>20,000</b>                            | <b>35<sup>1</sup></b>       |

**ARTICLE 4: DISTRICTS AND INTERPRETATION OF DISTRICT BOUNDARIES**

|                          |          |            |           |           |           |            |               |                       |
|--------------------------|----------|------------|-----------|-----------|-----------|------------|---------------|-----------------------|
| <b>Agricultural uses</b> | <b>1</b> | <b>100</b> | <b>35</b> | <b>35</b> | <b>20</b> | <b>10%</b> | <b>20,000</b> | <b>35<sup>1</sup></b> |
|--------------------------|----------|------------|-----------|-----------|-----------|------------|---------------|-----------------------|

<sup>1</sup>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) |                   |                             |
| <b>20,000</b>          | <b>80</b>             | <b>30</b>         | <b>25</b>        | <b>15</b>        | <b>40%</b>        | <b>35<sup>1</sup></b>       |

<sup>1</sup>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.

~~A.~~ All new and existing livestock feeding operations and farms with livestock of 300 animal units or ~~less-more~~ shall require a no-fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over ~~35000~~ animal units shall ~~meet the minimum setback/separation requirements with 25 points (or have impact easements) and NDEQ requirements with 25 points (NDEQ requirements can be met after issuance of the conditional use permit but prior to operation) and score at least 25 additional points for a minimum score of 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.~~

~~B-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 ~~permitted~~ agricultural operation having ~~between more than 50 and 300~~ 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~~ RESIDENTIAL SPACING AND DISTANCE (Distances given in feet)**

|                               | <del>301-1,000</del> | <del>1001-5,000</del> | 5,001-20,000 | 20,000+ |
|-------------------------------|----------------------|-----------------------|--------------|---------|
| New Residence* near open lots | <del>1,980</del>     | <del>3,960</del>      | 3,960        | 5,940   |
| New Residence* near ECH       | <del>1,980</del>     | <del>7,920</del>      | 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.
- ~~18-19.~~ *Keeping of livestock on properties of less than 20 acres at a density not to exceed 2 animal units per acre regardless of other setback requirements*
- ~~19-20.~~ 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) |                   |  |                             |
| <b>Permitted Uses</b>   | <b>3</b>             | <b>100</b>            | <b>30</b>         | <b>25</b>        | <b>15</b>        | <b>25%</b>        | <b>20,000<sup>2</sup></b>                | <b>35<sup>1</sup></b>       |
| <b>Conditional Uses</b> | <b>3</b>             | <b>100</b>            | <b>30</b>         | <b>25</b>        | <b>15</b>        | <b>25%</b>        | <b>20,000<sup>2</sup></b>                | <b>35<sup>1</sup></b>       |

<sup>1</sup>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      |       |
|                                 | <b>SUBTOTAL (total not to exceed 6 points for this section)</b>  |     |    |        | 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      |       |
|                                 | <b>SUBTOTAL</b>  |     |    |        | 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 $\leq 0.125$ 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     |

| <b>K Authorized Representative and Manager Residency</b> |   | <b>Yes</b>                          | <b>No</b>                           | <b>Points</b>                       | <b>Score</b>                        |
|--|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| 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                                   |                                     |
| <b>SUBTOTAL</b>  |   |                                     |                                     |                                     | 0                                   |
| <b>L Economic Impact Factors</b>                         |   | <b>Yes</b>                          | <b>No</b>                           | <b>Points</b>                       | <b>Score</b>                        |
| 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                                   |                                     |
| <b>SUBTOTAL</b>  |   |                                     |                                     |                                     | 0                                   |
| <b>M Landscape and Aesthetic Appearance</b>              |   | <b>Yes</b>                          | <b>No</b>                           | <b>Points</b>                       | <b>Score</b>                        |
|  | 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                                   |                                     |
| <b>SUBTOTAL</b>  |   |                                     |                                     |                                     | 0                                   |
| <b>Cummulative Points</b>                                |   |                                     |                                     |                                     | #REF!                               |

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



## CONCERNS REGARDING PROPOSED REGULATIONS

1. Contrary to the Planning Director Memo To Regional Planning the distance between LFOs and other uses do not remain the same in that Table 1 in those proposed revisions now strikes through “and Other LFOs”, meaning that LFOs would be permitted to locate contiguous to one another.

2. By permitting LFOs to be located contiguous to one another it would be possible to locate multiple Class II LFOs next to each other and avoid conditional use requirements so long as they would not be under common ownership and did not utilize a common area of system for the disposal of livestock wastes.

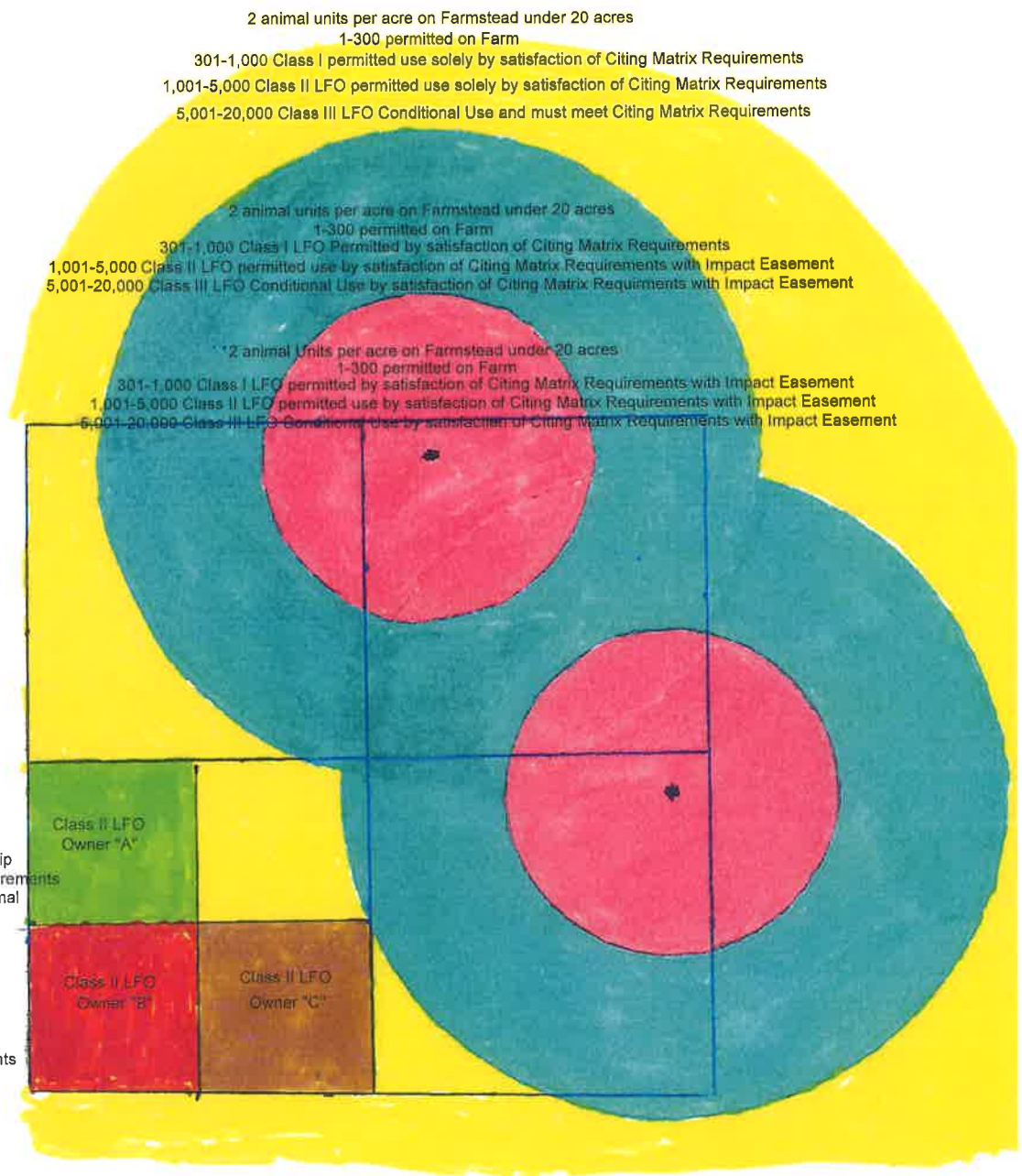
3. Although the Planning Director Memo to Regional Planning indicates that it would eliminate the need for conditional use permits for some LFOs in excess of 1,001 animal units, the language added as subsection P to “Permitted Uses in Section 4.02.02” would actually need to strike “(NDEQ requirements can be met after issuance of the conditional use permit but prior to operation)” to accomplish that objective.

4. Supplementary Regulations proposed in Section 4.02.08 (2) actually require Class I LFOs to meet Citing Matrix requirements and appear to include those same Class I LFOs as having some obligation for a conditional use permit. If that is not intended then it would appear that this section needs some redrafting.

5. In Section 4.02.08 at the end of the first paragraph in 2., reference is made to Section 4.03, Subsection B of this Article. No such section or subsection exists in existing or revised regulations and that should be eliminated.

6. By allowing the Class II LFOs as a permitted use without the need for a conditional use process, the Citing Matrix actually opens the door for many issues about actual compliance with what has been stated as comprising the additional points in excess of 50 for spacing and NDEQ compliance. Further, if there is subsequent breach of a factor utilized to meet the point total for administrative approval, there does not appear to be any process in place to rectify a non-compliant operator.

# LFO Locations Permitted Under Proposed Regulations



# LFO Locations Permitted Under Existing Regulations

1-300 animal units not regulated  
 Class I LFO having up to 1,000 Animal Units permitted by right  
 Class II LFO of 1,001-5,000 animal units permitted through Conditional Use  
 Class III LFO of 5,001-20,000 animal units permitted through Conditional Use



Spacing requirements for Class I LFOs require that they be located 1,320 feet from non-farm or other residences and other LFOs

Spacing Requirements for Class II LFOs require that they be located 2,640 feet from non-farm or other residences and other LFOs

Could locate three (3) Class I LFOs in NW 1/4; two (2) Class I LFOs in NE1/4; Three (3) Class I LFOs in SE1/4; or up to Four (4) Class I LFOs in SW1/4 in example shown.

Could locate a maximum of two (2) Class II LFOs in Section in example shown assuming minimum 40 acre parcels containing maximum of 5,000 head per parcel

