

RESOLUTION NO. 2015-019

A RESOLUTION TO ADOPT AND ENACT BY REFERENCE AMENDMENT TO SECTION 8.09 LIVESTOCK REGULATIONS (attached hereto) of ARTICLE 8: SUPPLEMENTAL REGULATIONS of the ZONING REGULATIONS OF THE COUNTY OF LINCOLN, NEBRASKA, AND ALL THE CONDITIONS, PROVISIONS, LIMITATIONS, AND TERMS OF SAID AMENDED REGULATIONS ARE ENACTED AS IF SET OUT VERBATIM HEREIN AND SPREAD AT LARGE IN THIS RESOLUTION; TO PROVIDE FOR INVALIDITY OF A PART AND FOR REPEAL OF OTHER ZONING REGULATIONS AND RESOLUTIONS IN CONFLICT WITH THIS RESOLUTION; AND TO PROVIDE FOR EFFECTIVE DATE.

WHEREAS, the Lincoln County Planning Commission was submitted a "Proposal Amending **Section 8.09 Livestock Regulations**" of ARTICLE 8: SUPPLEMENTAL REGULATIONS of the Zoning Regulations of The county of Lincoln, Nebraska, and a preliminary recommendation and report was done by the Lincoln County Planning Commission,

WHEREAS, the Lincoln County Planning Commission held a public hearing on June 9, 2015, at its 5:30 p.m. meeting, regarding the proposed amendment,

WHEREAS, the Lincoln County Planning Commission on June 30, 2015, at its 5:30 p.m. meeting, passed a Resolution, which included a report, recommending the approval of the "Proposal Amending **Section 8.09 Livestock Regulations**," which amends Section 8.09 of the Zoning Regulations of The county of Lincoln, Nebraska,

WHEREAS, the Board of Commissioners of The county of Lincoln, Nebraska, on July 6, 2015, acknowledged receipt of the Lincoln County Planning Commission's Resolution, which included a report, recommending approval of the "Proposal Amending **Section 8.09 Livestock Regulations**," which amends Section 8.09 of the Zoning Regulations of The county of Lincoln, Nebraska, and

WHEREAS, the Board of Commissioners held a public hearing on August 3, 2015, to hear comments on "Proposal Amending **Section 8.09 Livestock Regulations**" of **ARTICLE 8: SUPPLEMENTAL REGULATIONS** of the Zoning Regulations of The county of Lincoln, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN, NEBRASKA:

SECTION 1: That the **Amendment to Section 8.09 Livestock Regulations**, which amends Section 8.09 of **Article 8: Supplemental Regulations** of the Zoning Regulations of The county of Lincoln, Nebraska, which was presented by the Lincoln County Planning Commission as a "Proposal Amending **Section 8.09 Livestock Regulations**" that amends Section 8.09 of the Zoning Regulations of The county of Lincoln, Nebraska, is attached hereto and hereby incorporated by reference into this Resolution, the same as if being set out verbatim herein.

SECTION 2: That the **Amendment to Section 8.09 Livestock Regulations**, as recommended by the Lincoln County Planning Commission and presented at public hearings held by the Lincoln County Planning Commission on June 9, 2015, and by the Board of Commissioners of The county of Lincoln, Nebraska, on August 3, 2015, *is hereby adopted*.

SECTION 4: The **Amendment to Section 8.09 Livestock Regulations** shall be identified by the signature of the Chairman of the Lincoln County Board of Commissioners, the attestation by the County Clerk or Deputy County Clerk, and the seal of the County on the last page of the **Amendment to Section 8.09 Livestock Regulations** under the following words: "ADOPTED AND APPROVED by the Governing Body of Lincoln County, Nebraska, this 28th day of September, 2015."

SECTION 5: The **Amendment to Section 8.09 Livestock Regulations** shall have the number of this Resolution and the date of the passage of this Resolution in parenthesis at the end of the Amendment, and also in parenthesis at the end of the Amendment state: This is an **Amendment to Section 8.09 Livestock Regulations of Article 8: Supplemental Regulations** of the Zoning Regulations of The county of Lincoln, Nebraska.

SECTION 6: This Resolution, which includes **Amendment to Section 8.09 Livestock Regulations**, shall be spread into the minutes of this Board.

SECTION 7: **Amendment to Section 8.09 Livestock Regulations** shall be published in book or pamphlet form or once in a legal newspaper published in and of general circulation in Lincoln County, Nebraska, within fifteen days of passage of this Resolution.

SECTION 8: That all other zoning regulations, resolutions or parts of zoning regulations/resolutions in conflict herewith and with the **Amendment to Section 8.09 Livestock Regulations**, which is attached and incorporated by reference into this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

SECTION 9: The **Amendment to Section 8.09 Livestock Regulations** shall show all deletions to the original Section 8.09 by showing a strikeout within the body of the **Amendment to Section 8.09 Livestock Regulations**; this will show what language has been repealed under the **Amendment to Section 8.09 Livestock Regulations**.

SECTION 10: The **Amendment to Section 8.09 Livestock Regulation** shall show all additions to the original Section 8.09 by showing as bold and in italics within the body of the **Amendment to Section 8.09 Livestock Regulations**; this will show what new language has been adopted in the **Amendment to Section 8.09 Livestock Regulations**.

SECTION 11: This Resolution shall take effect and be in force from and after its passage and publication according to law.

A motion was made by County Board member Deterding, seconded by County Board member Henry to approve and adopt this herein Resolution (Resolution No.2015- 019).

Upon roll call Deterding, Henry, and Hewgley voted "aye." Nays none, and _____.

MOTION CARRIED BY VOTE OF 3 to 0 on this 28th day of September, 2015.

WHEREUPON the Chairman declared this herein Resolution (Resolution No. 2015-019) duly adopted, passed, and approved this 28th day of September, 2015.

THE BOARD OF COMMISSIONERS OF THE COUNTY OF LINCOLN,
IN THE STATE OF NEBRASKA

Joseph Hewgley
JOSEPH HEWGLEY, CHAIRMAN

Bill Henry
BILL HENRY, COMMISSIONER

Duane Deterding
DUANE DETERDING, COMMISSIONER

ATTEST:

Rebecca J. Rossell
Rebecca J. Rossell
Lincoln County Clerk



Amendment to

Section 8.09 Livestock Regulations

Section 8.09 Livestock Regulations

This Section (8.09) is written specifically for Livestock regulations and therefore the contents in this Section shall be strictly adhered to in regards to livestock regulations:

1. The following setbacks and design standards are the minimum sanitation and odor practices for Lincoln County. In addition, the Lincoln County Board of Commissioners, when considering the health, safety, and general welfare of the public, may impose more restrictive requirements. These requirements should consider such things as:
 - property values,
 - dust,
 - lighting,
 - waste disposal and
 - Dead livestock.
2. A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law.
3. Animal Units (A.U.) are defined as follows:
 - One A.U. = One Cow / Calf combination
 - One A.U. = One Slaughter, Feeder Cattle;
 - One A.U. = One-half Horse;
 - One A.U. = Seven Tenths Mature Dairy Cattle;
 - One A.U. = Two and One-half Swine (55 pounds or more);
 - One A.U. = 25 Weaned Pigs (less than 55 pounds);
 - One A.U. = Two Sows with litters;
 - One A.U. = 10 Sheep;
 - One A.U. = 11.25 Goats;
 - One A.U. = 50 Turkeys;
 - One A.U. = 100 Chickens
 - One A.U. = Five Ducks if a liquid manure handling system;
 - One A.U. = 81.3 Geese
 - One A.U. = 9.4 Alpacas
 - One A.U. = 3.2 Llamas
 - One A.U. = 7.5 Emus
 - One A.U. = 3.7 Ostriches
4. Agricultural Operations of 1,000 A.U. and under are considered a farm as defined in these Regulations and do not require a Conditional Use Permit.
5. All existing LFO's that have been granted a conditional use permit may expand within their designated level; except for the 20,000 and above which requires a new Conditional Use Permit for each expansion beyond 20,000 A.U.'s, as outlined in Table 8.09.01, without applying for another conditional use permit. All new LFO's and those expanding to the next level shall

require a Conditional Use Permit and shall be located no less than at a distance from non-farm residences or other residences not on an owner's property in any affected Zoning District as hereafter described:

- A. A LFO will be categorized either as Environmentally Controlled Housing (ECH) Operations or Open Lot Operations. LFOs having more than one type of feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation. Each operation type shall be classified in one of four levels according to total number of A.U. in the operation at any one time. Levels will include:
 Class I Facility = 301-1,000 animal units;
 Class II Facility = 1,001 -5,000 animal units;
 Class III Facility = 5,001-20,000 animal units; and
 Class IV Facility = 20,001 or more animal units.

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

TABLE 8.09.01: LFO SPACING AND DISTANCE

Size of Proposed LFO In Animal Units		Non-farm or Other Residence and Other LFOs (miles)
Class I 301-1000	ECH	1/2
	OPEN	1/2
Class II 1001-5000	ECH	1/2
	OPEN	1/2
Class III 5001-20,000	ECH	3/4
	OPEN	3/4
Class IV 20,000+	ECH	1
	OPEN	1

Note: the setbacks under this section shall increase by one-fourth (1/4) mile for each 5000 AU (or fractional portion thereof) of authorized capacity above 20,000 AU not to exceed a setback of 2 miles. No Class IV CAFO shall be located within two miles of a populated area. In no event shall any CAFO having a capacity of 1,001 AU or more be located less than four (4) miles from the corporate limits of any city in Lincoln County having a population of 5,000 or more or less than three (3) miles from any village, town, city or unincorporated village with less than 5,000 population or less than (3) miles from Lake Maloney and Jeffrey Lake.

ECH = Environmentally Controlled Housing
 OPEN = Open Lot Operations

- B. LFOs having more than a 1,000 animal units shall also locate at a distance as specified under the ECH or Open Lots, in Table 8.09.01 from a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, and Residential District.
- C. All LFO's over 20,000 Animal Units shall be required to obtain a new Conditional Use Permit prior to any expansion, unless it meets the standards of the exceptions in the Exceptions Section.
- D. The producer shall have a Pre-submission meeting with the Lincoln County Planning and Planning Administrator to discuss tentative plans and layouts prior to formal submission of the Conditional Use Permit for the LFO.

- 1) A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan from the NDEQ or any other applicable State Agency.
- 2) The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit Application for the LFO.
- 3) The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEQ approval if different from the proposed. Said plans shall be filed with the Lincoln County Planning **Office** and/or **Lincoln County** Planning Administrator.
- 4) Shall also file a copy of all approved NDEQ plans and permits with the Lincoln County Planning **Office** and/or **Lincoln County** Planning Administrator within 30 days after they are issued by the NDEQ.
- 5) An annual manure management plan shall be submitted to the Lincoln County Planning **Office** and/or **Lincoln County** Planning Administrator which shall follow "best possible management practices" as specified by NDEQ in order to protect the environment, as well as the health, safety and general welfare of the public and their property values.
- 6) If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area as outlined in Table 8.09.01 of this Section. Said area shall also be located on the proposed site plan indicated in number (1) above.
- 7) All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.
- 8) In no event shall any manure storage unit or system be constructed where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in flooded areas of standing water shall be prohibited.
- 9) All runoff or waste generated by an LFO facility shall be contained within the associated farming operation, or, on the premises upon which the LFO is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize odor and air pollution, and avoid surface and groundwater contamination as regulated by the State of Nebraska.
- 10) The setbacks from a new non-farm residence to an existing LFO are as follows in Table 8.09.02:

TABLE 8.09.02: NON-FARM RESIDENCE SPACING AND DISTANCE (Distances given in miles)

	SIZE OF EXISTING AGRICULTURAL OPERATION AND LFO IN A.U.				
	100-300	301-1,000	1,001-5,000	5,001-20,000	20,000+
New Non-Farm Residence	½	¾	1	1 1/2	2

Exceptions:

1. Any Class I Livestock Feeding Operation use in existence as of the effective date of this Resolution, and which is located within the minimum spacing distance in Table 8.09.01 to any church, school, public use, other LFO or single-family dwelling within the current class or to the

next class, may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with all of the following limitations:

- A. Such expansion will not decrease the distance from the LFO use to any church, school, public use, other LFO or single-family dwelling not of the same ownership and not on the same premises with said LFO which is less than the minimum prescribed spacing distance.
- B. Any physical expansion of the existing LFO shall be immediately contiguous with the facilities of the existing LFO.
- C. Such expansion may occur in phases over time, but no event shall such expansion(s) result in a LFO that is more than 50% larger in animal units than the one-time capacity of the use which existed as of the effective date of this Resolution. Any expansion beyond this limitation is prohibited unless a Conditional Use Permit for expansion that meets all requirements is heard by the Planning Commission. ~~and authorized by the County Board of Commissioners.~~
- D. If such expansion results in such LFO being required to obtain a new construction permit from NDEQ, introduction of additional animals shall be prohibited until said permit is issued by NDEQ or other applicable or successor agency has been issued and such LFO shall be operated at all times in a matter consistent with the requirements of said permit and applicable regulations of this Resolution.


Impact Easements

- 1. The owner of a proposed dwelling unit that requests to build closer than allowed in Table 8.09.02 shall be required to obtain an Impact Easement from any operations within the required separation distance, and shall be held to the minimum conditions, as well as any others agreed upon by both parties;
 - A. An owner or owners of an existing LFO and associated facilities that will be encroached upon may be allowed to expand the operation and facilities in the future even though the expansion may encroach into their required separation distances.
 - B. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding or waste handling use, to such dwelling.
 - C. Application of waste which in solid form to the surface of the land, the application of composted waste or injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified.


- 2. ***A. The owner of a LFO or proposed LFO that requests to have the LFO closer than allowed in Table 8.09.01 (including the paragraph thereunder titled "Note:") shall be required to obtain an Impact Easement from any dwelling unit owner within the required separation distance, and shall be held to the minimum conditions as well as any others agreed upon by both parties.***
 - B. Such minimum distance shall be measured from the nearest point of the area used or approved under this Resolution for the animal feeding or waste handling use, to such dwelling unit.***
 - C. Application of waste which in solid form to the surface of the land, the application of composted waste or the injection of liquid or slurry waste into the soil shall not be subject to the minimum spacing distance herein specified.***

(This is an Amendment to Section 8.09 Livestock Regulations of Article 8: Supplemental Regulations of the Zoning Regulations of The county of Lincoln, Nebraska, which was passed and adopted under Resolution No. 2015-019 on September 28, 2015, by the Board of Commissioners of The county of Lincoln, Nebraska)

ADOPTED AND APPROVED by the Governing Body of Lincoln County, Nebraska, this 28th day of September, 2015.

By: 
Joseph R. Hewgley
Chairman of the Lincoln County Board of Commissioners

ATTEST:


Rebecca J. Rossell
Lincoln County Clerk

