ZONING REGULATIONS
of
Rock County, Nebraska

as amended, February, 2001

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ARTICLE 1 - GENERAL PROVISIONS

SECTION 101 - TITLE
These regulations shall be known and referred to as the Zoning Resolution of Rock County, Nebraska.

SECTION 102 - JURISDICTION
The provisions of this Resolution shall apply within the boundaries of Rock County, Nebraska, excluding the land included, now or in the future, in the corporate limits of the incorporated municipalities within the County and any legally established planning and zoning jurisdictional areas of these municipalities as may be defined on any Official Zoning Map of these municipalities.

SECTION 103 - PURPOSE
In pursuance of and in compliance with the authority conferred to Nebraska counties by Section 23 of the Nebraska Statutes as amended, this Resolution is enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Rock County and for implementation of the duly adopted Rock County Comprehensive Plan. This Resolution is also enacted to preserve and protect the customs and culture of the people of the County and the following specific purposes:

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 runoff of storm or flood waters;
6) Providing adequate light and air;
7) Preventing excessive concentration of population and excessive and wasteful scattering or 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 state’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.

ARTICLE 2 - APPLICATION OF REGULATIONS

SECTION 201 - GENERAL
The zoning regulations set forth by this Resolution within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

SECTION 202 - ZONING EFFECTS EVERY BUILDING AND USE
No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, enlarged, moved or structurally altered except in conformity with all zoning regulations herein specified for the zoning district in which it is located. Further, no building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of persons, to occupy a greater percentage of lot area, to have a narrower or smaller front, side or rear setback than is herein permitted, or be in any other manner contrary to the provisions of this Resolution, provided that non-residential farm buildings shall be exempt from the requirements of this Resolution, but further provided that if a farm building shall house a commercial, industrial or other non-agricultural use under the definitions and terms of this Resolution, such building shall not be considered a farm building, but rather a commercial, industrial or other non-farm
building and shall not be exempt from the requirements of this Resolution. Waste handling facility uses, as
defined in this Resolution, which may be associated with any farm building shall not be exempt from the
requirements of this Resolution.

SECTION 203 - SETBACK AND LOT SIZE REDUCTION PROHIBITED
No setback, lot or tract existing at the time of adoption of this Resolution shall be reduced in dimension or
area below the minimum requirements set forth herein. Setbacks, lots or tracts created after the effective
date of the Resolution shall meet or exceed the minimum requirements established by this Resolution.

SECTION 204 - PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS
In their interpretation and application, the provisions of this Resolution shall be held to be minimum
requirements, adopted for the promotion of the public health, safety, morals, or general welfare.

SECTION 205 - DISCLAIMER OF BUILDING AND OTHER CODES AND COUNTY LIABILITY
This Resolution is a zoning regulation only and regulates only land usage. This Resolution does not in any
manner whatsoever include, imply or otherwise create any type or form of building, plumbing, electrical or
other code which would regulate the design and construction of any building or structure within the
jurisdiction of this Resolution. Any permits or certificates issued in accordance with the requirements of
this Resolution are solely for purpose of assuring compliance with the land usage regulations set forth in
this Resolution for the purposes set forth in Section 103 of this Resolution. Rock County assumes no
liability and shall not in any manner be held liable for any design or construction problem or defect in any
building or structure for which a zoning permit, certificate of compliance or other form of land usage
approval may have been issued nor shall Rock County assume any liability for any non-compliance with
any Federal, State or other code, regulation or requirement.

ARTICLE 3 - CONSTRUCTION AND DEFINITIONS

SECTION 301- CONSTRUCTION
The following rules of construction shall apply unless inconsistent with the plain meaning of the context of
this Resolution:

301.01 TENSE: Words used in the present tense include the future tense.

301.02 NUMBER: Words used in the singular include the plural, and words used in the plural
include the singular.

301.03 SHALL AND MAY: The word “shall” is mandatory, the word “may” is permissive.

301.04 GENDER: The masculine shall include the feminine and the neuter.

301.05 HEADINGS: In the event that there is any conflict or inconsistency between the heading
of an Article, Section, or paragraph of this Resolution and the context thereof, the said
heading shall not be deemed to effect the scope, meaning or intent of such context.

SECTION 302 - GENERAL TERMINOLOGY
The word “County” shall mean the County of Rock, Nebraska. The words “County Board” shall mean the
Rock County Board of Commissioners. The words “Planning Commission” shall mean the Rock County
Planning Commission duly appointed by the Rock County Board of Commissioners. The words “Board of
Adjustment” and Board shall mean the Rock County Board of Adjustment duly constituted in accordance
with this Resolution. The words “Zoning Administrator” shall mean that person duly appointed by the
Rock County Board of Commissioners to administer and enforce these zoning regulations.
SECTION 303 - DEFINITIONS
Words or terms not herein defined shall have their ordinary meanings in relation to the context. For the purposes of this Resolution, certain words and terms used herein are defined as follows:

303.01 ABUT: Any situation where a lot borders directly on another lot or is separated from an adjoining lot by a public road right-of-way which is twenty (20) feet or less in width.

303.02 ACCESSORY USE OF BUILDING: A building or use which is subordinate and incidental to that of the main or principal building or use on the same lot or tract.

303.03 AEROBIC DIGESTION PROCESS: Any process for digestion of waste in which the waste is digested using free oxygen, wherein sufficient oxygen is available to satisfy fifty percent (50%) of the daily chemical/biological oxygen demand inflow.

303.04 AGRICULTURAL USE: The business and science of cultivating the soil, producing crops and or breeding, feeding, pasturing of livestock, raising and management of poultry, fish, bees and other animals, truck farming, forestry or orchards and the non-commercial storage and processing of agricultural products produced on the premises, provided that such use shall not include any waste handling facility, as defined in Section 303.92 of this Resolution, and shall not include any confined animal feeding operation, as defined in Section 303.25 of this Resolution, or intensive animal feeding operation, as defined in Section 303.45 of this Resolution. A confined or intensive animal feeding use shall not be considered an agricultural use, but shall, in accordance with Section 54-2402 Neb. Rev. Stat. be considered a commercial use and a regulated livestock production use separated and regulated under such statute from other types of livestock production uses which are not regulated by reason of the number of animal units involved in such use.

Confinement of an unrestricted number of ruminant animals for birthing, weaning or backgrounding purposes for less than two hundred ten (210) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a confined or intensive animal feeding use.

303.05 ANAEROBIC DIGESTION: Any process for digestion of waste in which the waste is digested where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

303.06 ANIMAL HUSBANDRY: The care and raising of animals.

303.07 ANIMAL UNIT: The relationship of various animals with regard to manure production based upon one thousand pounds of animal(s) regardless of type. For purposes of this Resolution, the following relationship with regard to manure production shall be as follows:

<table>
<thead>
<tr>
<th>Type of Animal</th>
<th>Animal Unit(s)</th>
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<tbody>
<tr>
<td>Beef Animal (500 - 1,200 pounds)</td>
<td>1.00</td>
</tr>
<tr>
<td>Beef or Dairy Calf (150 - 500 pounds)</td>
<td>0.50</td>
</tr>
<tr>
<td>Young Dairy Stock (500 - 1,000 pounds)</td>
<td>0.75</td>
</tr>
<tr>
<td>Replacement Heifers</td>
<td>1.00</td>
</tr>
<tr>
<td>Dairy Cow</td>
<td>1.40</td>
</tr>
<tr>
<td>Horse</td>
<td>2.00</td>
</tr>
<tr>
<td>Swine (55 pounds or heavier)</td>
<td>0.40</td>
</tr>
<tr>
<td>Swine (less than 55 pounds)</td>
<td>0.04</td>
</tr>
<tr>
<td>Swine (sow and litter)</td>
<td>0.50</td>
</tr>
<tr>
<td>Sow or Boar</td>
<td>0.40</td>
</tr>
<tr>
<td>Sheep</td>
<td>0.10</td>
</tr>
<tr>
<td>Chicken</td>
<td>0.01</td>
</tr>
<tr>
<td>Turkey</td>
<td>0.02</td>
</tr>
<tr>
<td>Ostrich</td>
<td>0.40</td>
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</table>
303.08 ANIMAL WASTE: Any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.

303.09 ANIMAL WASTE WATER: Any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding, or other raw material or intermediate or final matter or product used in or resulting from the production of animals or from products directly or indirectly used in any Waste Handling Facility Use, as defined in Section 303.92 of this Resolution, or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning, or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control in a confined or intensive animal feeding use.

303.10 BASEMENT: A building space wholly or partially underground and having more than one-half (1/2) of its height, measured from its floor to the top of its average wall height, below the average elevation of the finished grade of the soil around said space.

303.11 BED AND BREAKFAST, BOARDING OR LODGING HOUSE: a building, other than a hotel or motel, where for compensation and by arrangement for definite periods, meals and/or lodging are provided for customers.

303.12 BUILDABLE AREA: The portion of a lot or tract of land remaining after the front, side and rear setbacks, as herein defined, have been provided.

303.13 BUILDING: A structure having a roof or having a roof and walls used or intended to be used for sheltering of persons, animals or property. When divided or separated by other than common walls, each portion or section of a building shall be considered a separate building. (Refer to Section 303.33, Farm Building and Section 303.63, Non-Farm Building.)

303.14 BUILDING HEIGHT: The vertical distance, measured from the average ground level at the front of a building or structure to the highest point of the building roof, excluding chimneys, antennas or other similar appurtenances or the highest point of a structure.

303.15 CAMPGROUND: Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used to set apart for supplying camping space for two (2) or more camping units for camping purposes to the public. Campground shall include any buildings, structures, vehicles or enclosures used or intended to be used wholly or in part for the accommodation of campers.

303.16 CAMPING UNIT: Any vehicle, trailer, tent or other movable shelter used for camping purposes.

303.16 CERTIFICATE OF ZONING COMPLIANCE / CERTIFICATE OF OCCUPANCY: A certificate issued by the zoning administrator, stating that the premises has been inspected after erection, construction, reconstruction, alteration or moving of a building or structure or after a change in the use of land stating that the premises complies in all respects with the requirements of this Resolution and may be occupied for the use declared.

303.17 COMMERCIAL USE: A use, other than an agricultural use, where products are grown or purchased for sale or resale for profit or where services are sold or provided for profit. Confined and intensive animal feeding uses as defined in this Resolution, shall be considered commercial uses.

303.19 COMPATIBLE USE: A land use of one type that is suitable for direct association or location near a use of a different type because of its consistency with the Intent statement of the
zoning district in which said uses are located, because of similar or comparable buildings and use activities, and because neither use will diminish the use, value and enjoyment of the other.

303.20 COMPOSTING (AEROBIC): The natural process of decomposing vegetative refuse, manure and other naturally degradable materials using free oxygen which is sufficient in quantity to maintain aerobic digestion.

303.21 COMPOSTING (ANAEROBIC): The natural process of decomposing vegetative refuse, manure and other naturally degradable materials in large piles where free oxygen is not available in sufficient quantities to maintain aerobic digestion.

303.22 COMPREHENSIVE PLAN: The plan or series of plans for the future development of the County, recommended by the Planning Commission and adopted by the County Board of Commissioners.

303.23 CONDITIONAL USE: A land use that would not be generally compatible with other permitted and uses in a zoning district, but which is controlled as to number, area, location, relation to surrounding uses or other attribute, could become compatible with such permitted land uses and would promote the public health, safety, convenience and general welfare.

303.24 CONDITIONAL USE PERMIT: A written zoning permit issued by the Zoning Administrator upon authorization of a conditional use under the terms of this Resolution by the County Board of Commissioners. Such permit shall give permission to the applicant to develop the specified conditional use and shall specify the conditions of approval of such use as established by the County Board of Commissioners.

303.25 CONFINED ANIMAL FEEDING USE: The raising, feeding, dairying or management of more than three hundred (300) animal units at any one time, in roofed buildings or structures which may be open sided or totally enclosed and which may have hard surfaced, slatted or other type of surfaced floor, and / or on hard surfaced, non-earthed, outdoor pens or lots used for confinement of such animals. Any waste handling facilities, as defined in Section 303.92 of this Resolution, associated with such confined animal feeding use shall be considered a separate waste handling facility use. Confinement of an unrestricted number of ruminant animals for birthing, weaning or backgrounding purposes for less than two hundred ten (210) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a confined animal feeding use. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the owner or such use of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the number of animal units by the Zoning Administrator or other duly appointed official at the time of such dispute. For purposes of this Resolution, confined animal feeding uses shall be classified and regulated with regard the number of animals confined and the potential for ground or surface water contamination or other environmental degradation, the potential for odor production and other negative impacts on or other incompatibilities with abutting and neighboring properties as follows:

Class I - A confined animal feeding use with a one time capacity of more than three hundred (300) animal units, but less than one thousand one (1,001) animal units.

Class II - A confined animal feeding use with a one time capacity of one thousand and one (1,001) to five thousand (5,000) animal units.

Class III - A confined animal feeding use with a one time capacity of five thousand and one (5,001) to twenty thousand (20,000) animal units.
Class IV - A confined animal feeding use with a one time capacity of twenty thousand and one (20,001) or more animal units.

303.26 DWELLING: Any building or portion thereof, other than a hotel, motel, bed and breakfast, group home or other building used for short term occupancy by human beings, which is designed and/or used for living purposes on an on-going basis.

303.27 DWELLING, SINGLE-FAMILY: A dwelling unit having independent accommodations for and occupied by one family.

303.28 DWELLING, TWO-FAMILY (DUPLEX): A dwelling unit have independent accommodations for and occupied by two families.

303.29 DWELLING UNIT: One room or combination of rooms which constitute a separate and independent housekeeping establishment containing independent cooking, sleeping and restroom facilities.

303.30 EASEMENT: A right or privilege granted by the owner of a defined parcel of land for the use of such defined parcel of land for a specific purpose or purposes by the public, another person, corporation or other legal entity.

303.31 FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons, excluding servants, who may not be related, living together in a single dwelling unit.

303.32 FARM: A crop production, livestock production or other similar enterprise containing twenty (20) acres or more of land from which one thousand dollars ($1,000) or more of crop or meat products are produced each year.

303.33 FARM BUILDING: Any non-residential building located on a farm which is utilized for agricultural purposes, provided that when the use or consequences of the agricultural use conducted in such building exist from the building onto, across or under the land, whether underneath the building or adjoining thereto or into some other structure such use, if not an agricultural use, shall not be considered part of such building and shall be subject to the requirements and limitations of this Resolution. Waste handling facilities, as defined in Section 303.92 of this Resolution which are associated with a use in a farm building shall be considered a non-agricultural use and shall be subject to the requirements and limitations of this Resolution.

303.34 FLOOD PLAIN: Those lands within the zoning jurisdiction of Rock County which are subject to a one percent (1%) or greater chance of flooding in any given year. Determination of flood plains shall be based on historical high water marks and interpolation of such high water marks by the Natural Resource District or other agency capable of determining such flood plains until such time as flood hazard maps are produced and provided by the Federal Flood Insurance Administration, after which such flood hazards maps shall be utilized.

303.35 FLOOR: A level or story in a building.

303.36 FLOOR AREA: The sum of the gross horizontal areas of the one or several floors of all buildings or portions thereof, on the lot or tract.

303.37 FRONTAGE (LOT): The length of the real property abutting one (1) side of a road right-of-way, measured along the dividing line between said real property and the road right-of-way.
303.38 FRONTAGE (RIVER): The length of a lot, parcel or tract of land which abuts the ordinary high water mark of a river or creek.

303.39 GENERAL MANAGEMENT PLAN OF THE NInbrara NATIONAL SCENIC RIVER: A plan formulated by the National Park Service and the Niobrara National Scenic River Management Council to guide the management of the Niobrara River and the lands along said River in order to protect the scenic quality and character of the River and the lands along the River. In the event said General Management Plan has not been formulated and officially adopted as of the effective date of this Resolution or amendment thereto, all references to said General Management Plan shall be construed to mean that all such regulations of this Resolution which seek a review and comment on the consistency of any development with such General Management Plan shall be referred to the National Park Service and the Niobrara National Scenic River Management Council for review and recommendation prior to any action by the Planning Commission, the Board of Adjustment and / or the Board of Commissioners.

303.40 GROUP DAY CARE CENTER / NURSERY SCHOOL: An establishment other than public, private non-religious or parochial school, which provides day care, play groups, nursery school or education for five (5) or more unrelated children.

303.41 GROUP HOME: A facility, licensed or approved by the State of Nebraska or other appropriate agency, in which more than two (2) persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care, for any of the following purposes.

A. Adaptation to living with, or rehabilitation from, disabilities;
B. Adaptation to living with, or rehabilitation from, emotional or mental disorders, or mental retardation;
C. Rehabilitation from the effects of drug or alcohol abuse;
D. Supervision while under a program of alternatives to imprisonment, including, but not limited to pre-release, work release and probationary programs.

303.42 HOME OCCUPATION: An occupation or business enterprise conducted in a dwelling unit or accessory building by members of the family occupying the dwelling unit, established in accordance with standards and restrictions set forth in this Resolution.

303.43 IMPACT EASEMENT: An easement or deed restriction, recorded in the office of the Rock County Registrar of Deeds, which runs with the land, granted to the owner of a industrial use, confined or intensive animal feeding use or other use, for the period of time that such use shall exist, by other real property owners in which it is agreed that the grantor shall hold the grantee harmless from odor, smoke, dust or other legal impacts associated with such use on the grantors property when operated in accordance with the terms of such easement.

303.44 INCOMPATIBLE USE: A land use of one type that is unsuitable for direct association or location near or abutting a land use of a different type because of its inconsistency with the Intent statement of the zoning district in which such uses are located, because of major differences in building types, building mass, building height and use activities, and because such use would diminish the use, value and enjoyment of the other.

303.45 INTENSIVE ANIMAL FEEDING USE: The feeding or dairying of more than three hundred(300) animal units at any one time in partial or total earthen pens or lots which are or used for confinement of animals where manure is or may be in contact with the earth. Confinement of an unrestricted number of ruminant animals for birthing, weaning or backgrounding purposes for less than two hundred ten (210) days per calendar year in lots or pens normally used for crop production or vegetation shall not be considered an intensive animal feeding use. Any waste handling facilities, as defined in Section 303.92 of this Resolution, shall be considered a separate waste handling facility use. The determination of the number of animal units in any such use shall
be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the number of animal units by the Zoning Administrator or other duly appointed official at the time of such dispute. For purposes of this Resolution, intensive animal feeding uses shall be classified and regulated with regard to the number of animal units confined as follows:

Class I - An intensive animal feeding use with a one time capacity of more than three hundred (300) animal units, but less than one thousand one (1,001) animal units.

Class II - An intensive animal feeding use with a one time capacity of one thousand and one (1,001) to five thousand (5,000) animal units.

Class III - An intensive animal feeding use with a one time capacity of five thousand and one (5,001) to twenty thousand (20,000) animal units.

Class IV - An intensive animal feeding use with a one time capacity of twenty thousand and one (20,001) or more animal units.

303.46 JUNK YARD: See Salvage Yard.

303.47 LANDFILL: A waste disposal site employing an engineered method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting and applying cover material over all exposed waste designed in accordance with the requirements of the Nebraska Department of Environmental Quality and licensed by said Department.

303.48 LOT (ZONING): A piece, parcel or plot of land under single ownership or control, not divided by any public street or road, but having frontage on a public street or road which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot record, a portion of a lot of record, a combination or complete lots or record, a combination of complete lots or record and portions of lots of record, or portions of lots of record.

303.49 LOT AREA: The total horizontal area of a lot, excluding all street or alley rights-of-way.

303.50 LOT, CORNER: A lot which has frontage on two (2) or more streets or roads at the intersection of said streets or roads.

303.50 LOT DEPTH: The average horizontal distance between the front and rear lot lines of any lot.

303.51 LOT OF RECORD: A lot which is part of a subdivision plat or lot, plot or parcel described by metes and bounds recorded in the office of the Registrar of Deeds of Rock County, Nebraska at the time of adoption of this Resolution.

303.53 LOT WIDTH: The horizontal distance between the side lot lines, measured at a right angle from one side lot line at the minimum front setback distance set forth in the various zoning districts specified in this Resolution.
303.54 MANUFACTURED HOME: A factory-built structure which is to be used for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or any successor regulations thereto and
1. a minimum floor area of nine hundred (900) square feet,
2. a minimum exterior width of eighteen (18) feet,
3. a minimum roof pitch of two and one-half (2 1/2) inches of rise per each twelve (12) inches of horizontal run,
4. exterior material shall be of a color, material, and scale comparable with existing residential site-built, single-family construction
5. all wheels, axles, transporting lights and removable towing apparatus have been removed
6. is placed on and permanently attached to a foundation of the same construction as required for site-built homes,
7. is permanently connected to public utilities in the same manner required for site-built homes.
which complies with the following minimum standards:

303.55 MOBILE HOME: A detached dwelling unit which was originally designed for long term human habitation and which was constructed and fabricated into a complete unit at a factory and capable of being transported to a location for use on its own chassis and wheels, identified by model number and serial number by its manufacturer, and designed primarily for placement on a non-permanent foundation when used for residential purposes, but not including any structure which meets the definition of Manufactured Home or Modular Home, as herein defined.

303.56 MOBILE HOME LOT: A lot or parcel of land for the placement of one (1) mobile home.

303.57 MOBILE HOME PARK: Any parcel of land area under single ownership and control upon which sites for parking of four (4) or more mobile homes connected to utilities and used by persons for living or sleeping purposes are provided by lease, rent or free of charge.

303.58 MOBILE HOME SUBDIVISION: A parcel of land which has been or is intended to be subdivided into two (2) or more lots for sale to persons to place a mobile home on said lot.

303.59 MODULAR HOME: A manufactured housing unit, as defined in Section 71-1557 of the Nebraska Revised Statutes 1943, which bears the seal of the Nebraska Department of Health or its successor.

303.60 NON-CONFORMING LOT OF RECORD: A lawfully existing lot in existence at the date of adoption of this Resolution, which does not comply with the minimum lot area, width and other lot standards established in the various zoning districts created by this Resolution.

303.61 NON-CONFORMING STRUCTURE: A lawfully erected structure in existence at the date of adoption of this Resolution which does not comply with the lot coverage, height, setback requirements or other standards applicable to new structures in the zoning district in which said structure is located.

303.62 NON-CONFORMING USE: A lawfully established use of land in existence at the date of adoption of this Resolution which does not comply with the regulations of this Resolution.

303.63 NON-FARM BUILDING: A building located on a farm which is not utilized for agricultural purposes, including a residential dwelling, used for residential purposes.

303.64 ORDINARY HIGH WATER MARK: A mark delineating the highest water level
which has been maintained for a sufficient period of time to leave evidence upon the landscape such as scouring, debris accumulation, lack of vegetation or a distinct change from aquatic to terrestrial vegetation.

303.65 PERMANENT FOUNDATION: The substructure of a structure to which the structure is permanently attached which provides a permanent support for said structure around its entire perimeter and at points within its perimeter where needed.

303.66 PARKING SPACE, OFF-STREET: An area, open or closed, which is sufficient in size to permit the parking of one (1) or more vehicles, together with a driveway connecting said parking area to a street or road to permit ingress and egress by said vehicle.

303.67 PREMISES: The land area containing a land use which is contiguous with and under the same ownership as the land use.

303.68 PREVAILING WINDS: Prevailing winds in Rock County are from the north, and northwest in winter months and south in summer months. Prevailing wind directions, using magnetic north as determined through use of a common compass, are defined as:

- North - from forty-five degrees west of north to forty-five degrees east of north
- South - from forty-five degrees west of south to forty-five degrees east of south
- East - from forty-five degrees east of north to forty-five degrees east of south
- West - from forty-five degrees west of north to forty-five degrees west of south

303.69 PRINCIPAL BUILDING: A building in which the principal use on the lot is situated.

303.70 PRIVATE AIRSTRIP: A privately owned parcel of land used for take-off and landing of small aircraft which is duly registered with the Nebraska Department of Aeronautics.

303.71 PRIVATE ROADWAY: A privately owned, open, unoccupied space other than a public road or privately owned road by use, reserved as the principal means of access to abutting property.

303.72 PUBLIC USE AREA: An area of land or water, whether publicly or privately owned, which is designed for and used by ten (10) or more unrelated persons on at least a quarterly basis for recreation, education, communication, worship, meetings or other legal purpose, including public parks, public water areas, public game refuges, fish hatcheries, publicly or privately owned meeting halls, historic sites and similar areas, provided that a public use area shall not be construed to include any rights-of-way for streets or roadways or privately owned land used for hunting and/or fishing.

303.73 QUARTER SECTION: That portion of a square section of land, as defined by the definitions and requirements of the Survey of Public Lands of the United States, which has approximately equal dimensions on all four (4) sides, has two (2) intersecting sides which coincide with two (2) intersecting section lines and contains approximately one-fourth (1/4) of the land area contained within a square section of land.

303.74 RECREATIONAL VEHICLE: A temporary dwelling for travel, recreation and vacation use including travel trailers, camping trailers, pickup campers, motor coaches, camp cars, tent trailers, boats or any other vehicular portable structure.

303.75 RESIDENTIAL USE: A dwelling unit located on a lot, parcel or tract of land.

303.76 ROAD / ROADWAY: A public right-of-way set aside for public travel which affords the principal means of access to abutting property.
303.77 ROAD CENTERLINE: A line extending down the center of a road or street right-of-way, as established by official survey.

303.78 ROADSIDE STAND: A structure or portion thereof used for the shelter, display and sale of craft and similar items, fruit, vegetables and other agricultural crops produced on the premises.

303.79 SALVAGE YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, inoperable appliances, inoperable motor vehicles, machinery or parts thereof, or other used materials are bought, sold, exchanged, stored, baled or cleaned, excluding pawn shops, used appliance or furniture sales or operable used vehicle sales establishments.

303.80 SECTION OF LAND: A division or parcel of land on the government survey, comprising one (1) square mile of land encompassing six hundred forty (640) acres more or less. Each "township" (six miles square) is divided by straight lines into thirty six (36) sections, and these are again divided into half sections and quarter sections.

303.81 SETBACK: A horizontal distance, as prescribed in the various zoning districts established in this Resolution, from the centerline of the roadway on which the lot has frontage and the side or rear lot line of any lot in which a building may not be constructed. Setbacks are further defined as follows:

A. SETBACK, FRONT: An open space extending across the entire width of a lot between the centerline of the road on which the lot has frontage and the nearest point of a building. A corner lot has two (2) front setbacks.

B. SETBACK, REAR: An open space extending across the entire width of the lot between the rear lot line and the nearest point of a building.

C. SETBACK, SIDE: An open-space extending along the side lot line from the front setback to the rear setback and lying between the side lot line and the nearest point of a building.

D. SETBACK, TRANSITIONAL: An open space applicable when a non-residential zoning district abuts or is adjacent across a road from a residentially zoned area.

303.82 SIGN: Any identification, description, display or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or parcel of land which directs attention to an object, product, place, activity, business, person, service or interest.

303.83 SOLID MANURE: Waste produced by living cattle, dairy cattle, sheep and other ruminants and horses which contains not less than twelve percent (12%) solids by weight and waste produced by living swine, poultry or other non-ruminant animals which contains not less than twenty five percent (25%) solids by weight.

303.84 SOLID WASTE: Any garbage, refuse, discarded material including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, residential or other use, but excluding any animal waste, animal waste water or any waste from a waste handling facility, as defined in Section 303.92 of this Resolution.
303.85 STORY: That portion of a building included between the surface of any floor and the surface of the next floor above, or if there be no floor above, then the space between the floor and the ceiling next above it. A basement shall be counted as a story if more than four (4) feet of said basement is above the average finished grade of the adjoining ground.

303.86 STORAGE (PERMANENT): Storage of any item for a period of thirty (30) days or more on the same property.

303.87 STREET: See ROAD

303.88 STRUCTURE: Anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on the ground.

303.89 STRUCTURAL ALTERATIONS: Any change in the supporting members of a structure, such as bearing walls, partitions, columns, beams or girders, or any complete rebuilding of the roof or exterior walls.

303.90 USE: The purpose or activity for which land and buildings thereon is designed, arranged, intended, or for which it is occupied or maintained.

303.91 VARIANCE: A relaxation of the height, lot area, size of structure or buildings or size of yards and open space terms of this Resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the owner, a literal enforcement of the requirements of this Resolution would result in unnecessary and undue hardship.

303.92 WASTE HANDLING FACILITY: Any and all structures, combination of structures, underfloor pits, holding ponds, debris basins, diversion terraces, liquid manure storage pits, lagoons, pipelines, irrigation devices, or appurtenance thereto, apparatus, equipment, or mechanism, whether on the same or different premises than the industrial, commercial or other type of use, including any confined and intensive animal feeding use generating waste, used to hold, store, process, digest, transport, distribute, control or otherwise dispose of waste materials, other than solid waste as defined in Section 303.84 of this Resolution. Any facilities, apparatus, or mechanism used to ventilate, exhaust, process or treat hazardous gases, odor, dust, smoke or other waste product emanating from any building or structure, including any farm building, that occurs as a consequence of the use of that building or structure shall be considered part of a waste handling facility use. Waste handling facilities shall be categorized with regard to the types of such facilities and the methods of operation of such facilities as they relate to the potential for odor production, environmental degradation and compatibility with abutting and neighboring land uses as follows:

Category A (aerobic): A waste handling facility in which:

1. all waste is collected, processed or digested utilizing aerobic digestion facilities and processes, including aerobic lagoons, and/or aerobic composting and in which there is surface application of solid manure or injection of liquid manure, liquid waste or waste water into the soil on crop or other land, and

2. dust, hazardous gases, odor or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and

3. odors and dust, gases, or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category ANC (covered anaerobic): A waste handling facility in which:
1. all waste is collected and digested utilizing anaerobic digestion facilities and processes including anaerobic lagoons and holding basins, pits or above ground tanks, which are covered and the gases generated by the digestion of said waste are collected and treated to avoid explosion, fire hazards and the generation of odor, and in which there is surface application of solid manure or injection of liquid (non-solid) manure into the soil on crop or other land, and

2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are collected and processed to minimize air contamination, and

3. odors and dust, gases, odor or other air contaminants emitted from any open-sided buildings or open pens are controlled in a reasonable manner in order to minimize blowing of dust and odor onto abutting and neighboring properties.

Category AN (anaerobic): A waste handling facility in which:

1. all or part of the waste produced is collected and digested utilizing anaerobic digestion facilities and processes, including uncovered anaerobic holding ponds or pits, anaerobic lagoons, sludge or settling basins, anaerobic stockpiling of waste as a solid and there is application of liquid (non-solid) manure and waste on the surface of crop or other land, and, injection of liquid manure or waste into the soil

2. dust, hazardous gases, odor, or other air contaminants emitted from any building or facility are not collected and processed to minimize air contamination, but simply exhausted into the air, and

3. odors and dust, gases, odor or other air contaminants emitted from any open-sided buildings or open pens are not controlled in a reasonable manner and do not minimize blowing of dust and odor onto abutting and neighboring properties.

303.93 YARD / SETBACK: Open space on a lot unoccupied and unobstructed by any buildings or structure or portion thereof, except for fences, retaining walls, posts and other customary yard accessories.

303.94 YARD, FRONT: A yard extending across the entire width of the lot between the front lot line and the nearest point of a building. For purposes of determining yard requirements for corner and through lots, all sides of a lot abutting a street shall be considered a front yard and shall comply with the requirements thereof.

303.95 YARD, REAR A yard extending across the entire width of the lot between the rear lot line and the nearest part of a building or non-minor structure.

303.96 YARD, SIDE: On single frontage lots, a yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the nearest part of a building on non-minor structure. On through lots, a yard extending along the side lot line from front yard to front yard and lying between the side lot lines and the nearest part of the building or non-minor structure. On corner lots, a yard extending along the side lot line from the front yard to the opposite side lot line lying between the side lot line and the nearest part of a building or non-minor structure.

303.97 YARD, SPECIAL: A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” or “rear yard” clearly applies. In such cases, the Zoning
Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district, determining which shall apply by the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of buildings, structures and buildable areas thereon.

303.98 ZONING ADMINISTRATOR: The person duly designated by the Rock County Board of Commissioners to administer and enforce the regulations established under this Resolution.

303.99 ZONING DISTRICT: One of several sets of zoning regulations designed for a particular class of land uses which established uniform regulations governing the use, building and structure height, area, size, intensity of use and other standards of land use within unincorporated area of the County.

ARTICLE 4 - ESTABLISHMENT AND DESIGNATION OF DISTRICTS

SECTION 401 - PLANNING COMMISSION RECOMMENDATIONS
It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report to the Board of Commissioners, and the Board of Commissioners shall not hold its public hearing or take final action on such recommendations until it has received the final report of the Planning Commission.

SECTION 402 - DISTRICTS CREATED
For the purposes of this Resolution, the following zoning districts for Rock County, Nebraska, as named and described in Article 5 of this Resolution, are created:

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\begin{align*}
\text{AG - 1} & \quad \text{Agricultural District} \\
\text{AG - 2} & \quad \text{River Corridor Agricultural District}
\end{align*}
\]

SECTION 403 - OFFICIAL ZONING MAP
The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chairperson of the County Board of Commissioners and attested by the County Clerk under the following words: "This is to certify that this is the Official Zoning Map of Rock County, Nebraska referred to in Section 403 of Resolution No. ____ of the County of Rock, Nebraska" together with the date of the adoption of this Resolution. The signed copy of the Official Zoning Map shall be maintained in the office of the County Clerk for the use and benefit of the public.

SECTION 404 - OFFICIAL ZONING MAP CHANGES

404.01 CHANGES ON OFFICIAL ZONING MAP: If, in accordance with the provisions of this Resolution, changes are made in the zoning district boundaries or other explanatory matter portrayed on the Official Zoning Map, such changes shall be promptly entered on said Official Zoning Map after amendment of same has been approved by the County Board together with an entry on the Official Zoning Map as follows: "On ____ (date) ____ by official action of the County Board of Commissioners, the following change(s) was / were made in the Official Zoning Map: ____ (brief description of the change) ____, which entry shall be signed by the Chairperson of the County Board of Commissioners and attested by the County Clerk. No changes to this Resolution which involve matter portrayed on the Official Zoning Map shall become effective until after such change and entry on such Official Zoning Map have been made.

404.02 CHANGES IN CONFORMITY WITH PROCEDURES: No change of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Resolution.
404.03 PENALTIES FOR UNAUTHORIZED CHANGES: Any unauthorized change of any kind by any person or persons shall be considered a violation of this Resolution and punishable in accordance with this Resolution and applicable law.

404.04 FINAL AUTHORITY OF OFFICIAL ZONING MAP: Regardless of the existence of purported copies of the Official Zoning map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the County Clerk, shall be the final authority as to the current zoning status of land within Rock County, Nebraska.

SECTION 405 - OFFICIAL ZONING MAP REPLACEMENT
In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the County Board of Commissioners may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof. Each new Official Zoning Map shall be identified by the signature of the Chairperson of the County Board of Commissioners and attested by the County Clerk under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on (date of adoption of original map) as part of Resolution No. (number of original adoption resolution) of the Rock County, Nebraska Board of County Commissioners. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof shall be preserved together with all available records pertaining to its adoption and amendment.

SECTION 406 - RULES FOR INTERPRETATION / INTERPOLATION OF DISTRICT BOUNDARIES
Where uncertainty exists as to the boundaries of zoning districts shown on the Official Zoning Map the following rules shall apply:

406.01 Boundaries indicated as approximately following the centerlines of roads, streets, or highways shall be construed to follow such centerlines.

406.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines and boundaries indicated as approximately following the corporate limit boundaries of any municipality shall be construed to follow such corporate limit boundaries.

406.03 Boundaries indicated as following railroad lines shall be construed to follow a line midway between the tracks of the main railroad track.

406.04 Boundaries indicated as following shore lines of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such shore line and in the event of change in the shore line shall be construed as moving with the shore line. Boundaries indicated as following the centerline of rivers, streams, canals, lakes, ponds or other bodies of water shall be construed to follow such centerline.

406.05 Boundaries indicated as parallel to or extensions of features indicated in Items 01 through 04 immediately above shall be so construed.

406.06 Distances not specified set forth on the Official Zoning Map shall be determined by measurement according the scale of the map.

406.07 Where a district boundary line divides a lot which was under single ownership and control at the date of adoption of this Resolution, the Board of Zoning Adjustment may, upon
application, permit the extension of either zoning district for either portion of the lot into the remaining portion of the lot.

406.08 Boundaries of the AG-2, River Corridor Agricultural District within each section of land which follow approximately the section lines, quarter section lines and quarter-quarter section lines shall be construed to follow such section, quarter section or quarter-quarter section lines.

406.09 In circumstances not covered by Items 01 through 08 immediately above or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall interpret the district boundaries to best accomplish the objectives of the Intent statements of the zoning districts involved.

SECTION 407 - ANNEXATION RULE
Annexation of land to any incorporated municipality shall remove such land from the jurisdiction of this Resolution and any legal extension of any zoning jurisdictional area boundary by any municipality shall remove such land from the jurisdiction of this Resolution.

ARTICLE 5 - ZONING DISTRICTS

SECTION 501 AG-1 AGRICULTURAL DISTRICT

501.01 INTENT: The intent of this district is to preserve land best suited for agricultural uses by preventing the introduction or encroachment of uses of land which would be or could become incompatible with the agricultural character and uses allowable and permitted within this district and by controlling the location and extent of non-agricultural uses to minimize any incompatibility with the agricultural character of this district.

501.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.33 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use, provided that any feeding of animals in confined or intensive manner, as defined in Sections 303.25 and 303.45, wherein there are fewer than three hundred (300) animal units, shall be allowable only under the following limitations:

   A. Such animal feeding use or associated waste handling facility use shall not be located closer than one-half (½) mile to any church, school, public use area or any dwelling unit not of the same ownership and on the same premises as the animal feeding use, provided that if one or more impact easement(s), as defined in Section 303.43 of this Resolution, shall have been granted to the owner of the animal feeding use, in which case any residence dwelling unit(s) associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved, under this Resolution for the animal feeding use, including any waste handling facility, to such church, school, public use area or dwelling unit not of the same ownership and on the same premises as the animal feeding use. Application of manure which in solid form to the surface of the land, the application of composted manure shall not be subject to the minimum spacing distance herein specified. Injections of liquid manure or slurry shall have a 1/4/ mile setback.

   B. Utilizing a twenty five (25) year storm as a basis for design, surface runoff or other drainage from such confined animal feeding area shall not flow directly or
indirectly into any river, stream, or drainage way which would allow any animal waste or waste water to flow beyond the property lines of the property on which such use is located.

C. The total number of animals confined shall not exceed three hundred (300) animal units per quarter section of land.

2. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities.

3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.

4. Forestry, tree farms and plant nurseries.

501.03 PERMITTED PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and/or certificate of zoning compliance:

1. Public service facilities, including public, parochial, private non-religious, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.

2. Churches, cemeteries and related uses.

3. Fish hatcheries, game farms and commercial hunting and fishing where such hunting and fishing does not involve development of lodges or other buildings devoted solely to the support of such hunting and fishing activities. Temporary housing of hunters and fishermen and temporary hunting or fishing shelters shall be permitted.

4. Signs, including permanent on-site and outdoor advertising signs, provided the number of such permanent on-site signs shall not exceed three (3) per premises and that permanent outdoor advertising signs shall be located no closer than one-eighth (1/8) mile to any other on-site or outdoor advertising sign. Temporary signs, including but not limited to crop seed signs, yard sale, real estate for sale or lease signs, political campaign signs, shall be exempt from regulation. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).

5. Radio, Television, microwave and other types of erected towers, subject to applicable airport, airstrip and heliport zoning restrictions set forth in this Resolution.

6. Day care and child care uses

7. Single-Family dwellings, including manufactured housing, modular housing and mobil homes, provided such dwellings comply with all of the following conditions.

A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined animal feeding use, as defined in Section 303.25 of this Resolution, any existing intensive animal feeding use, as defined in Section 303.45 of this Resolution, or any waste handling facility, as defined in Section 303.92 of this Resolution, shall be separated from such animal feeding use by the minimum distance specified in Section 501.05, of this Resolution, for the Class of such existing confined / intensive animal feeding use or waste handling facility, provided that if one or more impact easement(s), as defined in Section 303.43 of this Resolution, shall have been granted to the owner of the animal feeding use, in which case any residence dwelling unit(s) associated with the land on which any such easement has been granted shall not be
included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved, under this Resolution for the animal feeding use, including any waste handling facility, to such dwelling. Application of manure which is in solid form, to the surface of the land, and the application of composted manure shall have no setback. The dwelling shall be located at least ¼ mile from any area used for the injection of liquid manure or slurry.

B. Exceptions to the minimum distance separation requirements as set forth in Subsection A immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use.

C. Such dwelling shall be located on a lot with an area of not less than one (1) acre, as set forth in Section 501.07 of this Resolution, and such lot shall have a minimum lot width as set forth in Section 501.08 of this Resolution, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location of a septic tank and tile field or lagoon sewage disposal system indicate that a larger lot is appropriate and further provided that a smaller lot and minimum lot width may be permitted where clustering of ranch or farm dwellings make adequate provisions for water supply and sewage disposal. In no instance shall such smaller lot size be less than ten thousand (10,000) square feet in area or less than seventy five (75) feet in width.

D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Rock County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Rock County shall not construct or improve such roadways and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road even if such roadway is improved to County road standards by the owner(s) of such roadway, and further provided that the total number of dwellings per quarter section of land shall not exceed six (6), unless a conditional use for a residential subdivision has been authorized by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.

E. Residential dwellings existing on the same premises and under the same ownership as a confined or intensive animal feeding use, as defined in Sections 303.25 and 303.45 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such confined or intensive animal feeding use and shall not be subdivided or otherwise sold off as a separate parcel unless the confined or intensive animal feeding use has been abandoned. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing distance requirements from such confined or intensive animal feeding use as set forth in this Resolution.

8. Any class confined or intensive animal feeding use in existence as of the effective date of this Resolution which is located within the minimum separation distances to any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use for the class of confined or intensive animal feeding use, as specified in Section 501.05 of this Resolution, may be expanded in the number of animal units and / or land area occupied by such use provided that such expansion shall comply with all of the following limitations:
A. Such expansion will not decrease the distance from the confined or intensive animal feeding use and any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use to which the animal feeding use is less than the minimum prescribed separation distances for the class of confined or intensive animal feeding use, as specified in Section 501.05 of this Resolution.

B. Any physical expansion of the existing confined or intensive animal feeding use shall be immediately contiguous with the facilities of the existing feeding use;

C. Such expansion may occur in phases over time, but in no event shall such expansion(s) result in the confined or intensive feeding of more than fifty (50) percent more 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 for expansion in excess of this limitation is authorized as a conditional use by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.

D. If such expansion results in such use being required to obtain a new permit from the Nebraska Department of Environmental Quality, introduction of additional animals shall be prohibited until such permit required to be issued by the Nebraska Department of Environmental Quality or other applicable or successor agency shall have been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and any applicable restrictions of this Resolution.

E. Exceptions to the above stated minimum distance requirements may be approved by conditional use where special types of confined or intensive feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction of this minimum spacing distance will not interfere with the value, use and enjoyment of adjoining and neighboring properties. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the confined or intensive animal feeding use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

9. Any confined or intensive animal feeding use in existence as of the effective date of this Resolution that is located in excess of the minimum separation distances to any church, school, public use area or dwelling unit not of the same ownership and not on the same premises with such use for the class of confined or intensive animal feeding use, as specified in Section 501.05 of this Resolution, may be expanded in the number of animal units and / or land area occupied by such use provided that such expansion shall comply with all of the following limitations:

A. Such expansion will not decrease the distance from the confined or intensive animal feeding use and any church, school, public use area or dwelling unit not of the same ownership and on the same premises with such use to a distance less than the minimum separation distances specified in Section 501.05 of this resolution.

B. Such expansion may occur in phases over time, but in no event shall such expansion(s) result in the confined or intensive feeding of more than fifty (50) percent more 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 for expansion in excess of this limitation is authorized as a conditional use by the County Board of Commissioners in accordance with the procedures and requirements of this Resolution.

C. If such expansion results in such use being required to obtain a new permit from the Nebraska Department of Environmental Quality, introduction of additional animals shall be prohibited until such permit required to be issued by the Nebraska Department of Environmental Quality or other applicable or successor agency shall have been issued and such use shall be operated at all times in a manner consistent with the requirements of any such required permit and any applicable restrictions of this Resolution.

E. Exceptions to the above stated minimum distance requirements distance requirements may be approved by conditional use where special types of confined or intensive feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction of this minimum spacing distance will not interfere with the value, use and enjoyment of adjoining and neighboring properties. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the confined or intensive animal feeding use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

501.04 PERMITTED ACCESSORY USES AND STRUCTURES: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building shall require the issuance of a zoning permit and/or certificate of zoning compliance, following an on-site inspection.

2. Home occupations, in accordance with Section 610 of this Resolution.

3. Roadside stands for the temporary sale of produce grown or crafts produced on the premises. No zoning permit shall be required.

501.05 CONDITIONAL USES: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG - 1, Agricultural District:

1. Confined animal feeding uses, as defined and classified in Section 303.25 of this Resolution, and waste handling facility uses, as defined in Section 303.92 of this Resolution, provided such confined animal feeding uses shall meet or exceed the requirements set forth below and any waste handling facility use shall meet or exceed the separation distances set forth in Table 501.05 MINIMUM SEPARATION DISTANCES FROM ABUTTING AND NEIGHBORING USES for the class of the confined animal feeding use and the type of waste handling facility use. Any waste handling facility use associated with a confined animal feeding use shall also meet or exceed all requirements for waste handling facility uses, as set forth in Subsection 2 of this Section.

A. Each confined animal feeding use shall submit a plan for the proper and timely
disposal of dead animals. Such plan shall comply with any requirements of law
or regulations of the State of Nebraska and shall be subject to the approval of the
County Board of Commissioners who may establish additional requirements
regarding the proper and timely disposal of dead animals. The proposed use of a
separate entity or company to collect and dispose of dead animals shall require
written verification of the availability of and commitment to provide such services
by the separate entity or company and written notice to the County immediately
upon the cessation of such services by said entity or company and an indication
of how dead animal disposal will occur in a timely manner.

B. Any confined animal feeding use shall be located only in areas of the County
which are not subject to flooding on a one hundred (100) year basis

C. Residential dwellings existing on the same premises and under the same
ownership as a confined animal feeding use, as defined in Section 305.25 of this
Resolution, as of the effective date of this Resolution shall remain under the same
ownership and on the same premises with such confined animal feeding use and shall
not be subdivided off as a separate parcel unless the confined animal feeding use has
been abandoned. Nothing in this subsection shall prohibit the relocation of any such
dwelling unit.

D. In authorizing any confined animal feeding use, the County Board of
Commissioners may attach any additional requirement or condition of design or
operation of such use which will minimize the potential for environmental
degradation and/or negative impacts on adjoining and neighboring properties,
provided such requirement or condition is based upon scientific fact, which may
include recommendations by the Natural Resource District, the Natural Resources
Conservation Service, geologists, biological engineers, civil engineers and any other
entities with applicable environmental protection expertise and not here say,
unfounded public remonstrance or other reason not based on reasonable finding or
fact.

E. Any conditional use application for a confined animal feeding use which is
determined by the County Board of Commissioners to be in compliance with all the
requirements of this Section and for which there is agreement by the owner of such
proposed use to comply with any additional requirements or conditions established
by the Board of Commissioners as set forth in Subsection D immediately above and
Subsection 2 paragraph H immediately below shall be authorized by the County
Board of Commissioners.

2. Waste handling facilities, as defined in Section 303.92 of this Resolution, provided
such waste handling facilities shall meet or exceed all the requirements of this
Subsection as follows:

A. Such use shall meet or exceed the minimum separation distances set forth in
591.05, MINIMUM SEPARATION DISTANCES FROM ABUTTING AND
NEIGHBORING USES for the type of waste handling facility proposed.

B. For all categories of waste handling facility uses, regardless of size or type, all
run-off, control ponds and basins, methods of waste disposal and related waste
handling facilities and operational activities shall be engineered and developed to
minimize air and ground and surface water pollution and shall be constructed and
operated in accordance with all the requirements established by the County Board of
Commissioners who may request review and recommendations by the applicable
Natural Resource District, the Natural Resources Conservation Service, the
Nebraska Department of Environmental Quality, their successor agencies,
geologists, soil scientists, agronomist, biological engineers, civil engineers and any other entity with environmental protection expertise and shall have a permit from the Nebraska Department of Environmental Quality if a permit is so required by said Department.

**TABLE 501.05**

**MINIMUM SEPARATION DISTANCES FROM ABUTTING AND NEIGHBORING USES**

<table>
<thead>
<tr>
<th>Facility Size:</th>
<th>Distance from Confined Animal Feeding Use</th>
<th>Distance from All Types of Waste Handling Facilities</th>
<th>Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Class I Confined Animal Feeding Use:</strong></td>
<td>1 mile radius</td>
<td>1 mile radius</td>
<td><strong>No Surface Application</strong> ¾ mile setback between the injection of liquid waste and any dwelling, church, school, or public use area.</td>
</tr>
<tr>
<td>300 to 1000 animal units</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equals:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>300 to 1000 (500 to 1200 pound) Beef cattle</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>214 to 714 Dairy Cows</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>750 to 2500 Swine</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Class II Confined Animal Feeding Use:</strong></td>
<td>1.5 mile radius</td>
<td>1.5 mile radius</td>
<td><strong>No Surface Application</strong> ¾ mile setback between the injection of liquid waste and any dwelling, church, school, or public use area.</td>
</tr>
<tr>
<td>1001 to 5000 Animal units:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equals:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1001 to 5000 Beef Cattle</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>715 to 3571 Dairy Cows</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2502 to 12,500 Swine</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>Class III Confined Animal Feeding Use:</strong></td>
<td>2 mile radius</td>
<td>2 mile radius</td>
<td><strong>No Surface Application</strong> ¾ mile setback between the injection of liquid waste and any dwelling, church, school, or public use area.</td>
</tr>
<tr>
<td>5001 to 20,000 Animal Units</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Equals:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5001 to 20,000 Beef Cattle</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3572 to 14,285 Dairy Cows</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12,502 to 50,000 Swine</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Class IV Confined Animal Feeding Use:</strong></td>
<td>3 mile radius</td>
<td>3 mile radius</td>
<td><strong>No Surface Application</strong> ¾ mile setback between the injection of liquid waste and any dwelling, church, school, or public use area.</td>
</tr>
<tr>
<td>Over 20,000 Animal Units</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equals:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20,001+ Beef Cattle</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14,286 + Dairy Cows</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>50,002 + Swine</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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C. Any waste handling facility use which proposes to dispose of any waste through application of said waste on crop or other land shall indicate that the owners of such waste handling facility use shall have, either through ownership or lease of suitable terms, an adequate amount of such land to permit application of such waste based on the nutrient needs of the crops to be produced and avoid any build-up of nutrients or chemicals which can damage the production capacity of the land, result in runoff of such waste or chemicals into abutting property or into any stream or drainageway or in any way contaminate the environment. The County Board of Commissioners, in authorizing any waste handling facility use, may utilize recommendations of the Natural Resources Conservation Service, the Cooperative Extension Service and any other crop production experts in determining the maximum amount of waste to be placed on each acre of land to be used for such purposes, the timing of such waste placements, and the total amount of land necessary to distribute all waste, and shall establish such maximum per acre application limits and such minimum total land area, which may be beyond the standards established by the Nebraska Department of Environmental Quality and the United States Environmental Protection Agency, as conditions of such authorization. A specific condition of application of land application of waste shall be that no liquid waste shall be applied to any land when the soils are water saturated or frozen. **No Surface application of liquid manure is allowed.** The County Board of Commissioners may require the owner/operator of such waste handling facility use to conduct, or allow to be conducted by a third party at the owner's/operator's expense, soil sampling and testing for build up of nutrients on all locations where waste is to be placed and may require the submission of the results of such soil sampling and testing to the County Board of Commissioners.

D. All locations which are used by any authorized waste handling facility use for stockpiling or composting of waste shall be subject to authorization by the County Board of Commissioners as part of the authorization of any waste handling facility use and such authorization may include the establishment of maximum amounts of waste which may be stockpiled, the methods and operation of any waste composting facility, and facilities to collect and properly digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site.

E. Any waste handling facility use shall be located only in areas of the County which are not subject to flooding on a one hundred (100) year basis, and only in areas where it is determined by the County Board of Commissioners that the geology, soil permeability, depth to water table, drainage patterns and other natural environment characteristics will minimize the potential for surface and ground water contamination. In making a determination regarding the appropriateness of the site, the County Board of Commissioners may utilize the advice and recommendations of the Natural Resource District, the Natural Resources Conservation Service, geologist and any other entities with applicable environmental protection expertise. Where it is determined that the geology, soil permeability, depth to water table, drainage patterns or other environmental characteristic would present a reasonable potential for contamination of groundwater through leakage from a lagoon or waste holding pond, the County Board of Commissioners may require the use of above ground waste storage tanks.

F. Each waste handling facility use shall be engineered, constructed and operated utilizing best management practices to minimize odor, dust, flies, vermin and other problems and hazards to avoid environmental contamination and/or negative impacts on adjoining and neighboring properties.

G. The owner/operator of any waste handling facility use authorized by the County Board of Commissioners shall agree to permit unannounced access to the
waste handling facilities to allow inspection of the premises by the Zoning Administrator or other person(s) designated by the County Board of Commissioners to assure compliance with all conditions established by the County Board of Commissioners in authorizing such use, provided that the Zoning Administrator or other designated person(s) shall make a reasonable effort to notify the owner of such use of the proposed inspection prior to said inspection by telephone. The inability to notify the owner of such use of the proposed inspection, after reasonable effort to do so, shall not serve to prohibit any proposed inspection. Such inspections shall be conducted on at least a quarterly basis or complaint basis and shall first be investigated by the Zoning Administrator who shall document compliance or lack of compliance with all conditions of use established by the County Board of Commissioners in authorizing such use. To cover the costs of such inspections, the owner of such use shall be required to pay an annual fee to the County in accordance with any requirements set forth in any resolution of the Rock County Board of Commissioners adopted under the authority of Neb. Rev. Stat. 23-174.10.

Upon a finding by the Zoning Administrator that a waste handling facility use is not in compliance with the approved conditions of use, he/she shall report same to the County Board of Commissioners and shall notify the owner / operator of the waste handling facility use involved, in writing, that the use is in violation of the approved conditions of use and shall state the specific violation(s) of such conditions. The owner / operator of such use shall have thirty (30) calendar days to correct such violation. If the violation is not corrected within such time period, as verified through additional inspection(s) by the Zoning Administrator, the Zoning Administrator shall initiate any and all actions authorized under this Resolution to require compliance with the conditions of use approved by the County Board of Commissioners, including the possible requirements of reducing the waste produced by reduction in the activities generating such waste or in the case of confined or intensive animal feeding uses, reducing the number of animal units on the premises or removal of all animals until such violation(s) have been corrected.

A condition of authorization of any waste handling facility use shall be that the owner(s) / operator of each such use authorized under this Resolution shall agree to comply with any written order of the County Board of Commissioners, up to and including reduction in the activities generating such waste or in the case of confined or intensive animal feeding uses, reduction in the number of animals being fed at the location, to correct any lack of compliance with any conditions of the original or subsequent conditional use authorization detected in any on-site inspection within Thirty(30) calendar days of the date of the written order for compliance issued by the Zoning Administrator. In the event the owner / operator of a waste handling facility use involved in the inspection can present reasonable cause to the County Board of Commissioners that additional time to comply with any order of the Zoning Administrator is needed, the County Board of Commissioners may authorize an extension of time up to, but not exceeding Sixty (60) calendar days. Failure to comply with the order for compliance within the time specified shall result in a further order to cease all activities which result in the generation of waste or in the case of confined or intensive animal feeding uses, the removal of all animals from the premises until such time as compliance with these regulations can be achieved.

The provisions for inspection of waste handling facilities shall apply to waste handling facility uses which were in existence as of the effective date of this resolution to the extent of determining compliance with the limitations on unauthorized expansion of such facilities, but the provisions for inspections and compliance shall fully apply to any waste handling facility uses which were in existence as of the effective date of this Resolution, if any such used has been
expanded in its capacity beyond that which existed as of the effective date of this
and a conditional use for such expansion has been authorized by the County Board
of Commissioners

Any physical expansion of the existing confined or intensive animal feeding use
shall be immediately contiguous with facilities of the existing feeding use;
The provisions for inspections of waste handling facilities shall apply to waste
handling facility uses which were in existence as of the effective date of this
Resolution to the extent of determining compliance with the limitations on
unauthorized expansion of such facilities, but the provisions for inspections and
compliance shall fully apply to any waste handling facility uses which were in
existence as of the effective date of this Resolution, if any such use has been
expanded in its capacity beyond that which existed as of the effective date of this
and a conditional use for such expansion has been authorized by the County Board
of Commissioners.

H. In authorizing any waste handling facility use, the County Board of
Commissioners may attach any additional requirement or condition of design or
operation of such use, which may be in excess of any requirement or condition of the
Nebraska Department of Environmental Quality or the United States Department of
Environmental Protection, which will minimize the potential for environmental
degradation and/or negative impacts on adjoining and neighboring properties,
provided such requirement or condition is based upon scientific fact, which may
include recommendations by the Natural Resource District, the Natural Resources
Conservation Service, geologists, biological engineers, civil engineers and any other
entities with applicable environmental protection expertise and not here say,
unfounded public remonstrance or other reason not based on reasonable finding or
fact.

I. In authorizing any waste handling facility use, the County Board of
Commissioners may, after recommendation by the applicable Natural Resources District, require
the installation of one or more groundwater monitoring wells at recommended locations, require
that sampling from such well(s) occur on a particular schedule, that sampling of the well(s) be
conducted by an independent party, that independent laboratory analysis of the samples be
conducted, and that the results of the laboratory analysis be provided to the County Board of
Commissioners in accordance with the sampling schedule, all at the expense of the owner of the
waste handling facility use. In establishing any requirement for monitoring wells, the County
Board of Commissioners shall take into account any such wells required by the Nebraska
Department of Environmental Quality in its permitting process.

J. Any waste handling animal feeding use shall generally be located only in areas
of the County where the impact(s) on the public infrastructure and services,
particularly roads and bridges, will not result in an undue cost burden to the
taxpayers of the County in providing such infrastructure and services. In
making a determination regarding the appropriateness of the site, if the County
Board of Commissioners determine that the anticipated impacts will unduly
impact the present level of services, road maintenance or bridge capacities and
maintenance, the Board may require financial participation by the owner of the
animal feeding use in the maintenance of said infrastructure.

K. Due to the potential for negative environmental impacts and contamination of the
air, water or soil from the construction and operation of waste handling facilities,
the County Board of Commissioners, in authorizing a conditional use for a waste
handling facility, shall require the owner(s) of such use to post a surety bond,
irrevocable letter or credit or such other surety as may be acceptable to the Board
of Commissioners to provide funds for any clean-up of any environmental
contamination determined to be caused by such use. The amount and terms of such surety shall be in accordance with any resolution of the Rock County Board of Commissioners, adopted under the authority of Neb. Rev. Stat. 23-174.10.

L. Where any Federal and/or State of Nebraska permit for facilities associated with a waste handling facility use is required, such permit(s) shall be approved by the appropriate Federal or State agency and all facilities required by such Federal or State agency and all facilities and safeguards required by the County Board of Commissioners shall be in place and operable prior to the generation of waste or in the case of confined or intensive animal feeding uses, prior to the introduction of any animals to the premises.

M. Exceptions to the minimum separation distance requirements set forth in Table 501.05 of this Resolution may be approved as part of granting of a conditional use where special types of waste handling facility uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of other factors exist and it is determined by the County Board of Commissioners that reduction of this minimum spacing distance will not unreasonably interfere with the value, use and enjoyment of adjoining and neighboring properties.

N. Any conditional use application for a waste handling facility use which is determined by the County Board of Commissioners to be in compliance with all requirements of this Section and for which there is agreement by the owner of such proposed use to comply with any additional requirement or condition established by the Board of Commissioners, as set forth in Subsection H immediately above, shall be authorized by the County Board of Commissioners.

3. Class I, II, III and IV intensive animal feeding uses, as defined and classified in Sections 303.45 of this Resolution, provided such intensive animal feeding use shall meet all of the following requirements. Any waste handling facility use associated with an intensive animal feeding use shall also meet or exceed all requirements for waste handling facility uses, as set forth in Subsection 2 of this Section.
A. Class I, Class II, Class III and Class IV: All lots, pens and waste handling facilities shall not be located closer than * (SEE TABLE BELOW) to any church, school, public use area or dwelling unit not of the same ownership and not on the same premises as the intensive animal feeding use. Measurement of this distance shall be from the point of the lot or pen of the intensive animal feeding use or any waste handling facility associated with the intensive animal feeding use, whichever is nearest to said church, school, public use area or dwelling, to the nearest point of such dwelling, church, public use area or school, provided that if one or more impact easement(s), as defined in Section 302.43 of this Resolution, shall have been granted to the owner of the intensive animal feeding use, in which case any residence(s) associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Exceptions to these minimum distances may be approved as part of granting of a conditional use where special types of intensive animal feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds or other factor or combination of other factors exist and it is determined by the Board of Commissioners that reduction of this minimum spacing distance will not unreasonably interfere with the value, use and enjoyment of adjoining and neighboring properties. For purposes of this regulation, a dwelling unit not of the same ownership and on the same premises as the intensive animal feeding use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

<table>
<thead>
<tr>
<th>INTENSIVE ANIMAL FEEDING USE</th>
<th>SEPARATION DISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Class I: 300 to 1000 Animal Units</td>
<td>1 mile radius</td>
</tr>
<tr>
<td>*Class II: 1001 to 5000 Animal Units</td>
<td>1.5 mile radius</td>
</tr>
<tr>
<td>*Class III: 5001 to 20,000 Animal Units</td>
<td>2 mile radius</td>
</tr>
<tr>
<td>*Class IV: 20,001 + Animal Units</td>
<td>3 mile radius</td>
</tr>
</tbody>
</table>

B. For all Class I, II, III and IV intensive animal feeding uses, all run-off, control ponds and basins, methods of manure disposal and related waste handling facilities and operational activities shall be engineered and developed to minimize air and water pollution and shall be constructed and operated in accordance with the requirements established by the County Board of Commissioners which may include review and recommendation by the applicable Natural Resource District, the Natural Resources Conservation Service, the Nebraska Department of Environmental Quality, their successor agencies, geologists, soil scientists, agronomists, civil engineers and any other entity with environmental protection expertise and shall have a permit as required by the Nebraska Department of Environmental Quality, if such a permit is required by the Department.

C. Any intensive animal feeding use which proposes to dispose of any or all of the animal waste produced at the facility through application of said animal waste on crop or other land shall indicate that the owners of such intensive animal feeding use shall have, either through ownership or lease of suitable terms, an adequate amount of such land to permit application of such animal waste based on the nutrient needs of the crops to be produced and avoid any build-up of nutrients or chemicals which can damage the production capacity of the land, result in runoff of such animal waste or chemicals onto abutting property or into any stream or drainageway or contaminate the environment. The County Board of Commissioners, in authorizing any intensive animal feeding use, may utilize recommendations of the
Natural Resources Conservation Service, the University of Nebraska Extension and any other crop production and environmental protection experts from which the Board may seek recommendations in determining the maximum amount of animal waste to be placed on each acre of land to be used for such purposes, the timing of such waste placements, and the total amount of land necessary to distribute all animal waste produced by the confined animal feeding use, and shall establish such maximum per acre application limits and such minimum total land area and the locations of such land as conditions, which may be beyond the standards established by the Nebraska Department of Environmental Quality and the United States Environmental Protection Agency, as conditions of such authorization. A specific condition of application of land application of waste shall be that no liquid waste shall be applied to any land when the soils are water saturated or frozen. No surface application of liquid manure is allowed. The County Board of Commissioners may require the owner/operator of such intensive animal feeding use to conduct annual soil sampling and testing for build up of nutrients on all locations where animal waste is to be placed and may require the submission of the results of such soil sampling and testing to the County Board of Commissioners for review of compliance with the limitations imposed by the Board of Commissioners.

C. All locations which are used by any authorized intensive animal feeding use or associated waste handling facility use for stockpiling or composting of livestock manure, bedding or other waste shall be subject to authorization by the County Board of Commissioners as part of the authorization of any intensive animal feeding use and such authorization may include the establishment of maximum amounts of waste which may be stockpiled, the methods and operation of any waste composting facility, and facilities to collect and properly digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site.

E. Each intensive animal feeding use shall submit a plan for the proper and timely disposal of dead animals. Such plan shall comply with any requirements of law or regulations of the State of Nebraska and shall be subject to the approval of the County Board of Commissioners who may establish additional requirements regarding the proper and timely disposal of dead animals. The proposed use of a separate entity or company to collect and dispose of dead animals shall require written verification of the availability of and commitment to provide such services by the separate entity or company and written notice to the County immediately upon the cessation of such services by said entity or company and an indication of how dead animal disposal will occur in a timely manner.

F. Each intensive animal feeding use authorized by the County Board of Commissioners shall agree to permit unannounced access to the use and any associated waste handling facilities to allow inspection of the premises by the Zoning Administrator or other person(s) designated by the County Board of Commissioners to assure compliance with all conditions established by the County Board of Commissioners in authorizing such use, provided that the Zoning Administrator or other designated person(s) shall make a reasonable effort to notify the owner of such use of the proposed inspection prior to said inspection. The inability to notify the owner of such use of the proposed inspection, after reasonable effort to do so, shall not serve to prohibit any proposed inspection by persons designated. Such inspections shall be conducted on a complaint basis only and shall first be investigated by the Zoning Administrator who shall document compliance or lack of compliance with all conditions of use established by the County Board of Commissioners in authorizing such use. Such inspections shall be conducted on at least a quarterly basis or complaint basis and shall first be investigated by the Zoning Administrator who shall document compliance or lack of compliance with all conditions of use established by the County Board of Commissioners in authorizing such use. To cover the costs of such inspections, the owner of such use shall be required to pay an annual fee to the County in accordance with any requirements set forth in any resolution of the Rock County Board of Commissioners adopted under the authority of Neb. Rev. Stat. 23-174.10.
Upon a finding by the Zoning Administrator that the intensive animal feeding use or associated waste handling facility is not in compliance with the approved conditions of use, he/she shall report same to the County Board of Commissioners and shall notify the owner/operator of the intensive animal feeding use involved, in writing, that the use is in violation of the approved conditions of use and shall state the specific violation(s) of such conditions. The owner/operator of such use(s) shall have thirty (30) calendar days to correct such violation. If the violation is not corrected within such time period, as verified through additional inspection(s), the Zoning Administrator shall initiate any and all actions authorized under this Resolution to require compliance with the conditions of use approved by the County Board of Commissioners, including the possible requirements of reducing the number of animal units on the premises or removal of all animals until such violation(s) have been corrected.

A condition of authorization of any intensive animal feeding use shall be that the owner(s) / operator of each intensive animal feeding use authorized under this Resolution shall agree to comply with any written order of the County Board of Commissioners, up to and including reduction in the number of animals being feed at the location, to correct any lack of compliance with any conditions of the original or subsequent conditional use authorization detected in any on-site inspection within Thirty (30) calendar days of the date of the written order for compliance issued by the Zoning Administrator. In the event the owner/operator of the intensive animal feeding use involved in the inspection can present reasonable cause to the County Board of Commissioners that additional time to comply with any order of the Zoning Administrator is needed, the County Board of Commissioners may authorize an extension of time up to, but not exceeding Sixty (60) calendar days. Failure to comply with the order for compliance within the time specified shall result in a further order to remove all animals from the premises until such time as compliance can be achieved.

The provisions for inspections and compliance set forth in this Section (Section F) shall not apply to intensive animal feeding uses which were in existence as of the effective date of this Resolution, except to verify compliance with the limitations for expansion of such use, unless such use has been expanded in its animal capacity beyond that which existed on the effective date of this Resolution and a conditional use for such expansion has been authorized by the County Board of Commissioners.

G. Any intensive animal feeding use shall be located only in areas of the County which are not subject to flooding on a one hundred (100) year basis, and only in areas where it is determined by the County Board of Commissioners that the geology, soil permeability, depth to water table, drainage patterns and other natural environment characteristics will minimize the potential for surface and ground water contamination. In making a determination regarding the appropriateness of the site, the County Board of Commissioners may utilize the advice and recommendations of the Natural Resource District, the Natural Resources Conservation Service, geologist and any other entities with applicable environmental protection expertise.

H. Any intensive animal feeding use shall generally be located only in areas of the County where the impact(s) on the public infrastructure and services, particularly roads and bridges, will not result in an undue cost burden to the taxpayers of the County in providing such infrastructure and services. In making a determination regarding the appropriateness of the site, if the County Board of Commissioners determine that the anticipated impacts will unduly impact the present level of services, road maintenance or bridge capacities and

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maintenance, the Board may require financial participation by the owner of the animal feeding use in the maintenance of said infrastructure.

I. Each intensive animal feeding use shall be engineered, constructed and operated utilizing best management practices to minimize odor, dust, flies, vermin and other problems and hazards to avoid environmental contamination and/or negative impacts on adjoining and neighboring properties.

J. Due to the potential for negative environmental impacts and contamination of the air, water or soil from the construction and operation of waste handling facilities, the County Board of Commissioners, in authorizing a conditional use for a waste handling facility, shall require the owner(s) of such use to post a surety bond, irrevocable letter or credit or such other surety as may be acceptable to the Board of Commissioners to provide funds for any clean-up of any environmental contamination determined to be caused by such use. The amount and terms of such surety shall be in accordance with any resolution of the Rock County Board of Commissioners, adopted under the authority of Neb. Rev. Stat. 23-174.10.

K. In authorizing any intensive animal feeding use, the County Board of Commissioners may attach any additional requirement or condition of design or operation of such use, which may be in excess of any standards or requirements of the Nebraska Department of Environmental Quality or the United States Environmental Protection Agency, which will minimize the potential for environmental degradation and/or negative impacts on adjoining and neighboring properties, provided such requirement or condition is based upon scientific fact which may include recommendations by the Natural Resource District, the Natural Resources Conservation Service, the University of Nebraska Extension and any geologists, biological engineers, civil engineers and any other persons or entities with applicable environmental protection expertise from which the County has sought advice and not here say, unfounded public remonstrance or other reason not based on reasonable finding or fact.

L. In authorizing any waste handling facility use associated with an intensive animal feeding use, the County Board of Commissioners may, after recommendation by the applicable Natural Resources District, require the installation of one or more groundwater monitoring wells at recommended locations, require that sampling from such well(s) occur on a particular schedule, that sampling of the well(s) be conducted by an independent party, that independent laboratory analysis of the samples be conducted, and that the results of the laboratory analysis be provided to the County Board of Commissioners in accordance with the sampling schedule, all at the expense of the owner of the waste handling facility use. In establishing any requirement for monitoring wells, the Board of Commissioners shall take into account any such wells required by the Nebraska Department of Environmental Quality in its permitting process.

M. Where any Federal or State of Nebraska permit for facilities associated with intensive animal feeding uses are required, such permits shall be approved by the appropriate Federal or State agency and all facilities required by such Federal or State agency and all facilities and safeguards required by the County Board of Commissioners shall be in place and operable prior to introduction of any animals into such use.

N. Residential dwellings existing on the same premises and under the same ownership as an intensive animal feeding use, as defined in Section 303.45 of this Resolution, as of the effective date of this Resolution shall remain under the same ownership and on the same premises with such intensive animal feeding use and shall not be subdivided or otherwise sold off as a separate parcel unless the intensive animal feeding use has been abandoned. Nothing in this subsection shall prohibit the relocation of any such dwelling unit to a location beyond the minimum spacing
distance requirements from such intensive animal feeding use as set forth in this Resolution.

O. Any conditional use application for an intensive animal feeding use which is determined by the County Board of Commissioners to be in compliance with all requirements of this Section and for which there is agreement by the owner of such proposed use to comply with any additional requirement or condition established by the Board of Commissioners, as set forth in Subsections N immediately above, shall be authorized by the County Board of Commissioners.

4. A waste handling facility use serving confined or intensive animal feeding uses or other commercial, industrial, public or semi-public uses located outside the boundaries of Rock County, Nebraska, on land within the County for injection of liquid or slurry (non-solid) manure into the soil shall require that the site(s) for such application shall be located not less than two (2) miles radius from and dwelling, church, school, or public use area in Rock County or any adjoining county.

5. General welding and agricultural equipment repair businesses, automobile repair and body shop businesses and other commercial business and industrial uses determined by the Board of Commissioners to be reasonably compatible with the surrounding land uses with regard to traffic generation, noise, odors, dust, vibrations and potential air, soil or water pollution or explosion or other hazards.


7. Crop dusting businesses and related aircraft landing strips and airports.

8. Commercial fuel and fertilizer bulk plants, provided such plants are located a distance of no less than one-half (1/2) mile from any dwelling unit, church or school, or public use area.

9. Solid waste landfills, recycling facilities and transfer stations when in compliance with all requirements established by the Board of Commissioners in granting a conditional use and in compliance with all requirements of the Nebraska Department of Environmental Quality.

10. Salvage (junk) yards, provided such uses are separated from any existing dwelling unit, church, school or cemetery by a distance of not less than one-half (1/2) mile.

11. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses including bed and breakfast operations and motels.

12. Mineral extraction and sand and gravel extraction facilities and operations.

13. Public service facilities not allowable as permitted principal uses in Section 501.03 of this Resolution.

14. Residential subdivisions in excess of six (6) lots per quarter section.

15. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent statement of this zoning district.

501.06 PROHIBITED USES AND STRUCTURES: Other uses and structures which are not
allowed in this District as permitted, accessory or conditional uses shall be prohibited.

501.07 MINIMUM LOT AREA REQUIREMENTS: The following shall be the minimum lot area requirements for uses located within this district:

1. The minimum lot area for a single-family dwelling unit, manufactured home or mobile home shall be one (1) acre, provided that a larger lot area may be required by the standards and regulations of the Nebraska Department of Environmental Quality or its successor agency with regard to proper sizing and location of septic tank and tile field or lagoon sewage disposal systems, and further provided that a smaller lot and minimum lot width may be permitted where clustering of ranch or farm dwellings make adequate provisions for water supply and sewage disposal. In no instance shall such smaller lot size be less than ten thousand (10,000) square feet in area or less than seventy five (75) feet in width.

2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivisions, shall be the lot area appropriate for such uses, as determined by the Board of Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than one (1) acre in area.

501.08 MINIMUM LOT WIDTH AND FRONTAGE: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. The minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than one hundred fifty (150) feet and a minimum frontage less than sixty six (66) feet.

501.09 MINIMUM BUILDING SETBACK REQUIREMENTS: The following shall be the minimum yard requirements for uses located within this district:

1. Front Setback - Fifty Eight (58) feet, provided that for lots which front on a Federal or State Highway the front setback shall be one-half (1/2) the width of the highway right-of-way plus twenty five (25) feet
2. Side Setback - Ten (10) feet
3. Rear Setback - Ten (10) feet

501.10 MAXIMUM HEIGHT: No limitation.

SECTION 502 AG - 2 RIVER CORRIDOR AGRICULTURAL DISTRICT

502.01 INTENT: The intent of this district is to protect the unique combination of ecosystems found along the Niobrara River Valley and preserve the agricultural character of this river corridor by protecting existing agricultural uses, preserving and protecting customs and culture of the people residing in this district and discouraging land uses which would or could become incompatible with the agricultural uses or which, in the opinion of the Rock County Board of Commissioners or the Rock County Board of Adjustment, would destroy or significantly diminish the natural beauty, scenic quality and environmental balance of the Niobrara River Valley.
502.02 OUTRIGHT ALLOWABLE PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be allowable uses outright and shall not require a written zoning permit or certificate of zoning compliance:

1. Agricultural uses, as defined in Section 303.04 of this Resolution, including any farm buildings, as defined in Section 303.33 of this Resolution, but excluding any dwelling unit(s) whether or not associated with an agricultural use, provided that any feeding of animals in confined or intensive manner, as defined in Sections 303.25 and 303.45, wherein there are fewer than three hundred (300) animal units, shall be allowable only under the following limitations:

   A. Such animal feeding use or associated waste handling facility use shall not be located closer than one-half (1/2) mile to any church, school, public use area or any dwelling unit not of the same ownership and on the same premises as the animal feeding use, provided that if one or more impact easement(s), as defined in Section 303.43 of this Resolution, shall have been granted to the owner of the animal feeding use, in which case any residence dwelling unit(s) associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved, under this Resolution for the animal feeding use, including any waste handling facility, to such church, school, public use area or dwelling unit not of the same ownership and on the same premises as the animal feeding use. Application of manure which in solid form to the surface of the land, the application of composted manure shall not be subject to the minimum spacing distance herein specified. Injection of liquid manure or slurry shall have a 1/4 mile setback.

   B. Utilizing a twenty five (25) year storm as a basis for design, surface runoff or other drainage from such confined animal feeding area shall not flow directly or indirectly into any river, stream, or drainageway which would allow any animal waste or waste water to flow beyond the property lines of the property on which such use is located.

   C. The total number of animals confined shall not exceed three hundred (300) animal units per quarter section of land.

   D. Such use shall not be visible from the Niobrara River.

2. Grain and produce storage including non-commercial storage warehouses and plant seed sales and storage facilities.

3. Irrigation facilities, including wells, center pivots, re-use pits, well houses and related structures, flood control and erosion control facilities.

4. Aquacultural uses, game farms and commercial hunting and fishing not involving the development of buildings devoted solely to the support of such game farms or commercial hunting and fishing activities.

5. Forestry, tree farms, plant nurseries and timber harvesting and management accomplished in accordance with a plan, prepared by a professional forester. Timber harvesting shall not be deemed to include removal of new growth trees in pasture areas, trimming for maintenance of fencing, removal of dead or diseased trees or trimming of trees overhanging a roadway.

6. Child and day care uses conducted within a permitted dwelling unit.
502.03 PERMITTED PRINCIPAL USES AND STRUCTURES: The following uses and structures shall be permitted uses, but shall require the issuance of a zoning permit and / or certificate of zoning compliance:

1. Public service facilities, including public, parochial, private non-religious, road maintenance equipment sheds, fire stations, public utility substations and utility distribution systems.

2. Churches, cemeteries and related uses.

3. On-premise signs advertising a business on the premises shall not exceed three (3) per premises, on and off-premises directional signs to provide direction information to the public, but containing no advertising other than the business name. Off-premises advertising signs (billboards) are expressly prohibited. All signs shall be limited in surface area on one-side to forty (40) square feet. (All permanent signs along federal and state highways are subject to the permit requirements of the Nebraska Department of Roads).

4. Radio, Television, microwave and other types of erected towers.

5. Child care and day care uses, involving buildings other than a residential dwelling unit.

6. Single-Family dwellings, including manufactured housing, modular homes and mobile homes, provided such dwellings comply with all of the following conditions.

A. Such dwellings, if not on the same lot with and not of the same ownership as any existing confined animal feeding use, as defined in Section 303.25 of this Resolution, any existing intensive animal feeding use, as defined in Section 303.45 of this Resolution, or any waste handling facility, as defined in Section 303.92 of this Resolution, shall be separated from such animal feeding use by the minimum distance specified in Section 501.05, of this Resolution, for the Class of such existing confined / intensive animal feeding use or waste handling facility, provided that if one or more impact easement(s), as defined in Section 303.43 of this Resolution, shall have been granted to the owner of the animal feeding use, in which case any residence dwelling unit(s) associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. Such minimum distance shall be measured from the nearest point of the area used or approved, under this Resolution for the animal feeding use, including any waste handling facility, to such dwelling. Application of manure which is in solid form, to the surface of the land, and the application of composted manure shall have no setback. The dwelling shall be located at least ¼ mile from any area used for the injection of liquid manure or slurry.

B. Exceptions to the minimum distance separation requirements as set forth in Subsection A immediately above, may be permitted by conditional use where topography, prevailing winds, or other factor or combination of factors exist and it is determined by the Board of Commissioners that reduction in any minimum spacing requirement will not interfere with the normal operation of an existing confined or intensive animal feeding use.

C. Such dwelling shall be located on a lot with an area, above any high water mark, of not less than one (1) acre as set forth in Section 502.07 of this Resolution and a minimum lot width as set forth in Section 502.08 of this Resolution, provided that a larger lot may be required if the regulations of the Nebraska Department of Environmental Quality or its successor with regard to proper sizing and location
of a septic tank and tile field or lagoon sewage disposal system and further provided that a smaller lot and minimum lot width may be authorized as a conditional use in accordance with Article 10 of this Resolution where adequate provisions for water supply and sewage disposal for clustering of farm dwellings or residential subdivisions are made.

D. The lot on which such dwelling is located shall front on or have access to an existing public roadway other than a roadway classified by the Rock County Board of Commissioners as a minimum maintenance road or other unimproved roadway, provided that if such dwelling is located on a minimum maintenance road or other unimproved roadway, Rock County shall not construct or improve such roadways and, with the exception of existing minimum maintenance roads, shall not be committed to accepting such roadway as a publicly maintained County road even if such roadway is improved to County road standards by the owner(s) of such roadway.

E. The total number of dwelling units shall not exceed a total of two (2) per quarter section, except for clustering of farm or ranch dwellings and residential subdivisions, authorized as conditional uses in accordance with Article 10 of this Resolution, where such clustering of dwellings or dwellings in a subdivision is determined by the Rock County Board of Commissioners to be consistent with the intent of this district and developed to meet the minimum requirements of this Resolution and whatever conditions which may be imposed by the Board of Commissioners in authorizing such clustering of dwelling units or subdivisions.

502.04 PERMITTED ACCESSORY USES AND STRUCTURES: The following uses and structures shall be permitted as accessory to the permitted principal uses and structures:

1. Accessory uses, buildings and structures normally and commonly appurtenant to the permitted principal uses and structures. Such uses, buildings or structures, if not a farm building shall require the issuance of a zoning permit and/or certificate of zoning compliance.

2. Home occupations, in accordance with Section 610 of this Resolution.

3. Roadside stands for the temporary sale of produce grown or crafts or other items. No zoning permit shall be required.

502.05 CONDITIONAL USES: After the provisions of this Resolution relating to conditional uses have been fulfilled, the Board of Commissioners may, in accordance with the procedures and requirements of Article 10 of this Resolution, permit the following as conditional uses in the AG - 2 River Corridor Agricultural District:

1. Public and private recreational uses and commercial recreational enterprises, including parks, playgrounds, campgrounds, riding stables, game lodges, canoe outfitters, rental cabins, camp stores, public or commercial river access sites and other similar uses, bed and breakfast operations and other similar uses.

2. Clustering of dwelling units, including manufactured homes as defined in Section 303.54 of this Resolution, but excluding mobile homes as defined in Section 303.55 of this Resolution, for ranch or farm dwellings or dwellings in residential subdivisions with the total number of dwelling units in excess of two (2) per quarter section limitation set forth in Section 502.03 above and in accordance with the lot
area, lot width and road frontage or access as set forth in Sections 502.03, Subsections C and D.

3. Other uses and structures determined by the Board of Commissioners to be comparable with the above stated conditional uses and consistent with the Intent statement of this zoning district.

502.06 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically allowed in this District as permitted uses and consistent with the Intent statement of this zoning district. This prohibition shall specifically include all types of confined or intensive animal feeding, as defined in Sections 303.25 and 303.45 of this Resolution and waste handling facilities, as defined in Section 303.92 of this Resolution.

502.07 MINIMUM LOT AREA REQUIREMENTS: The following shall be the minimum lot area requirements for uses located within this district.

1. The minimum lot area for a single-family dwelling unit shall be one (1) acre, provided that a larger lot area may be required by the standards and regulations of the Nebraska Department of Environmental Quality with regard to proper sizing and location of septic tank and tile field, lagoon or other approved sewage disposal system and further provided that no part of any sewage disposal system shall be within fifty (50) feet of any high water mark or wetland area. A smaller lot and minimum lot width may be authorized as a conditional use in accordance with Article 10 of this Resolution where clustering of farm or ranch dwellings or residential subdivisions make adequate provisions for water supply and sewage disposal. In no instance shall such smaller lot be less than ten thousand (10,000) square feet or have a lot width less than seventy five (75) feet.

2. The minimum lot area for uses identified as conditional uses in this District, other than residential dwelling units in residential subdivisions, shall be the lot area appropriate for such uses, as determined by the Board of Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall be less than one (1) acre in area.

502.08 MINIMUM LOT WIDTH AND FRONTAGE: The following shall be the minimum lot width and frontage requirements for uses located within this district:

1. The minimum lot width shall be one hundred fifty (150) feet and the minimum lot frontage shall be sixty six (66) feet, except that the minimum lot width and frontage for uses identified as conditional uses in this district shall be the lot width and frontage appropriate to such uses, as determined by the Board of Commissioners in granting of any such use in accordance with Article 10 of this Resolution, provided that no lot shall have a width less than one hundred fifty (150) feet and a minimum frontage less than sixty six (66) feet.

502.09 MINIMUM BUILDING SETBACK REQUIREMENTS: The following shall be the minimum yard requirements for uses located within this district, provided however, any building located along the Niobrara River shall be set back a distance of not less than two hundred (200) feet from the ordinary high water mark nearest the proposed building.

1. Front Setback - Fifty eight (58) feet, provided that for lots which front on a Federal or State Highway the front setback shall be one-half (1/2) the width of the right-of-way of the highway plus twenty five (25) feet
2. Side Setback - Ten (10) feet
3. Rear Setback - Ten (10) feet
502.10 MAXIMUM HEIGHT: No limitation, except for any height limitation established as a condition of authorization of any conditional use.

ARTICLE 6 - SUPPLEMENTAL DISTRICT REGULATIONS

SECTION 601 APPLICATION
The supplemental regulations set forth in this Article qualify and supplement all zoning district regulations and are declared to be part of this Resolution and applicable to all uses and structures in all zoning districts.

SECTION 602 SETBACK REQUIREMENTS
Minimum building setbacks shall be required along all public roadways as set forth in the district regulations. An open space abutting a roadway shall be deemed a front setback for purposes of determining setback depth requirements. Setbacks equal to or exceeding the minimum setback requirements of each district shall be provided with the following qualifications:

602.01 Any setback so placed or oriented that none of the specific setback definitions contained in this Resolution are applicable shall necessitate a determination by the Zoning Administrator of a suitable setback dimension which will be consistent with the intent of the setback requirements within the applicable zoning district.

602.02 No structure shall project into a required front, side or rear setback. All parts of a structure shall be in compliance with the required setbacks including any eave, cornice, overhang, awning, balcony, or bay window, projection of belt courses, sills, lintels, chimneys and other similar ornamental or architectural features, but excluding unenclosed, uncovered steps, entrance platforms, ramps, terraces or landings which are at or below grade level.

SECTION 603 FENCES AND WALLS
Nothing in this Resolution shall be deemed to prohibit the erection and maintenance of any fence in connection with agricultural uses or any retaining wall in association with any use in any zoning district and any ornamental fence, wall or structural screen fence shall be permitted in any yard. Nothing in this Resolution shall be deemed to prohibit the installation of living screens consisting of trees, shrubs or other plant material.

SECTION 604 SETBACK EXEMPTIONS
Such appurtenant features as sidewalks, walkways, driveways, curbs, drainage and erosion control installations, mail boxes, lamp posts, bird baths, and similar installations are permitted accessory uses on any lot.

SECTION 605 DIVISION OF LOTS
After any portion of a lot has been developed under the provisions of this Resolution, such lot may be divided into smaller lots only if each resulting lot and any buildings thereon comply in all respects to all regulations of the zoning district in which said lot is located.

SECTION 606 STORAGE
Except as specifically authorized by conditional use, no portion of any yard on any lot shall be used for the permanent storage, as defined in Section 303.85 of this Resolution, of inoperable motor vehicles, inoperable boats, or inoperable travel trailers, or motor vehicles, boats or travel trailers with current license plates or stickers, unoccupied mobile homes or parts thereof. Storage of such items may occur, however, in completely enclosed buildings or outdoors if such items are screened from view from any roadway on which said lot has frontage and such items are screened from view from adjoining properties under separate
ownership. Where such storage occurs along the Niobrara River, such storage shall be located above the ordinary high water mark of the River and shall be screened from view from the Niobrara River by a screen comprised of trees and/or shrubs.

SECTION 607 CONVERSIONS OF USE
Any use of land which is converted to another use shall comply in all respects with the requirements of this Resolution.

SECTION 608 ACCESSORY USES
Accessory uses shall be permitted as specified in all zoning districts in accordance with the following provisions:

608.01 Any accessory use shall be incidental to, subordinate to and commonly associated with the primary use of the lot.

608.02 Any accessory use shall be operated and maintained under the same ownership and control and on the same lot as the primary use of the lot.

608.03 Any accessory use shall be clearly subordinate to the primary use of the lot in height, area, bulk and extent.

608.04 Any accessory use shall be permitted only after the erection and operation of a primary use of the lot.

SECTION 609 PARKING REQUIREMENTS
In all zoning districts and in connection with every use there shall be an adequate number of vehicle parking spaces provided at the time of establishment of any use or building in accordance with the following:

609.01 Adequate access to a public or private roadway serving the use shall be provided for the required parking spaces.

609.02 Each automobile parking space shall have a width of not less than eight (8) feet and a total area of not less than one hundred eighty (180) square feet, exclusive of space required for ingress and egress to said parking space.

609.03 Parking spaces shall be provided on the same lot as the use requiring such parking spaces.

609.04 Residential uses shall have not less than two (2) parking spaces, not on the public right-of-way, per use, including spaces provided by garages or carports.

609.05 For non-residential uses, an adequate number of parking spaces, including spaces for handicapped persons, shall be provided to adequately serve the use. The Zoning Administrator shall determine the appropriate number of parking spaces to be required in consultation with the owner of the use proposed on the basis of the number of persons to be served, the number of persons to be employed and the capability of adequately serving the visiting public. The decision of the Zoning Administrator shall be final, except that such decision may be appealed to the Board of Adjustment in accordance with Article 9 of this Resolution.

SECTION 610 HOME OCCUPATIONS AND HOME BASED BUSINESSES
A home occupation, in compliance with the following restrictions, shall be permitted to accompany residential (agricultural or non-agricultural) use by the granting of an occupancy permit.

610.01 The home occupation shall be conducted within the dwelling unit or accessory building by a member or members of the occupants of the dwelling unit. A maximum of four (4) employees who are not members of the occupants of the dwelling unit shall be permitted for each home occupation.

610.02 The home occupation is clearly subordinate to the residential / agricultural use of the lot and does not change the residential / agricultural character of the lot nor infringe upon the right of neighboring owners to enjoy their property.

610.03 No equipment or machinery shall be used in any home occupation that produces any smoke, noise, odor, dust, vibration, electrical interference or radiation detectable beyond the property line of which equipment or machinery is located.

610.04 One (1) non-animated, non-flashing sign not larger than ten (10) square feet in surface area may be used to identify the home occupation.

610.05 Off-street parking appropriate to such home occupation shall be associated with the parking for the dwelling unit and in no event shall any such parking be permitted on any public right-of-way.

SECTION 611 AIRPORT HAZARD REGULATIONS: All land uses, building locations, structures, building and structure height and all zoning permits shall be subject to the provisions of the airport hazard zoning regulations for all airports in the County for which such regulations have been developed and adopted.

SECTION 612 BUILDING DEVELOPMENT ALONG THE NIOBRA RA NATIONAL SCENIC RIVER

In order to permit the owners of property along the Niobrara River to enjoy the scenic quality of the river valley in a manner similar to those canoeing, tubing or otherwise enjoying the scenery along the River or utilizing roadways within the AG-2, River Corridor Agricultural Zoning District and to protect such property owners’ opportunities to enjoy the views of the River and related scenic vistas, whether along the River or along the Roadways within the AG-2, River Corridor Agricultural Zoning District, development of buildings associated with the uses authorized in the AG-2, River Corridor Agricultural Zoning District as allowable uses, permitted uses, accessory uses, conditional uses or an authorized variance, when developed within sight distance from any location on the Niobrara River surface or from a public roadway within the AG-2, River Corridor Agricultural Zoning District shall comply with the following standards:

612.01 In the development of residential dwellings and other buildings designed for human habitation, the opportunity to optimize scenic views from such dwellings and other buildings shall be preserved while minimizing the negative impacts on the natural scenic beauty of the Niobrara River Valley by having such buildings be designed or located so as to optimize such scenic views from said buildings while being difficult to see or not readily noticeable in summer months because of placement, screening, berming or use of natural tone building materials and colors. In order to accomplish these objectives, the following provisions shall apply to each such building:

A. Such buildings may be placed in a manner which will optimize the scenic views from such buildings, provided such buildings shall be placed in a
manner where the natural topography, existing or installed natural (living) screening material or berming shall result in not more than fifty (50) percent of such building being visible from the upstream surface of the Niobrara River in the summer months. Visibility of such buildings from the downstream surface of the Niobrara River shall be permitted.

B. In the development of uses within the AG-2, River Corridor Agricultural Zoning District, development of any roadway to serve any building development shall be located so that such roadway does not result in any such building on any property being closer than seventy five (75) feet from the nearest edge of such roadway.

C. In the location and construction of such buildings, the construction of roadways, driveways, berms or other construction requiring clearing of or disturbance of the soil surface, the clearance of trees and natural vegetation shall be minimized and such disturbed areas shall be seeded back to grasses, trees and vegetation native to or adaptable to the area. Where necessary to prevent erosion of areas along roadways, driveways, and other design features of the use which will not be reseeded or landscaped, provisions shall be made to limit and control erosion thus minimizing the potential damage to adjoining properties and to the scenic quality and water quality of the Niobrara River.
ARTICLE 6 Section 613
ADDITION TO ROCK COUNTY ZONING REGULATIONS
WIND ENERGY CONVERSION FACILITIES

Wind Energy Installation

In zoning district AG-1, a conditional use permit may be granted to allow wind energy conversion systems, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section and subject to applicable procedures cited in ARTICLE 10 CONDITIONAL USES of the Rock County Zoning Regulations Resolution 9802.

Small Wind Energy Systems

A. **Purpose:**
   It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

B. **Definitions:**
The following are defined for the specific use of this section.

1. *Small Wind Energy System* shall mean a wind energy conversion electricity generating system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power.

2. *Tower Height* shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

C. **Requirements:**
Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. *Tower Height*
   a. For property sizes between ½ acre and one acre, the tower height shall be limited to 80 feet.
   b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

2. *Noise*
   a. Small wind energy systems shall not exceed 60dBA, as measured at the closest neighboring inhabited dwelling.
   b. The noise level may be exceeded during short-term events such as utility outages and/or severe windstorms.

3. *Approved Wind Turbines*
   a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

4. *Compliance with FAA Regulations*
   a. Small wind energy systems must comply with applicable FAA and FCC regulations, including any necessary approvals for installations close to airports.

5. *Compliance with National Electrical Code*
a. Permit applications for small wind energy systems shall be accompanied by a line
drawing of the electrical components in sufficient detail to allow for determination
that the manner of installation conforms to the National Electrical Code.

6. Utility Notification
   a. No small wind energy system shall be installed until evidence has been given that
      the utility company has been informed of the customer's intent to install an
      interconnected customer-owned generator.
   b. Off-grid systems shall be exempt from this requirement.

Commercial/Utility Grade Wind Energy Systems

A. Purpose:
   It is the purpose of this regulation to promote the safe, effective and efficient use of
   commercial/utility grade wind energy systems within Rock County.

B. Definitions:
The following are defined for the specific use of this section.

1. Aggregate Project shall mean projects that are developed and operated in a coordinated
   fashion, but which have multiple entities separately owning one or more of the individual
   WECS within the larger project. Associated infrastructure such as power lines and
   transformers that service the facility may be owned by a separate entity but are also part of
   the aggregated project.

2. Commercial WECS shall mean a wind energy conversion system of equal to or greater
   than 100kW in total nameplate generating capacity.

3. Decommissioning Security shall mean a security instrument that is posted or given prior to
   construction by the wind developer to ensure sufficient funding is available for removal of
   a wind energy conversion system and reclamation at the end of the useful life of such
   system.

4. Fall Zone shall mean the area, defined as the furthest distance from the tower base, in
   which a guyed tower will collapse in the event of a structural failure. This area is less
   than the total height of the structure.

5. Feeder Line shall mean any power line that carries electrical power from one or more
   wind turbines or individual transformers associated with individual wind turbines to the
   point of interconnection with the electric power grid, in the case of interconnection with
   the high voltage transmission systems the point of interconnection shall be the substation
   serving the wind energy conversion system.

6. Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected
   primarily to measure wind speed and directions plus other data relevant to siting a Wind
   Energy Conversion System. All permanent towers must be an unguayed monopole design.
   Meteorological towers do not include towers and equipment used by airports, the
   Nebraska Department of Roads, or other applications to monitor weather conditions, and
   all communication towers.

7. Operator shall mean the person, persons or entities responsible for the day to day
   operation and maintenance of any WECS project, including any third party
   subcontractors.

8. Owner/developer/applicant shall mean the entity or entities with an equity interest in the
   WECS, including their respective successors and assigns. Owner does not refer to the
   property owner from whom land is leased to locate WECS, unless the property owner has
an equity interest in the WECS. Owner/developer/applicant is determined to be the responsible party for immediate and long term reclamation and decommissioning.

9. **Public Conservation Lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

10. **Rotor Diameter** shall mean the diameter of the circle swept by the moving rotor blades as shown in figure 1 below.

11. **Shadow Flicker** shall mean shadows on the ground and surrounding structures that may emanate from the rotating blades of a wind turbine.

12. **Site Plan** shall mean documents, including scale diagram describing the purpose, scope and details of the proposed WECS and /or Wind Farm. Requirements for the Site Plan are set forth in this regulation. A Site Plan is intended as a general document that provides the County an overview of a proposed WECS or Wind Farm. More specific information is required with the Wind Energy Permit.

13. **Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 volts (35 KV) for interconnection with high voltage transmission lines.

14. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

15. **Tower** shall mean the vertical structures that support the electrical equipment, generator, rotor blades, or meteorological equipment.

16. **Tower Height** shall mean the total height of the Wind Energy Conversion System from grade to the hub.

17. **Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnected and supplying electric energy to retail customers.

18. **Wind Energy Conservation System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to; power lines, transformers, substations and meteorological towers that operate by converting the
kinetic energy of wind into electrical energy. The energy may be used on-site or
distributed into the electrical grid.
19. **Wind Turbines** shall mean any piece of electrical generating equipment that converts the
kinetic energy of blowing wind into electrical energy using airfoils or similar devises to
capture the wind.

C. **Site Plan Approval:**
The Site Plan Approval shall comply with all Federal, State and local regulations. A site plan
approval shall expire three (3) years from the date of approval by the
Board unless construction of the WECS has been initiated.

D. **Requirements:**
Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use
within any district where the use is listed and allowed. The following requirements and
information shall be met and supplied:
1. The name address and phone number of the project developer, applicant, project owner, and
   all property owners.
2. The legal description and address of the project.
3. A description of the project including; number, type, name plate generating capacity, tower
   height, rotor diameter, and total height of all wind turbines and means of interconnecting with
   the feeder lines. A summary description of the developer, applicant, owner and operator,
   including their respective business structures.
4. Site layout, including the location of property lines, wind turbines, electrical grid, and all
   related accessory structures. This site layout shall include distances and be drawn to scale.
5. Engineer's certification.
6. Documentation of land ownership or legal control of the property.
7. The latitude and longitude of individual wind turbines.
8. A USGS topographical map, or map with similar data, of the property and surrounding area,
   including any other Wind Energy Conversion System not owned by the applicant, within 5
   rotor distances from the proposed Wind Energy Conversion System.
9. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the
   proposed Wind Energy Conversion System.
10. An Acoustical Analysis
11. A Flicker Study **on building sites within 1 mile of proposed site**
12. FAA Permit
13. Location of all known Communication Towers within five miles of the proposed Wind
    Energy Conversion System.
14. Decommissioning and Security Plan as required by this regulation in Section H.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind
    resources on adjacent properties not owned by the applicant.
16. Nothing in these Regulations is intended to preempt other applicable Federal, State and/or
    Local laws and regulations.

E. **Aggregated Projects:**
1. Aggregated projects may jointly submit a single application and be reviewed under
   proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.
F. Setbacks:

All towers shall adhere to the setbacks as measured from the hub established in the following table:

<table>
<thead>
<tr>
<th>Property Lines</th>
<th>Wind Turbine Non Commercial Diameter</th>
<th>WECS; Wind Turbine Commercial/Utility Diameter</th>
<th>Meteorological Towers 1.1 times the total height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neighboring Dwelling Units, church, school or public use area</td>
<td>Diameter</td>
<td>One-half Diameter</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Road Rights-Of-Way**</td>
<td>Diameter</td>
<td>One-half Diameter</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Other Rights-Of-Way</td>
<td>Diameter</td>
<td>One-half Diameter plus applicable building setback</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Public Conservation Lands including Wildlife Management Areas and State Recreation Areas</td>
<td>N/A</td>
<td>Diameter</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Wetlands, USFW Types III, IV and V</td>
<td>N/A</td>
<td>300 feet</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Other structures not on the applicant’s Site</td>
<td>N/A</td>
<td>One-half Diameter</td>
<td>1.1 times the total height</td>
</tr>
<tr>
<td>Other existing WECS under different Ownership</td>
<td>N/A</td>
<td>To be considered based on: Relative size of the existing and proposed WECS; Alignment of the WECS relative to the predominant winds; Topography; Extent of wake interference impacts on existing WECS; Other setbacks required; waived for internal setbacks in multiple turbine projects including aggregated projects</td>
<td>N/A</td>
</tr>
<tr>
<td>River Bluffs of over 15 feet</td>
<td>N/A</td>
<td>One-half Diameter</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy System.

**The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.

F. Special Safety and Design Standards:

All towers shall adhere to the following safety and design standards in accordance with Federal and State standards including:

1. Clearance of rotor blades or airfoils must maintain a minimum of 25 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. All wind turbines and towers that are part of a commercial/utility WECS shall be white, gray or another non-obtrusive color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective.
5. Lighting, including lighting intensity and frequency of strobe, shall adhere to but are not to exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
6. All communications and feeder lines installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
7. **Climb Prevention**
   All WECS towers must be unclimbable by design or protected by anti-climbing devices such as: 1) fences with locking portals at least six feet high; or 2) anti-climbing devices 15 feet vertically from the base of the WECS tower.

**H. Discontinuation and Decommissioning:**

a. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to 5 feet below ground level, or as negotiated between landowner and developer, within 180 days of the discontinuation of use, weather permitting.

b. Each commercial/utility WECS shall have a decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued in use. The cost estimates shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

c. Roads and disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

d. The Developer shall post, prior to construction, a Decommissioning Security in an amount determined by the County Board. The Security may be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the County Board.

**I. Noise Levels and Shadow Flicker:**

a. No Commercial/Utility WECS shall exceed 50dBA at the nearest structure or occupied dwelling.

b. The Applicant shall prevent, mitigate and eliminate shadow flicker on any public roadway, public use area or any occupied structure on a nonparticipating property.

**J. Operation:**

a. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

**K. Use of Public Roads:**

Applicants shall:

a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.

b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.

c. Be responsible for restoring the road(s) and bridges to pre-construction conditions.
L. **Soil Erosion and Water Quality:**
   The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

M. **Liability Insurance:**
   The Owner or Operator of the WECS Project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least $1 million per occurrence and $1 million in the aggregate. The Applicant shall provide proof of insurance to the County Board prior to the Board’s approval of the submitted application. If the application is approved, the Owner or Operator of the WECS shall provide proof of insurance to the County Board annually.

N. **Severability and Separability:**
   Should any portion of this act be deemed unlawful for any reason or conflict with any existing state or federal law, that fact shall not affect any other portion or section of this act and any unaffected sections or portions of this act shall stand in effect.

O. **Effective Date:**
   This regulation shall take effect and be in force from and after the date of adoption by the Rock County Board of Commissioners.
ARTICLE 6 Section 614
ADDITION TO THE ROCK COUNTY ZONING REGULATIONS
PIPELINE CONSTRUCTION, INSTALLATION,
LOCATION AND MAINTENANCE ABOVE GROUND
AND BELOW GROUND IN ROCK COUNTY

Section 1. Definitions.

(1) Applicant: As used herein, "Applicant" shall mean any entity that applies for a Pipeline Construction Permit and shall include any successor, employee, agent, representative, assignee, contractor, lessee, or sublessee, Applicant, licensee, invitee, guest, or permittee of Applicant, or any other person or entity that has obtained or hereafter obtains rights or interests from Applicant, or Property Owner to Property Owner’s land.

(2) Property Owner: Property Owner, as used herein, shall mean the owner of the land over which or through which, the pipeline will ultimately go, together with his, her, or its heirs, successors and/or assigns.

(3)Pipeline: "Pipeline" means a pipe with a nominal diameter of eight inches or more, located in the county, that is used to transport all petroleum products, natural gas or water, but does not include a pipe used to transport or store petroleum products, natural gas or water within a refining, storage, or manufacturing facility.

(4) Pipeline, Permitted Uses: The following uses are permitted in Rock County and are exempt from the provisions of this Ordinance:

(a) Pipeline within a Property Owner’s property lines, for personal and/or agricultural use.

(b) New, or replacement, sewer and/or water lines located and installed by a public utility or municipality in conformance with state approved sewer and/or water guidelines.

(c) New sewer and/or water lines whose principal function is to provide service to a new development that is approved either by the State of Nebraska, County of Rock or local municipality.

(d) New sewer and/or water lines for the purpose of addressing a health emergency documented by the State or County Health Officer.

Section 2. Pipeline Construction Conditional Use Permit.
Section 2.1. Pre-Construction Filing Requirements.

(1) Applicant must file with the Zoning Administrator the Pipeline Construction Permit Form including all associated plans of the proposed Pipeline, including the Construction, Mitigation and Reclamation Plan, and submit property owners names and addresses, for acquired easements or leases, State approval documentation, if any, proposed County Road crossings, proposed County haul routes and voluntary submittal of other information that would assist the Zoning Administrator in evaluation of the proposed Pipeline project as Pre-Construction Requirements.

(2) Applicant shall further file with the Zoning Administrator, the location of the Pipeline right-of-way or easement area by recording a “Notice of Location” referring to the right-of-way and setting forth the legal description of the right-of-way and the location of the pipeline contained therein, such description shall be set forth by map attached to the Notice of Location. A copy of the Notice of Location shall promptly be delivered to the Property Owner. No construction or installation of the Pipeline shall occur until the Notice of Location has been filed with the Zoning Administrator and delivered to the Property Owner. Prior to construction, Property Owner will be contacted by Applicant’s project manager or designated agent to review the timing of construction and discuss site-specific issues and implementation of mitigation and reclamation measures.

(3) Each Pipeline Construction Permit application shall be accompanied by at least two (2) sets of plans showing dimension and locations of the Pipeline, related items or facilities within the subject right-of-way or easement, and all proposed lift stations, pumps or other service structures related to such Pipeline, and the location, type and size of all existing utilities, drainage, right-of-way, and roadway improvements. Also required for submittal are:

(a) Cross-section drawings for all public street right-of-way and easement crossings;

(b) The maximum design capacity of the proposed transmission facility;

(c) Changes in flow in the transmission facilities connected to the proposed facility; and

(d) The proposed maximum operating pressure, expressed in pounds per square inch gauge (psig), not to exceed the manufacturer’s recommended operating pressure.

Section 2.2. Hearings.

(1) Appearance before the Planning Commission at a Public Hearing is required for the Pipeline project. (Pursuant to Public Notice and Public Hearing Procedures set forth in Article 10 (Conditional Uses) of the Rock County Zoning Regulations.) The Planning Commission will review the permit information and will recommend approval or denial, and report any modifications and/or conditions, to the Rock
County Board of Commissioners. The Pipeline Construction Permit must be reviewed by the Rock County Board of Commissioners in any case at their next scheduled meeting following the Planning Commission’s decision.

(2) After a review of the Pipeline Construction Permit along with accompanying documents and maps, a Public Hearing date will be set by the Rock County Board of Commissioners. Ten (10) days prior to the Public Hearing date, a notice shall be published in a legal newspaper of the County and written notification of the hearing shall be mailed to all affected Property Owners, at a cost to the Applicant. An affidavit of publication must be presented during the Public Hearing. (Following Procedures set forth in Section 1006-1010 of Rock County Zoning Regulations.)

(3) In authorizing any Pipeline Construction Permit, the Rock County Board of Commissioners may attach any additional requirements or conditions of use, including financial assurance and responsibility for disaster cleanup and mitigation. The financial assurance shall be in the form of a performance bond or surety bond or other form of financial assurance as may be acceptable to the Rock County Board.

(4) If disputes arise between the Applicant and landowner, the Rock County Board of Commissioners shall designate a third-party mediator to aide in resolving the disputes.

(5) The Applicant has the burden of proof to establish that the proposed Pipeline complies with all applicable ordinances along with applicable laws and regulations.

Section 2.3. One Pipeline.

No more than one pipeline may be placed, installed or constructed upon or in the Pipeline right-of-way or easement area without an easement for same.

Section 2.4. Topsoil.

Applicant at its own expense shall, unless otherwise requested by Property Owner, abide by all guidelines and recommendations of the local or regional field office of the United States Natural Resources Conservation Service or the Construction, Mitigation and Reclamation Plan, whichever is more stringent, regarding the removal, storage, and replacement of top soil.

(1) At a minimum, the applicant shall strip the topsoil from the ditch line in the Pipeline right-of-way or easement area and segregate all topsoil from the other excavated soil material, prior to construction and installation of any section of the Pipeline placed in the Pipeline right-of-way or easement area. Following the construction and installation of each section of the Pipeline, the top soil shall be replaced, to the extent feasible, as near as practicable to its original location and condition. Topsoil deficiency shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the Property. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement in accordance with recommendations of the United States Natural Resources Conservation Service.

Section 2.5. Trash Cleanup.
Construction related debris and material which is not an integral part of the Pipeline will be promptly removed from the Property Owner’s property at Applicant’s expense. Such material to be removed includes all litter generated by Applicant’s employees, agents, contractors, or invitees, including construction crews. Following the completion of Applicant’s construction activities on the Property Owner’s property, Applicant shall keep the Property Owner’s property clean and free of all trash and litter which may have been produced or caused by Applicant or its employees, agents, contractors or invitees or its operations on the property. Under no circumstances will Applicant bury or burn any trash, debris or foreign material of any nature on the Property Owner’s property.

Section 2.6. Pipeline Depth.

Except for above-ground piping facilities, such as mainline block valves, pump stations, etc., the Pipeline will be installed and maintained at a depth of no less than four (4) feet below surface to top of the pipe.

Section 2.7. Location of Pipeline.

If the Pipeline passes within a distance of two hundred and fifty (250) feet or less from a residence, then Applicant shall implement the following protections:

(a) To the extent feasible, Applicant shall coordinate construction work schedules with affected residential owners prior to the start of construction in the area of the residences.

(b) Applicant shall maintain access for the residences at all times or as agreed between Applicant and the occupant. Such periods shall be restricted to the minimum duration possible. If any dispute arises regarding access to residence, the Rock County Board of Commissioners shall designate a third-party mediator to aide in resolving such disputes.

(c) Applicant shall install temporary safety fencing, when reasonably requested by the owner or occupant, to control access and minimize hazards associated with an open trench and heavy equipment in a residential area.

(d) Applicant shall notify affected residents in advance of any scheduled disruption of utilities and limit the duration of such disruption.

(e) Applicant shall separate topsoil from subsoil and restore all areas disturbed by construction to at least their preconstruction condition.

(f) Except where practically infeasible, final grading and topsoil replacement, installation of permanent erosion control structures and repair of fencing and other structures shall be completed in residential areas within ten (10) days after backfilling the trench. In the event that seasonal or other weather conditions, extenuating circumstances, or unforeseen developments beyond Applicant’s control prevent compliance with this time frame, temporary erosion controls and appropriate mitigating measures shall be maintained until conditions allow completion of cleanup and reclamation.
(g) Should a water well, or water supply, be damaged (diminishment in quantity or quality) by pipeline installation or operations, a comparable water supply will be immediately provided to the owner of the well and the water well shall be restored or replaced at Applicant’s expense.

Section 2.8. Reclamation Obligations.

Following the completion of the Pipeline construction, or upon removal of the Pipeline at the expiration, termination, or surrender of the Pipeline, Applicant will restore the area disturbed by construction as best as practicable to its original preconstruction topsoil, vegetation, elevation, and contour.

Section 2.9. Abandonment of Pipeline.

Abandonment of the Pipeline in Rock County shall occur if Applicant ceases to operate the Pipeline for the transportation of petroleum products, natural gas, or water, for a period of five (5) years. Upon the abandonment of the Pipeline, Applicant, at the landowners option, shall:

(1) Remove the Pipeline from the lands, with full reclamation of the property, under advisement from The University of Nebraska Extension Service, Natural Resource Districts or the Natural Resources Conservation Service; or

(2) Surrender to the Property Owner the right-of-way or easement area with the written consent of the Property Owner.

Section 2.10. Change of Location of Pipeline.

Property Owner and Applicant acknowledge that the actual location of the Pipeline right-of-way or easement area may change because of various engineering factors, and Property Owner agrees to execute and deliver to Applicant, without additional compensation, and, where necessary, in recordable form, any additional documents needed to correct the legal description of the right-of-way to conform with the actual location of the Pipeline. Applicant does not need Property Owner’s permission to alter the location of the Pipeline so long as the change of the right-of-way or easement area is less than twenty-five (25) feet in any direction. In the event the Pipeline right-of-way or easement area will be moved more than twenty-five (25) feet in any direction, Applicant must obtain written approval from the Property Owner and give written notice to the Zoning Administrator and shall amend the Pipeline Construction Permit application to reflect such changes. Said document and amendments to the Pipeline Construction Permit, as required, will be prepared by Applicant at its expense. Once installation of the Pipeline is complete, Applicant will deliver to the Zoning Administrator within six (6) months of completion, an “as-built” map that will show exactly where the Pipeline is located, in addition to any other improvements or facilities, whether located above-ground or below-ground, and further to include any modifications to any improvements or facilities owned by Property Owner, such as waterlines or fences.

Section 3. Indemnification.

The pipeline owner(s) and/or operator(s) shall indemnify, defend and hold harmless Rock County and any Property Owners from any and all liability, loss, damage, cost, expense, and claim of any kind, including reasonable attorneys’ and experts’ fees incurred by Rock County
and/or the Property Owner in defense thereof, arising out of or related to, directly or indirectly, the installation, construction, operation, use, location, testing, repair, maintenance, removal, or abandonment of the pipeline and/or related facilities, and the products contained in, transferred through, released or escaped from said pipeline and appurtenant facilities, including the reasonable costs of assessing such damages and any liability for costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any law, including all applicable environmental laws. This shall be true in all instances except for those individuals or companies who intentionally, or by negligence, damage the Pipeline or related facility. No Property Owner or tenant thereof will be held responsible for a Pipeline leak that occurs as a result of his/her normal farming practices over the top of or near the Pipeline, provided no tillage or other agricultural method is used which penetrates the soil by more than two (2) feet from the undisturbed surface and they do not physically strike or impact the surface structures such as valves, etc. with machinery, equipment or other objects. This shall in no way relieve any Property Owner or tenant, agent or contractor of such Property Owner from their obligation to comply with the Nebraska One-Call Notification System Act and any amendments thereto (See Revised Reissued Statutes of Nebraska Sections 76-2301 to 76-2330), or relieve them of liability for their failure to do so. As between the Pipeline operator, the Property Owner or its tenant, a Pipeline leak which is not caused by a violation of the above provisions or other tortious conduct by Property Owner or its tenant shall not be the responsibility of said Property Owner or tenant, as the case may be.

Section 4. Protection of Proprietary Information.

Rock County will keep detailed information filed (not including the plans or Pipeline Construction Permit) restricted from public access for security purposes, to protect proprietary information, and to protect the commercial interests of the Applicant.

Section 5. Compliance with Applicable Laws.

Pipeline owners, operators and/or contractors, and their employees, agents, contractors, and invitees, must comply with all applicable local, state and federal laws and regulations in construction and operation of the Pipeline.

Section 6. Variances.

Section 6.1. Hardship.

Where the Zoning Administrator finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the Applicant, may result from strict compliance with these regulations, they may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the Pipeline Construction Permit, and will not be detrimental to the public health, safety or welfare or injurious to other property in the territory in which Pipeline is situated.

Section 6.2. Application Required.
(Variance Procedure BOA Bylaws and Rules of Procedure)

(1) The Rock County Board of Adjustment shall hear and decide appeals and requests for variances from the terms of this Ordinance. The Board of Adjustment shall base their
determination on technical justifications, and has the right to attach such conditions to variances as they deem necessary to further the purposes and objectives of this Ordinance. Applications for any such variance shall be submitted in writing by the Applicant at the time the Pre-Construction Requirements are filed with the Zoning Administrator and shall state fully and clearly all facts relied upon by the Applicant and shall be supplemented with maps, plans or other additional data which may aid the Board of Adjustment in the analysis of the proposed project.

(2) Applications for the variance shall be considered with the Pipeline Construction Permit application, and the Board of Adjustment will render their decision on the applied-for variance no later than thirty (30) days after the meeting at which the proposed Pipeline project application and request for variance was submitted.

Section 6.3. Conditions.

(1) In granting any variance, modification, and approvals, the Board of Adjustment may require such conditions as will, in their judgment, secure substantially the objectives or the standards and requirements so varied, modified, or approved. In granting any variance, the Board of Adjustment shall prescribe only conditions that they deem necessary to, or desirable for, the public interest. These conditions may include, without being limited to personal, surety, performance, or maintenance bonds, or other legal instruments.

(2) In making their findings, as required herein, the Board of Adjustment shall take into account the nature of the existing use of the land in the vicinity of the Pipeline right-of-way or easement area, and any probable effects of the proposed Pipeline on the health, safety and welfare of the surrounding residents and environment.

(3) The Board of Adjustment must ensure the preservation and enjoyment of the property rights of the Property Owner.

Section 6.4. Requirements for Granting a Variance.

The Board of Adjustment shall have the final authority to grant or deny a variance under this section. For each variance application, the Board of Adjustment shall report to the Rock County Board of Commissioners their findings and recommendations.

Section 7. Severability and Separability.

Should any portion of this act be deemed unlawful for any reason or conflict with any existing state or federal law, that fact shall not affect any other portion or section of this act and any unaffected sections or portions of this act shall stand in effect.

Section 8. Effective Date.

This Ordinance shall take effect and be in force from and after the date of adoption by the Rock County Board of Commissioners.
ARTICLE 7 - NON-CONFORMING USES

SECTION 701 INTENT
Within the zoning districts established by this Resolution or future amendments to such districts, there exist 1) lots, 2) buildings or structures, 3) uses of land and buildings or structures, and 4) characteristics of use which were lawful prior to the adoption or future amendment of this Resolution, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendment. It is the intent of this Resolution to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Resolution that, with the exception of existing residential structures, non-conformities shall not be enlarged, expanded or extended, nor used as grounds for adding other buildings, structures or uses prohibited in the zoning district in which such non-conformities are located, except as specifically authorized in this Resolution.

SECTION 702 LIMITATIONS ON EXPANSION
Non-conforming buildings, structures and uses are declared by this Resolution to be incompatible with the intent of the zoning districts and the permitted uses in the zoning districts. A non-conforming use of a building or structure, a non-conforming use of land, or a non-conforming use of a building or structure and land in combination, except existing residential structures, shall not be extended or enlarged after adoption of this Resolution or amendment thereto, except as specifically authorized in this Resolution.

SECTION 703 HARDSHIP
To avoid any undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction or designated use of any building or structure for which actual construction has been lawfully initiated prior to the effective date of the Resolution or amendment thereto where actual construction activity has been carried on diligently. Actual construction is defined to be the placing of substantial construction materials, other than earth, in a permanent position and fastened in a permanent manner. "Carried on diligently" shall be defined to mean that construction has been on-going except through the winter months, defined as being November 1 through April 1 of the following year.

SECTION 704 EXCEPTIONS
Notwithstanding other requirements of this Section, a lawfully established residential use rendered non-conforming by adoption of this Resolution or amendment thereto, may be enlarged, altered, or reconstructed, subject to the following restrictions:

704.01 Such residential use shall comply with Section 705 of this Resolution.

704.02 This provision shall not be construed to include more than one use on a lot and shall be applicable so land as such use remains otherwise lawful.

SECTION 705 NON-CONFORMING LOTS OF RECORD
In any zoning district, primary and customary accessory buildings of the type permitted in each zoning district may be erected on any single lot of record after the effective date of this Resolution or amendment thereto notwithstanding limitations imposed by this Resolution or amendment thereto subject to the following conditions:

705.01 Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are applicable to the zoning district in which such lot is located, provided that erection of any building or structure shall comply with all setback (yard) requirements of the zoning district in which said lot is located. Variance of said minimum setback requirements shall be obtained only through action of the Board of Adjustment.

705.02 If two (2) or more lots or combination of lots and portions of lots with continuous frontage in the same ownership are of record on the effective date of this Resolution or amendment
thereto and if all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Resolution and no portion of said parcel shall be used or sold in any manner which diminishes compliance with the minimum lot width and area requirements of the zoning district in which said parcel is located nor shall any division of any parcel be made which creates a lot with width or area which is less than the requirements set forth in the zoning district in which said parcel is located.

SECTION 706 NON-CONFORMING USES OF LAND
Where on the effective date of this Resolution or amendment thereto, a lawful use of land exists which would not be permitted under the requirements of this Resolution or amendment thereto and where such use involves no buildings or structures with a replacement cost exceeding two hundred fifty dollars ($250), the use may be continued so long as it remains otherwise lawful in accordance with the following conditions.

706.01 If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform with the requirements of this Resolution or amendments thereto.

706.02 No additional building or structure not conforming to the use restrictions and other regulations of the Resolution or amendment thereto shall be erected in connection with such non-conforming use.

706.03 No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel of land on which it is located that has not been used in connection with such non-conforming use.

706.04 No such non-conforming use shall be enlarged or expanded to occupy a greater area of the lot or parcel of land on which it is located than was used in association with such use on the effective date of this Resolution or amendment thereto.

SECTION 707 NON-CONFORMING USES OF BUILDINGS / STRUCTURES AND LAND IN COMBINATION
If a lawful use involving individual buildings or structures and land in combinations, exists at the effective date of this Resolution or amendment thereto that would not be permitted in the zoning district in which said non-conforming use of building or structures and land in combination is located, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

707.01 With the exceptions set forth in Section 704 of this Resolution, no existing building or structure devoted to a use not permitted in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use permitted in the zoning district as a permitted use, an accessory use or a conditional use.

707.02 With the exceptions set forth in Section 704 of this Resolution, any non-conforming use may be extended throughout any parts of a building or structure which were arranged or designed for such use as of the effective date of this Resolution or amendment thereto, but no such use shall be extended to occupy any land outside such building or structure which was not in use as of the effective date of this Resolution or amendment thereto.

707.03 If no structural alterations are made, any non-conforming use of a building or structure and land in combination, may through authorization of a conditional use in accordance with the procedures and requirements of this Resolution, be changed to another non-conforming use provided that the County Board of Commissioners, in authorizing said conditional use, shall find that the proposed use is equally appropriate or more appropriate to the intent of the zoning district than is the existing use. In authorizing such conditional use, the Board of Commissioners may set
conditions for such proposed use to assure that such use will remain appropriate for location in the zoning district.

707.04 Any building or structure or building or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the requirements of this Resolution and the non-conforming use shall not thereafter be resumed.

707.05 When a non-conforming use of a building or structure or building or structure and land in combination is discontinued or abandoned for twelve (12) consecutive months, except when governmental action impedes access to the premises, the building(s), structure(s) and land shall not thereafter be used for any use that is not in compliance with this Resolution or amendment thereto. In the event a confined or intensive animal feeding use, as defined in this Resolution, is discontinued or abandoned for a period of twelve (12) consecutive months, such use may be re-established within the confines of the area in which the previous feeding operation was conducted, but such use shall be considered permanently abandoned and shall not be re-established if its use is discontinued for a period of thirty-six (36) consecutive months or longer.

707.06 Where non-conforming use status applies to a building or structure, a building or structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction, for the purposes of this Resolution, is defined as damage to an extent of more than seventy-five (75%) percent of the replacement cost at the time of destruction.

SECTION 708 REPAIRS AND MAINTENANCE
Maintenance and ordinary repairs, replacement of walls or members, fixtures, heating and cooling equipment, wiring or plumbing within any non-conforming building or structure may be performed notwithstanding any other requirements of this Resolution or amendment thereto.

SECTION 709 USES UNDER CONDITIONAL USE
A use authorized as a conditional use under the terms of this Resolution shall not be deemed a non-conforming use, except where such use is not in compliance with any conditions of use established in the granting of such conditional use by the Board of Commissioners, provided however, that a change of one non-conforming use to another non-conforming use, authorized by conditional use, shall remain a non-conforming uses.

ARTICLE 8 - ADMINISTRATION AND ENFORCEMENT

SECTION 801 ORGANIZATION
The administration and enforcement of this Resolution is hereby vested in the Rock County Planning Commission, the Rock County Board of Adjustment, the Rock County Board of Commissioners, the Zoning Administrator designated by the Board of Commissioners, the Rock County Attorney and such other persons as may be designated by the Board of Commissioners.

SECTION 802 AUTHORITIES

Planning Commission:
With regard to the proper administration and enforcement of this Resolution, the Rock County Planning Commission shall have the following authorities:

802.01 Hear and recommend action by the Board of Commissioners regarding all applications for amendments to the text of this Resolution and / or changes (re zoning) to the Rock County Official Zoning Map.
802.02 Hear and recommend action by the Board of Commissioners regarding all applications for conditional uses, as set forth in this Resolution.

802.03 Prescribe uniform rules of procedure pertaining to applications, public hearings and issuance of permits.

802.04 Periodically review the effectiveness of this Resolution and initiate amendments or make recommendations in conjunction therewith.

802.05 Invoke any authorized remedy for the enforcement of this Resolution.

**Board of Adjustment:**

With regard to proper administration and enforcement of this Resolution, the Rock County Board of Adjustment shall have the following authorities:

802.06 Hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator when such order, requirement, decision, or determination is appealed by the person(s) affected by such order, requirement, decision or determination.

802.07 Hear and authorize specific appeals at variance with the requirements of this Resolution that would not be contrary to the public interest, where owning to special conditions demonstrated and after written findings of legitimate hardship, as defined and specified in Section 907.03 of this Resolution, a literal enforcement of the provisions of this Resolution would result in a legitimate and unnecessary hardship and not merely an inconvenience.

802.08 Hear and decide appeals regarding interpretation of zoning district boundaries, as indicated on the Official Zoning Map, in accordance with the requirements and limitations of this Resolution.

802.09 Prescribe uniform rules of procedure pertaining to investigations, findings of fact, applications, appeals and public hearings.

802.10 Invoke any legal remedy for the enforcement of this Resolution including full power to order discontinuance of any use and stays or work (stop work orders) on any premises in violation of the requirements of this Resolution.

**Board of Commissioners:**

With regard to proper administration and enforcement of this Resolution, the Rock County Board of Commissioners shall have the following authorities:

802.11 Hear and decide conditional use applications upon which it is required to act under the terms of this Resolution, after recommendation from the Planning Commission.

802.12 Consider and adopt amendments to the text of this Resolution and / or changes (rezonings) to the Rock County Official Zoning Map, after review and recommendation by the Planning Commission.

802.13 Consider and adopt a schedule of permit and application fees for administration of this Resolution, after review and recommendation by the Planning Commission.

802.14 Provide for the proper and constant enforcement of this Resolution through appointment of a Zoning Administrator and sufficient budget to enable the Planning Commission, the Board of Adjustment, the Board of Commissioners, the Zoning Administrator, the County Attorney and any other persons designated by the Board of Commissioners to carry out the responsibilities assigned to them by adoption of this Resolution.
**Zoning Administrator:**
With regard to proper administration and enforcement of this Resolution, the Rock County Zoning Administrator shall have the following authorities:

**802.15** Make available to the public application forms for amendments to this Resolution and Official Zoning Map, for appeals to the Board of Adjustment, and conditional use requests to the Board of Commissioners and to issue zoning permits and certificates of zoning compliance (occupancy permits) as required by the Resolution and to maintain records of all such applications and permits issued.

**802.16** Conduct inspections of buildings, structures, premises and the uses of land to determine compliance with the terms of this Resolution. Where violations are determined to exist, the Zoning Administrator shall have the authority to issue letters of violation, stop work orders and any other legal remedy to assure compliance with the requirements of this Resolution.

**802.17** Provide interpretation of the text of this Resolution and the Official Zoning Map when necessary and such other technical and clerical assistance as the public, the Planning Commission, Board of Adjustment and Board of Commissioners may require.

**802.18** Maintain and provide information to the public regarding the requirements of this Resolution and provide for the timely publishing of legal notices and other notifications relative to administration of this Resolution as prescribed by law.

**802.19** Maintain permanent and current records with regard to this Resolution, including but not limited to all maps, amendments, zoning permits, certificates of zoning compliance, variances, appeals, conditional uses and applications thereof together with all records of meetings and public hearings pertaining to this Resolution.

**SECTION 803 RESPONSIBILITIES**
The following shall be the responsibilities of the various entities involved in the proper administration and enforcement of this Resolution:

**803.01** It is the intent of this Resolution that all questions of interpretation and enforcement regarding this Resolution shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from a decision of the Zoning Administrator and that recourse from the decisions of the Board of Adjustment shall be to the courts, as prescribed by law.

**803.02** It is further the intent of this Resolution that the duties of the Board of Commissioners relative to this Resolution shall be limited to those specified in Section 802.11 through 802.14 of this Resolution and shall not include the hearing and deciding questions of interpretation and enforcement that may arise. The procedure of deciding such questions shall be as stated in this Resolution.

**803.03** If the Zoning Administrator shall find that any of the provisions of this Resolution are being violated, he/she shall notify the person(s) responsible for such violation in writing, indicating the nature of the violation and ordering the action or actions necessary to correct and eliminate such violation. The Zoning Administrator shall have the full authority to order discontinuance of prohibited or unauthorized uses of land, buildings or structures, removal of prohibited or unauthorized buildings or structures or prohibited or unauthorized additions thereto, discontinuance of any work being done in violation of the requirements of the Resolution, and the taking of any other legal action necessary to ensure compliance with or prevent violation of the provisions of this Resolution.
803.04 The Zoning Administrator, operating through the County or other designated Attorney, shall have express authority to initiate and carry out any and all legal actions appropriate and necessary to enforce the provisions of this Resolution and any orders of the Board of Adjustment, without further authorization by the Board of Commissioners. Adoption of this provision by the Rock County Board of Commissioners is expressly intended to authorize the Zoning Administrator and County or other designated Attorney to initiate and carry out all legal actions appropriate and necessary to enforce the provisions of this Resolution that is or may be applicable under the laws of the State of Nebraska.

SECTION 804 ZONING PERMITS REQUIRED
No building or other structure shall be erected, moved, added to or structurally altered without a zoning permit therefor, issued by the Zoning Administrator, provided however, that no zoning permit shall be required for any non-residential farm building or structure. Buildings and structures used in connection with confined or intensive animal feeding uses, as defined in Section 303.25 and 303.45 of this Resolution shall not be considered farm buildings or structures and shall require a zoning permit as the use within such buildings shall be considered a commercial use making the building in which such use is located a commercial building which shall be subject to all applicable requirements of this Resolution including the issuance of a certificate of zoning compliance for said use. No zoning permit shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Adjustment in the form of an administrative appeal, or receive written authorization from the Board of Adjustment in the form of an approved variance or a written authorization from the Board of Commissioners in the form of an approved conditional, as provided for in this Resolution.

SECTION 805 APPLICATION FOR A ZONING PERMIT
The following requirements shall apply to all requests for a zoning permit:

805.01 All applications for a zoning permit shall be made on forms prescribed for such application by the Board of Commissioners and shall have incorporated into said forms a place for drawing of a plot plan showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of all existing and proposed parking areas, water supply and sewage disposal facility locations, and such other information as may be pertinent to said application.

805.02 The application shall include, the name(s), address(es) and telephone number(s) of the applicant and such other information as may be lawfully required by the Zoning Administrator, including existing and proposed uses of land, buildings and structures, existing or proposed building or structure alterations, the number of families, housekeeping units on the premises, conditions existing on the premises, provisions for water supply, sewage disposal and erosion control, soil conditions and permeability and such other information as may be necessary to determine conformance with the requirements of the Resolution and enforcement thereof.

805.03 Upon receipt of a complete zoning permit application and receipt of any applicable application fee, the Zoning Administrator shall make two (2) copies of the zoning permit application and return one (1) copy to the applicant after he/she has marked the copy of the permit as approved or disapproved and attested to same by his/her dated signature. If a zoning permit application is denied, the Zoning Administrator shall state the reason(s) for such denial in writing and attach the same to the applicant's copy of the application. The Zoning Administrator shall mark the original of the zoning permit application as approved or disapproved in the same manner as the copy and shall maintain said original together with written reason(s) for denial of said application in the permanent files of the County.
805.04 When the Zoning Administrator approves a zoning permit for erection of any building or structure or erection of any addition to or alteration thereof, he/she shall issue one (1) copy of such approved zoning permit to the Rock County Assessor.

805.05 Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such plot plan and permit and no other use, arrangement or construction. If the Zoning Administrator determines that the use, arrangement or construction developed under any approved permit is not proceeding according to the approved permit and applicable regulations or conditions, the Zoning Administrator shall revoke said permit and issue a written stop work order and require that such use, arrangement or construction be brought into conformance with the approved permit.

SECTION 806 LIMITATION OF ISSUANCE OF ZONING PERMIT
Notwithstanding provisions of this Resolution, in the event a conditional use application has been duly filed with the zoning administrator and the use and/or location of such use proposed in said conditional use application would, due to setback or other requirements of this Resolution, restrict or otherwise prohibit the issuance of a zoning permit for another use on any neighboring property, a zoning permit for any use on neighboring property which would be restricted or prohibited by the authorization of said conditional use shall not be issued by the Zoning Administrator until the application for conditional use has been decided by the County Board of Commissioners in accordance with the requirements of this Resolution. In the event such conditional use is authorized, a zoning permit for a use which would be restricted or prohibited on neighboring property shall be issued only in conformance with the resulting restriction(s) or shall not be issued if the requested use would then be prohibited.

SECTION 807 EXPIRATION OF ZONING PERMIT
If the work described in any approved zoning permit has not been initiated within ninety (90) calendar days of the date of approval of such permit or if work described in any approved permit has not been completed within two (2) years of the date of approval of such permit said permit shall expire and the Zoning Administrator shall provide written notice of such cancellation to the person(s) affected together with written notice that further work, as described in the canceled permit is prohibited. The County Board of Commissioners may, upon request by the holder of a zoning permit and upon acceptable demonstration by the holder of such zoning permit, that exceptional circumstances prevented the completion of the work within the above noted two (2) year limitation; grant an extension of said permit for a period of not more than two (2) additional years. Authorization of any extension of a zoning permit shall not require payment of any additional permit fees.

SECTION 808 CERTIFICATES OF ZONING COMPLIANCE FOR NEW USE OR CHANGE OF USE
The following requirements shall apply to the issuance of all certificates of zoning compliance (occupancy permits):

808.01 It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued therefore by the Zoning Administrator.

808.02 No Certificate of Zoning Compliance shall be issued by the Zoning Administrator except in conformity with all provisions of this Resolution unless the Zoning Administrator shall receive written authorization from the Board of Zoning Adjustment in the form of an administrative appeal review or approved variance or a written authorization from the Board of Commissioners in the form of an approved conditional use, as provided for in this Resolution.

808.03 Zoning permits issued on the basis of plot plans and information presented by the applicant and approved by the Zoning Administrator shall authorize only the use, arrangement
and construction set forth in such approved plot plans and permit and no other use, arrangement
or construction developed under any approved permit is not according to the approved zoning
permit and applicable regulations or conditions, the Zoning Administrator shall not issue a
Certificate of Zoning Compliance, but shall instead inform the applicant in writing of the
violations and specify the actions necessary to bring such use, arrangement or construction into
compliance with the approved zoning permit.

808.04 A Certificate of Zoning Compliance, once issued, shall remain in effect so long as the
use of the land, buildings and structures is used in accordance with said Certificate.

SECTION 809 FAILURE TO OBTAIN ZONING PERMIT/CERTIFICATE OF ZONING
COMPLIANCE
Failure to obtain required Zoning Permits and Certificates of Zoning Compliance or failure to comply with
the plans and application information under which such permits or certificates were issued shall be a
violation of this Resolution and be punishable as provided in Section 1202 if this Resolution.

ARTICLE 9 - BOARD OF ADJUSTMENT

SECTION 901 ESTABLISHMENT AND PROCEDURE
A Board of Adjustment is hereby created and shall be known as the Rock County Board of Adjustment.
The Board of Adjustment shall be appointed by the Board of Commissioners and shall consist of five (5)
members, plus one (1) additional member designated as an alternate member who shall attend meetings
and serve only when one of the regular members is unable to attend for any reason. One (1) member of the
Board of Adjustment shall be appointed from the membership of the Rock County Planning Commission
by the Board of Commissioners and the loss of membership on the Planning Commission shall also result
in the immediate loss of membership on the Board of Adjustment and the appointment of another Planning
Commission member to the Board of Adjustment by the Board of Commissioners. No member of the
Board of Commissioners shall be a member of the Board of Adjustment.

SECTION 902 TERMS OF OFFICE
The members appointed to the Board of Adjustment shall be appointed for a term of three (3) years and be
removable for cause by the Board of Commissioners upon written charges and after public hearing to
consider and decide on such charges. Vacancies shall be filled by appointment for the unexpired terms of
member whose term becomes vacant.

SECTION 903 ELECTION OF OFFICERS
The Board of Adjustment shall annually elect one (1) of its members as Chairperson and another as Vice
Chairperson, who shall act as Chairperson in the elected Chairperson’s absence. Each member shall serve
until a successor has been selected.

SECTION 904 SECRETARY OF THE BOARD OF ADJUSTMENT
The Board of Adjustment shall annually elect one (1) of its members as Secretary / Treasurer or shall
appoint the Zoning Administrator to serve as Secretary / Treasurer to the Board of Adjustment.

SECTION 905 RECORDS OF THE BOARD OF ADJUSTMENT
The Board of Adjustment shall adopt bylaws and rules of procedure in accordance with the provisions of
this Resolution necessary to conduct its affairs. Meetings of the Board of Adjustment shall be held at the
call of the Chairperson and at such other times as a majority of the Board shall determine. The
Chairperson, or in his / her absence the Vice Chairperson may administer oaths and compel attendance of
witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep
written minutes of its proceedings, indicating evidence presented, findings of fact made by the Board,
decisions of the Board, the attendance of members, and the vote of each member upon each question.
Records of all actions of the Board shall be kept in the office of the County Clerk and shall be open to
public inspection.
SECTION 906 QUORUM AND VOTING  
A quorum for the Board of Adjustment shall be three (3) members. Action by the Board on any question other than an appeal from the decision of the Zoning Administrator or a variance application shall require a concurring vote of three (3) members of the Board. Action by the Board on an appeal to overturn a decision of the Zoning Administrator or for approval or denial of a variance application shall require the concurring vote of four (4) members.

SECTION 907 POWERS AND DUTIES  
The Board of Adjustment shall have the following powers and ONLY the following powers:

907.01 Administrative Review: To hear and decide appeals where it is alleged by the appellant that there is an error in order, requirement, decision or refusal made by the Zoning Administrator or official based on or made in the enforcement of this Resolution or any regulation relating to the location of structures.

907.02 Zoning Map Interpretation: To hear and decide, in accordance with the provisions of this Resolution, requests for interpretation of Official Zoning Map of the County.

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

1. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of this Resolution, or by reason of exceptional topography conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of particular requirements of this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship on the owner of such property, the Board of Adjustment, upon an appeal relating to such property, shall have the power to authorize a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Resolution, but no variance shall be authorized by the Board of Adjustment unless the Board finds that:

   A. The strict application of the regulations would produce undue hardship;

   B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

   C. The authorization of such variance shall not be of substantial detriment to adjacent properties and the character of the district will not be changed by the granting of such variance;

   D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of the owner’s convenience, profit or caprice.

2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or
recurring nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this Resolution.

907.04 Requirement for Written Application and Conditions: A variance from the terms of this Resolution shall not be granted by the Board of Adjustment unless and until a written Application for a variance is submitted to the Zoning Administrator on an application form prescribed by the Board of Adjustment and payment of an applicable fee and such application shall demonstrate that special conditions and circumstances exist which are peculiar to the land, building or structure involved and that said special conditions and circumstances are not applicable to other lands, buildings, or structures in the same zoning district and vicinity, that the literal enforcement of the provisions of this Resolution would deprive the applicant, and that granting of the variance requested will not confer on the applicant any special privilege that is denied by this Resolution to other lands, buildings or structures in the same zoning district and vicinity.

907.05 Effect of Non-Conformance: Non-conformance use of lands, buildings or structures in the same zoning district and vicinity and permitted or non-conforming use of lands, buildings or structures in other zoning districts shall not be considered grounds for a determination that the applicant would be deprived of rights enjoyed by other properties and shall not be grounds for granting a variance.

907.06 Findings of the Board of Adjustment on Variances: Prior to taking any action to authorize or deny a variance application, the Board of Adjustment shall:

1. Make a finding that the application for a variance is complete and in compliance with the requirements of this Resolution. Such finding shall be recorded in the minutes of the Board;

2. Make findings that the particular reasons set forth in the application for a variance justify the granting of the variance in accordance with the limitations for granting such variance as described in Section 907.03 of this Resolution and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structures involved and such findings shall be recorded in the minutes of the Board;

3. Make a finding that the granting of the variance will be in harmony with the purpose and intent of the Resolution and will not be injurious to adjacent lands or otherwise detrimental to the public welfare. Such finding shall be recorded in the minutes of the Board.

907.07 Conditions of Approval Imposed: In authorizing any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Resolution to assure continued acceptability of variance. Violations of such conditions or safeguards when made part of written terms under which the variance is authorized shall be deemed a violation of this Resolution and punishable as set forth in Section 1202 of this Resolution and any other applicable laws. In addition, the Board of Adjustment shall attach a condition to any variance authorized by the Board that such authorization shall be acted upon by the applicant within one (1) year from the date of authorization of such variance and that if such authorized variance has not been acted upon by the applicant within this time limitation such authorization shall automatically be revoked.

907.08 Use Variances: Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible in the zoning district involved or grant a variance for any use expressly or by implication prohibited by terms of this Resolution in the zoning district involved.
SECTION 908  PUBLIC HEARINGS
Prior to acting on any powers granted to it under this Resolution, the Board of Adjustment shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition or in the absence of a planning commission, In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property affected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 909  BOARD HAS POWERS OF ADMINISTRATIVE OFFICIAL ON APPEALS
In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partially, or modify the order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variance under this Resolution.

SECTION 910  APPEALS
Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board or bureau of the County, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen (15) days after the filing of the decision in the office of the County Clerk. Upon the filing of such a petition a summons shall be issued and be served upon the Board of Adjustment together with a copy of the petition, and return of service shall be made within four (4) days after the issuance of the summons. Within ten (10) days after the return day of the summons, the County Board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgment according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgment of the district court shall be prosecuted in accordance with the general laws of the State regulating appeals in actions at law.

ARTICLE 10 - CONDITIONAL USES

SECTION 1001  GENERAL POWERS
The Rock County Board of Commissioners may grant conditional uses to property owners for the use of their property in conformance and compliance with the limitations and procedures set forth herein. Granting of a conditional use shall only allow property owners to put their property to a conditional use if such use is listed among those uses specifically identified in the zoning district in which the subject property is located as a conditional use. The power to grant conditional uses shall be the exclusive
authority of the Board of Commissioners and the Board of Commissioners has formally adopted and shall comply with the following standards and procedures:

SECTION 1002 APPLICATION REQUIREMENTS
A written application and site plan for a conditional use shall be initiated by a property owner or authorized agent of such owner(s) and shall be submitted to the Zoning Administrator on forms prescribed by the Board of Commissioners. Said application shall be signed by the applicant or the applicant’s authorized agent and the applicant shall pay any applicable application fee. Such application shall indicate the Section of this Resolution under which the conditional use is being sought and, at a minimum, shall indicate the following:

1002.01 A legal description of the property on which the proposed conditional use is requested, including the specific size and dimension of the area on which the proposed conditional use would be located if less than the total property owned by the applicant;

1002.02 The size and locations of all existing and proposed buildings and structures;

1002.03 A detailed description of the use proposed and the activities involved in such use;

1002.04 The location(s) of access to public roadway(s);

1002.05 The type and locations of easements effecting the property;

1002.06 A description of the provisions made for adequate water supply, sewage disposal, public utilities and erosion control;

1002.07 The extent and location of parking, loading and refuse disposal and collection facilities;

1002.08 A description and map of trees and shrubs to be retained and those that are to be removed and the method(s) for minimizing the number of trees and shrubs requiring removal combined with an indication of how the removed trees and shrubs shall be disposed of;

1002.09 The locations of residential dwellings and other non-agricultural land uses within two (2) miles of the property in question;

1002.10 An indication of surface water drainage onto, through and off of the subject property which would occur after development of the proposed conditional use;

1002.11 The type, location and size of all proposed signs;

1002.12 For industrial uses, commercial uses, confined or intensive animal feeding uses, and waste handling facilities, a description of how the use or uses proposed will address the compatibility issues of traffic generation, noise, odor, dust, radiation or potential air, water or soil pollution or explosion hazards; (For confined and intensive animal feeding uses, refer to requirements in Section 501.05 of the this Resolution.)

1002.13 Any areas on the property subject to flooding or considered to be a wetland;

1002.14 If the real estate affected by the conditional use application is located in the AG-2, River Corridor Agricultural Zoning District, the application shall include statements of how the proposed conditional use is consistent with the River Management Plan of the Niobrara National Scenic River.

SECTION 1003 REFERRAL TO PLANNING COMMISSION
Prior to consideration of a conditional use application, the Board of Commissioners shall refer a conditional use application to the Rock County Planning Commission for review, research and recommendation.
SECTION 1004  PLANNING COMMISSION PUBLIC NOTICE  
Prior to consideration of a conditional use application by the Planning Commission, shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. In the event real estate affected by the petition is located in the AG - 2, River Corridor Agricultural Zoning District, such notice shall be provided to the Niobrara National Scenic River Management Council. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property affected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 1005  PUBLIC HEARING, CONSIDERATION AND PROCEDURES  
At public hearing, the Planning Commission, shall hear the applicant’s petition and all comments by the public in attendance and shall review the conditional use request in accordance with the requirements set forth in Section 1008 of this Resolution. The Planning Commission, after review and research of the application, shall act to recommend approval or disapproval the application, provided that if the Commission recommends approval of such application it shall specify conditions and limitations which it recommends to assure compliance with the requirements set forth in Section 1008 of this Resolution. If the Commission recommends disapproves an application, it shall state the reason(s) for such disapproval. The recommendations of the Planning Commission, together with recommended conditions of approval or recommended reasons for disapproval shall immediately be forwarded in writing by the Zoning Administrator to the County Board of Commissioners for it consideration and the Zoning Administrator shall provide the same written statement to the applicant within seven (7) calendar days of the date of action by the Planning Commission.

SECTION 1006  COUNTY BOARD OF COMMISSIONERS PUBLIC NOTICE  
Prior to consideration of a conditional use application, the Board of Commissioners shall give public notice of a public hearing. Such notice shall be published in the legal newspaper of general circulation in the County one (1) time at least ten (10) calendar days prior to such public hearing and such notice shall fix the date, time, place and subject of the public hearing. In addition, a copy of such notice shall also be given to the Chairperson of any municipal, county or any joint planning commission, having jurisdiction over land within three (3) miles of the property affected by the petition. In the absence of a planning commission, such notice shall be given to the clerks of units of local governments having jurisdiction over land within three (3) miles of the property affected by such action. In the event real estate affected by the petition is located in the AG - 2, River Corridor Agricultural Zoning District, such notice shall be provided to the Niobrara National Scenic River Management Council. A copy of such notice shall be mailed to the applicant and, in addition, a copy of said notice shall be mailed by first class mail to all property owners of record who own property adjacent to the property affected by such action at least ten (10) days prior to the date of such public hearing. Any party may appear in person or be represented by an agent or attorney at the public hearing and be heard.

SECTION 1007  PUBLIC HEARING, CONSIDERATION AND PROCEDURES  
At public hearing, the Board of Commissioners, shall hear the applicant’s petition, shall review and consider the recommendations of the Planning Commission and all comments by the public in attendance and shall review the conditional request in accordance with the requirements set forth in Section 1008 of this Resolution. The Board of Commissioners shall act to approve or disapprove the request, provided that if the Board approves such request it shall specify conditions and limitations to assure compliance with the requirements set forth in Section 1008 of this Resolution. Upon approval of a conditional use, notice of the approval, including all conditions of approval shall be mailed to the applicant within seven (7) calendar days of the date of such approval. If the Board disapproves a request, it shall state the reason(s) for such
disapproval and shall provide a written statement specifying the reason(s) for the disapproval to the applicant within seven (7) calendar days of the date of such disapproval.

SECTION 1008 REQUIREMENTS GOVERNING REVIEW AND APPROVAL OF CONDITIONAL USES

In reviewing any conditional use application, the Planning Commission and Board of Commissioners shall consider all aspects of the proposed use including, at a minimum, those aspects of use listed below to determine the acceptability of the proposed use and its location. At the option of the Planning Commission and/or the Board of Commissioners, the Planning Commission and/or Board of Commissioners may request technical support from the National Park Service or any other public or private agency or entity in the review of any conditional use application. Such technical support may take any form including, but not limited to technical data and advice, comments or recommendations. In the event that the real estate on which a conditional use is requested is located in the AG-2, River Corridor Agricultural District, the Planning Commission and Board of Commissioners shall, as part of their review of any conditional use application, refer said application to the Niobrara National Scenic River Management Council seeking review and comment on the consistency of the proposed conditional use with the Niobrara National Scenic River Management Plan. If said Council's review and comment indicates inconsistencies with said River Management Plan recommendations from said Management Council on how the application might be amended to make it consistent with said River Management Plan shall be sought. In authorizing any conditional use, the Board of Commissioners shall attach specific conditions, requirements or limitations regarding each aspect of use listed below to assure continued acceptability of the conditional use. Such conditions shall be made either by reference to a site plan for the proposed use or by attaching specific written statements. At a minimum, the aspects of acceptability include

1008.01 Both ingress and egress to the property and conditional use thereon and the existing and proposed buildings and structures thereon is appropriate with particular reference to automobile and truck safety, traffic flow, site distance, roadway and bridge capacities, convenience and access in case of fire or catastrophe;

1008.02 Off-street parking, including spaces for handicapped persons, is adequate for the use proposed and will not create any safety hazards relative to public roadways;

1008.03 Refuse disposal or manure collection and disposal facilities and operations and other service facilities are appropriate relative to location, capacity and safety;

1008.04 Water supply, sewage disposal facilities or manure collection, storage, treatment and land application methods are appropriate relative to size, capacity, topography, soil conditions, water table, flood hazard, location, surface water drainage and, where applicable, are located at least an acceptable distance from the ordinary high water mark of any river, stream or water course to avoid any potential surface water contamination;

1008.05 The number, location, size and use of buildings and structures proposed is appropriate relative to the size of the site and protection of adjoining properties and scenic views.

1008.06 Front, side and rear setbacks meet or exceed the minimum setback requirements of the zoning district in which the conditional use is located.

1008.07 Signs, if any, and proposed exterior lighting are appropriate relative to adjoining properties, vehicular and pedestrian safety and access to the conditional use.

1008.08 Provisions to preserve and protect existing trees, vegetation and windbreaks and the method(s) of disposal of trees and vegetation to be removed is appropriate to the desire to preserve the existing environment and protect the scenic quality of the area, particularly along the Niobrara River Valley.
1008.09 Provisions to avoid development within any area subject to flooding and / or to avoid modification of any wetlands.

1008.10 For proposed commercial and industrial uses, the types of operations to be conducted on the site will not result in inappropriate levels of traffic, noise, dust, odor, or undue potentials for air, or surface or groundwater contamination or explosion hazards.

1008.11 For confined and intensive animal feeding uses and waste handling facilities, the type of use to be conducted will not result in inappropriate levels of traffic, noise, dust, odor or undue potentials for air or surface or groundwater contamination, explosion hazards, and the requirements in Section 501.05 of the this Resolution.

1008.12 If the real estate affected by the conditional use application is located in the AG - 2, River Corridor Agricultural Zoning District, the consistency of the proposed conditional use with the Niobrara National Scenic River Management Plan.

SECTION 1009 CONDITIONS, SAFEGUARDS AND LIMITATIONS OF USE
In consideration of any conditional use application, the Board of Commissioners may prescribe any additional conditions, safeguards or limitations appropriate to assure the compatibility of the conditional use with adjacent lands, with the intent of the zoning district in which such use is to be located, and with the spirit of this Resolution.

SECTION 1010 EXPIRATION OF CONDITIONAL USE AUTHORIZATIONS
Development of any authorized conditional use shall be commenced within one (1) year of the date of approval of such conditional use by the Board of Commissioners and development of said authorized conditional use shall be completed within two (2) years from the date of approval of such conditional use by the Board of Commissioners or such authorization is automatically revoked. Development or completion of any conditional use authorization that has been so revoked shall be permitted only after reapplication and approval of such conditional use application by the Board of Commissioners, in the manner herein described.

ARTICLE 11 - AMENDMENTS

SECTION 1101 AUTHORITY
The County Board of Commissioners may form time to time amend, supplement, modify the zoning district boundaries or repeal the regulations contained in this Resolution, provided no such amendment, supplement, modification, change of boundaries or repeal shall become effective until such proposed modification shall have been submitted to the Planning Commission for recommendation and report and after public notice has been provided and public hearing have been held by both the Planning Commission and Board of Commissioners. A proposal for modification or repeal may be initiated by the Planning Commission, the Board of Commissioners or upon application of any owner of property under the jurisdiction of this Resolution. A filing fee, as established by the County Board of Commissioners shall be paid for each application to modify this Resolution prior to action on such application by the Planning Commission and Board of Commissioners, provided that such fee shall be waived where the proposed modifications is initiated by the Planning Commission or the Board of Commissioners.

SECTION 1102 PUBLIC NOTICE AND PUBLIC HEARINGS
Prior to consideration of amending, supplementing, changing, modifying or repealing of all or part of this Resolution, notice of public hearings by the Planning Commission and Board of Commissioners shall each be provided as follows:

1102.01 Such notice shall be published in the legal newspaper of general circulation in the County one
time at least ten (10) calendar days prior to such public hearing and such notice shall
fix the date, time, place and subject of the public hearing. In addition, a copy of
such notice shall also be given to the Chairperson of any municipal, county or any
joint planning commission, having jurisdiction over land within three (3) miles of
the property affected by the petition. In the absence of a planning commission, such
notice shall be given to the clerks of units of local governments having jurisdiction
over land within three (3) miles of the property affected by such action. Any party
may appear in person or be represented by an agent or attorney at the public hearing
and be heard.

1102.02 If such proposed modification is not a general revision of an existing provision of this
Resolution and will affect only a specific property, the public notice shall include the general
location and a legal description of such specific property and, in addition, notice of the public
hearing(s) shall be mailed by first class mail to the applicant and the owners of record of real
estate that is located adjacent to or immediately across a road from the property affected by such
modification at least ten (10) calendar days prior to such public hearings.

1102.03 The provisions of this Section regarding notification by first class mail shall not apply to:

1. A proposed modification of this Resolution where such modification will apply
throughout the County or throughout an existing zoning district;

2. Additional or different types of zoning districts are proposed, whether or not such
additional or different zoning districts are made applicable to areas or parts of areas
already within a zoning district of the County;

In these instances only the publication of public notice in the newspaper, and notice to
other planning commissions having jurisdiction over lands within three (3) miles of lands
which will be affected by such modification and notification of local units of government,
as set forth in Section 1102 above, shall be required.

SECTION 1103 AMENDMENT CONSIDERATION AND ADOPTION

1103.01 Planning Commission: The procedure for the consideration and adoption of any
proposed amendment to this Resolution shall be in like manner as that required for consideration
and adoption of this Resolution. For action on amendments to the text of this Resolution or
the zoning district boundaries indicated on the Official Zoning Map, a quorum of the
Planning Commission must be present at the required public hearing to approve or disapprove a
proposed amendment action on any proposed amendment shall require an affirmative vote of a
majority of all members of the Commission. The Commission's action on any proposed
amendment shall constitute a recommendation of approval or disapproval to the Board of
Commissioners.

1103.02 Board of Commissioners: After public notice and public hearing as described above,
may act to agree or disagree with said Planning Commission recommendation and shall act to
approve or disapprove said amendment. Passage of a motion to adopt a resolution approving an
amendment or passage of motion to disapprove an amendment, regardless of the recommendation
of the Planning Commission shall require a simple majority vote of the Board of
Commissioners, except for the provisions set forth in Section 1105 of this Resolution.

SECTION 1104 AMENDING OFFICIAL ZONING MAP
Should any amendment adopted by resolution of the Board of Commissioners serve to modify the location
of zoning district boundaries as set forth on the Rock County Official Zoning Map, the Board of
Commissioners shall cause the Official Zoning Map to immediately be modified to reflect the adopted
amendment and such change shall be witnessed by the signature of the Chairperson of the Board of
Commissioners. Adoption of any resolution to amend the Official Zoning Map shall become effective only
after such amendment is reflected on such Official Zoning Map and such change has been witnessed by the
signature of the Chairperson of the County Board of Commissioners and attested to by the County Clerk.

SECTION 1105 PROTESTS
Regardless of whether or not the Planning Commission approves or disapproves a proposed amendment, if
a protest against any amendment, signed by the owners of twenty percent (20%) or more of the area of lots
included in such proposed change, or of those immediately adjacent in the rear thereof extending one
hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from
the street frontage of such opposite lots, is filed, such amendment shall not become effective except by the
favorable vote of two-thirds majority of the County Board of Commissioners.

ARTICLE 12 - COMPLAINTS, VIOLATIONS, REMEDIES AND PENALTIES

SECTION 1201 COMPLAINTS REGARDING VIOLATIONS
Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a
written complaint. Such complaint, stating the cause and basis of the complaint, shall be filed with the
Zoning Administrator. The Zoning Administrator shall properly record receipt of such complaint,
immediately investigate the complaint and take appropriate action thereon in accordance with the
regulations and requirements of this Resolution.

SECTION 1202 PENALTIES FOR VIOLATION
Violation of the provisions of this Resolution or failure to comply with any of its
requirements, including violations of conditions and safeguards established in
connection with approval of variance and conditional uses, shall constitute a
misdemeanor. Any person, partnership, limited liability company, association, club, or
corporation violating this Resolution or fails to comply with any of its requirements or
conditions and safeguards established in connection with approvals of variances and
conditional uses shall be guilty of Class III misdemeanor. Each day such violation
continues after notice of violation has been given to the offender may be considered a
separate offense. In addition to other remedies, the County Board or other proper local
authority of the County, as well as any owner(s) of property within the district affected
by the regulations, may institute any appropriate action or proceedings to prevent such
unlawful construction, erection, reconstruction, alteration, repair, conversion,
maintenance, business or use in or about the premises. Any taxpayer or taxpayers in the
County may institute proceedings to compel specific performance by the proper official
or officials of any duty imposed by such sections or in resolutions adopted pursuant to
such sections of this Resolution. Nothing contained herein shall prevent the County from
taking such other lawful action as is necessary to prevent or remedy any violation of this
Resolution.

SECTION 1203 REMEDIES
In case any building or structure is erected, constructed, reconstructed, altered, repaired, moved,
converted or maintained, or any building, structure or land is used in violation of this Resolution or the
conditions and safeguards established in connection with approval of any variance or conditional use, the
Zoning Administrator, County Attorney or other duly appointed official shall institute any appropriate
action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair,
movement, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the
occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or
about such premises.

ARTICLE 13 - SCHEDULE OF FEES

SECTION 1301 AUTHORITY
The County Board of Commissioners shall establish a schedule of fees for Zoning Permits,
Certificates of Zoning Compliance, Appeals, Rezoning Applications, Conditional Use
Applications, Variance Applications and other matters pertaining to the effective administration of
this Resolution. The schedule of fees shall be posted in the office of the Zoning Administrator and County Clerk at all times. Said schedule of fees may be altered or amended from time to time by action of the Board of Commissioners.

SECTION 1302 NON-PAYMENT OF FEES
Until all applicable fees have been paid in full by the applicant, no action shall be taken on any application or permit.

ARTICLE 14 - LEGAL STATUS PROVISIONS

SECTION 1401 SEPARABILITY
Should any Article, Section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1402 PURPOSE OF CATCH HEADS
The catch head titles appearing in connection with the Articles and Sections contained within this Resolution are inserted simply for convenience to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing and interpreting the terms and provisions of this Resolution.

SECTION 1403 REPEAL OF CONFLICTING RESOLUTIONS
All resolutions and regulations in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

SECTION 1404 EFFECTIVE DATE
This Resolution shall take effect and be in force from and after its passage and publication according to law.