ARTICLE 13
SPECIAL PERMIT

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13.001. Special Permit. In addition to uses allowed under other districts, the Planning Commission may by special permit after public hearing, authorize any of the uses designated in this Article as permitted special uses. Such permitted special uses shall be restricted to the particular district or districts listed. The Planning Commission may also permit an increase in the height of any such building and permit a lesser area than required aforesaid in this resolution, and may modify or waive or add conditions of approval to the listed conditions in this Article as deemed appropriate to maintain the health, safety and general welfare of the surrounding properties. The Planning Commission may also grant special permits for variances from the provisions of Article 11 of this resolution. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. R-09-0076, September 29, 2009; Resolution No. 3667, January 26, 1982)

13.002. Procedures. An application and copies of the plot plan drawn to an accurate scale and showing all pertinent information shall be filed in writing with the Planning Department. Before the issuance of any special permit of any buildings or uses, the County Board shall refer the proposed application to the Planning Commission. The Planning Commission shall hold a public hearing and shall consider the effect of such proposed building or uses upon the character of the neighborhood, traffic conditions, public utility facilities, the Comprehensive Plan and other matters relating to the public health, safety and general welfare. Any action by the Planning Commission may be appealed to the County Board. An existing use of the type listed in this Chapter lawfully established on the effective date of this resolution shall be deemed to have received special permit as herein required and shall be provided with such a permit by the Building Inspector upon request and shall not be a nonconforming use; provided, however, that such an existing use shall require a special permit for enlargement, extension or relocation. Applications for Special Permits shall expire as provided in Section 22.019. (Resolution No. R-17-0040, May 30, 2017)


a) Any aggrieved person, or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the County Board by filing notice of appeal with the County Clerk within fourteen days following the action of the Planning Commission.
b) Upon receipt of the appeal by the County Board, the board shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Article 22, Section 22.005 hereafter.

c) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the County Board may, after public hearing, in conformity with the provisions of this Article, make such decisions as ought to be made. (Resolution No. R-11-0023, March 29, 2011)

13.004. Administrative Amendments. After the special permit has been approved, including the specific plot plan under Article 13, the Planning Director is authorized to approve amendments to the special permit provided:

   a) A request for amendment is filed with the Planning Director, together with all information pertinent to the proposed amendment;
   b) Such amendment shall not violate any regulations set forth in this title;
   c) Such amendment may provide for up to a 15 percent (15%) increase in total floor area and storage space originally permitted;
   d) There is no increase in the number of dwelling units;
   e) No reduction is made to the applicable setback or yard requirements;
   f) No public land is accepted;
   g) Such amendment shall not be contrary to the general purposes of this chapter;
   h) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original special permit.

13.005. Enforcement and Revocation of Special Permits.

   a) The Director of Building and Safety shall make a report to the County Board at anytime the Director of Building and Safety finds the following:

      1) Any of the terms, conditions, requirements of a special permit have not been complied with by the Permittee or that any phase thereof has not been completed within the time required under said special permit or any administrative amendment thereto

   b) The Planning Commission may, after a public hearing of which the permittee shall be notified, take any of the following actions:

      1) Revoke the special permit for failure to comply with any of the terms, conditions, and requirements of the special permit, or
      2) Take such other action as it may deem necessary to obtain compliance with the special permit, or
      3) Take such action that it deems necessary to preserve the public health, safety and general welfare. (Resolution No. R-09-0011; March 10, 2009)

13.006. Reserved.

13.007. Reserved.

13.009. Health Care Facilities, Non-Residential. Provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided; in the AG, R and B zoning districts. (Resolution No. R-17-0040, May 30, 2017)


13.011. Reserved.

13.012. Airfields, Commercial Agriculture Airfields and Heliports. In "AG" and "AGR" Districts and Family Airfields in the "AGR" District as provided in Section 4.007 and 5.007 may be allowed under the following conditions:

a) The application shall be accompanied by the following information:
   1) A plot plan showing the location, orientation and the general size of runways, taxiways, aprons, clear zones, approach zones and proposed accessory structures and uses including fuel storage, as well as dimensions to property lines and section lines, roadways, railroads and above ground structures including poles, towers, wires and appurtenances thereto;
   2) The planned type and use of aircraft for which the facility is intended;
      i. The estimated number of aircraft for which the facility is intended;
      ii. The estimated frequency of flights and hours of operation;
      iii. Diagram of the flight pattern to be used in and out of the landing area;
      iv. Drainage and grading plan of the site;
      v. Length, width, surface and lighting facilities of the airfield;
      vii. Location and height of any obstructions that could obstruct or penetrate the normal 20:1 approach slopes to the runway threshold or end;
      vii. The distance and difference in elevation between the end of the runway and any public roadways, railroads and all utility transmission and distribution facilities and towers that are located in the approach and clear zones;

b) The site shall be located in such a manner so as not to compromise the safety of or create excessive noise for the existing schools, hospitals, theaters and nursing homes. However, nothing in this provision shall deny essential air service to hospitals and nursing homes, if needed, provided that landing and takeoff facilities for emergency aircraft are provided in accordance with applicable State and Federal regulations;

c) The operation shall not result in air pollution and noise generation exceeding appropriate local, State and Federal standards;

d) No structures shall be located within approach and clear zones if such structures encroach upon the airspace required for the safe operation of aircraft for which the airfield is intended;
e) No use of the airfield permitted nor the immediately adjacent property shall create electrical interference with aerial navigational signals or radio communication or aircraft overflying the airfield, result in glare in the eyes of pilots using or overflying the airfield, or otherwise in any way endanger or interfere with landing, takeoff, or maneuvering of aircraft using or flying in the vicinity of the airfield;
f) Measures may be required to mitigate adverse impacts associated with the flight operations. Uses within the approach zone may be required to be under the control of the applicant through restrictive easements or ownership of the property;
g) Lighting devices such as flood lights and spot lights shall be so designed or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground. This provision shall not prohibit the installation of runway and taxiway lighting systems designed for the safe operation of aircraft or other safety enhancements such as visual approach slope indicator (VASI) or precision approach path indicator (PAPI) lighting systems;
h) No permit shall be granted for an airfield that would conflict with the traffic patterns, approach zones or reserved air space of an existing airport or airfield;
i) The design of an airfield shall meet the applicable State and Federal regulations and the following requirements;

1) The effective runway length for a paved runway shall be at least 1,400 feet plus 25% of the elevation of the site measured in North American Vertical Datum (NAVD 88). The effective length for a turfed runway or landing area shall be 1,800 feet, plus the 25% correction of the elevation. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NAVD 1988 or in elevations measured in relation to mean sea level.
2) The approach surface to each end of each turfed runway extends outward from the runway, and shall be unobstructed along a 20:1 vertical slope for a horizontal distance of 1,000 feet. The width of the approach slope is to be 250 feet at the beginning and widens out to a width of 450 feet at a distance of 1,000 feet from the beginning of the approach slope. The approach slope shall begin at a point 200 feet outward from the runway threshold, or at the turfed runway threshold (normally at the end of the turfed runway), or at a marked displaced threshold.
3) The runway (the paved surface) shall be 40 feet or more in width, and the turfed runway shall be 100 feet or more in width. There shall be a primary surface (unobstructed area) 250 feet in width, 125 feet on each side of the runway or the turfed runway centerline. The primary surface shall extend the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.
4) The aircraft parking apron area, all buildings, structures, fences, and vehicle parking areas shall be located outside the primary surface and clear the 7:1 lateral slopes along the surface.
5) All farm crops (except hay) are considered as structures. The height of such structures shall be considered the height of the crops when fully grown, regardless of the crops actual height at any specific time.
6) Roads and railroads are considered to be structures or obstructions 15 feet and 23 feet high respectively above their traveled surface when determining obstructions. An interstate highway shall be cleared by 17 feet above the closest edge of a paved surface.
7) The effective length of a paved runway or turfed runway is determined as the total distance between thresholds, plus the length of the shortest overrun area, when both thresholds are displaced.

8) The threshold of a turfed runway is considered to be that point on the runway end, properly marked, from which a clear 20:1 approach slope is available. The threshold of a paved runway is 200 feet inside the threshold of the turfed runway.

9) The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.

j) The design of a family airfield shall meet the following:

1) The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.

2) The minimum effective length of a paved runway shall be 300 feet. The turfed-runway shall be 200 feet longer than the paved runway (100 feet on each end). The turfed runway is required, but the paved runway is optional.

3) The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.

4) The approach surface to each end of each paved or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.

5) The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.

6) The runway shall be set back 50' from all lot lines.

6) Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than ½ footcandle of illumination as measured at the property line.

7) A "bubble" of clearance of 200' over and around all buildings shall be maintained.

8) Flight operations shall be prohibited from 10 PM to 5 AM.

9) Abutting property/families may use the same runway provided there are no more than four (4) properties, each of which has at least 150' of frontage on the runway.

k) However, an airfield in a residential air park may be allowed under the provisions of the community unit plan as provided in Article 14 of this zoning resolution. (Resolution No. 5367, August 26, 1996)

13.014. **Campground.** In the AG zoning district. (Resolution No. R-17-0040, May 30, 2017)

13.015. **Private Recreational Activities.** Including cabins and mobile homes not used as a residency; in the AG zoning district.


13.017. **Personal Wireless Services Facility.** May be allowed by administrative or special permit in any zoning district in conformance with the provisions of Article 10. (Resolution No. R-17-0040, May 30, 2017)

13.018. **Broadcast Towers.** In the AG, AGR, R, B and I zoning districts. The proposed broadcast tower shall be reviewed under the guidelines established in Article 10 Personal Wireless Telecommunications. (Resolution No. R-17-0040, May 30, 2017)

13.019. **Excavation.** May be allowed by special permit in the AG and AGR zoning districts under the conditions below. The special permit may include and permit stone milling to be conducted as an accessory use to the excavation operation. For purposes of this section, excavation shall mean the removal of clay, soil, limestone, sandstone, sand or gravel from the earth on a project site in excess of one acre by excavating, stripping, leveling or any other process together with all other types of mining and quarrying operations for material that is removed from the earth. Excavation shall not include grading of land in accordance with an approved preliminary plat, building permit or normal farming practices. Stone milling shall include the crushing, cutting, grinding or otherwise processing of minerals when associated with an excavation operation. Not all of the operations will apply to pre-existing, long term excavation sites. (Resolution No. R-14-0072, November 18, 2014)

a) An application for a special permit for excavation or stone milling shall be accompanied by the following information:

1) A legal description of the proposed site;
2) A site plan drawn to scale that includes but is not limited to identifying proposed vehicle and equipment storage areas and entrance and exit locations to the operation;
3) A map showing the site location and the location of private access roads, existing or proposed, and public roads and highways adjacent to the site which will be affected by the operation;
4) A grading map showing existing contours, proposed excavation contours, proposed final grade contours, and excavation volumes;
5) A full and adequate description of all phases of the contemplated operation and the specific listing of the type of machinery and equipment which will be or might be used to carry on the operation;
6) A groundwater report from a groundwater hydrologist in cases where proposed soil mining operations are: (i) within 1000 feet of any off-site private well, (ii) within 2000 feet of a community well, or (iii) designed to result in an excavated area that does not drain to a lower area (i.e. a “hole”); the report should demonstrate that the operation and ultimate grading will not negatively impact nearby wells by draw-down or contamination, and/or that monitoring wells will be installed to provide early warning of any such impact. Where a pond or lake is proposed, the groundwater report shall also demonstrate that adequate water will be supplied via runoff and/or wells to maintain the pond or lake as a functioning and attractive year-round water feature.

7) Reclamation plans for returning the site to agricultural use, approved by a local official of the Federal Department of Agriculture Natural Resources Conservation Service as meeting the standards of “Farm Bill Compliance”.

b) Erosion controls, including retention and sediment basins shall be provided during excavation in conformance with State and Federal standards and County land erosion and sediment control regulations to prevent a change in the character of runoff onto adjacent land.

c) No more than twenty (20) acres of the site shall be open for operations at any one time. The surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the County. Underground drainage may be supplied if it connects to an existing drainage facility and is satisfactory to the County.

d) Topsoil shall be collected and stored for redistribution on the site at the termination of the operation or termination of each phase of operation.

e) Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining properties. Dust shall be controlled on-site to meet Lincoln-Lancaster County Air Pollution Control Program Regulations, and the Lincoln/Lancaster County Health Department may additionally require dust control on unpaved perimeter roads.

f) Safety screening may be required at the outer boundary of the site; visual screening through setbacks, berming and other techniques may also be required where said boundary is adjacent to residential or park land, school property, or at major entryways/corridors into a city, town, or village, or at the discretion of the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)

g) Operating hours shall be limited to daylight hours, Monday through Saturday.

h) A sign shall be posted and maintained at the entrance to the site. The sign shall be:

1) Clearly visible from the adjacent road;
2) At least 32 square feet in area;
3) Lettering shall be at least two inches in height, black on a white background;
4) The sign shall list:
   i) The approved Special Permit Number;
   ii) The name, contact phone, and email address for the land owner;
   iii) The name, contact phone, and email address for the operator/contractor;
   iv) The Building and Safety Department contact number.

i) The County or City Engineer may require installation of traffic signs to warn motorists of excavation operations and truck traffic. (Resolution No. R-14-0072, November 18, 2014)

j) The applicant will take appropriate measures, such as street sweeping or “rumble bars” as specified by the County Engineer to minimize mud or dirt tracking onto streets and roads on a continuing (daily) basis during operation.
k) Permittee shall not begin operations until it has received a certificate of operation from the Director of Building and Safety.

1) The Permittee shall comply with all terms, conditions and requirements of the special permit that are required to be completed before beginning operations. Upon completion of all such terms, conditions and requirement of the special permit, the applicant shall advise the Director of Building and Safety that the applicant has met all such conditions and shall apply to the Director of Building and Safety for a certification of operation.

2) The certificate of operation shall not be issued until the Director of Building and Safety has inspected the premises covered by the special permit, reviewed documentation and evidence of completion of the conditions which shall be provided by the applicant, and has found that all terms, conditions and requirements of the special permit, that are to be completed before beginning operations, have been complied with.

3) Any amendment to a special permit approved subsequent to the issuance of a certificate of operation for such special permit shall require application by the permittee for a new certificate of operation which shall not be issued until the Director of Building and Safety has ascertained that any terms, conditions and requirements of the amendment to the special permit have been complied with.

l) Operations shall commence within one year of approval of the special permit or the special permit will terminate and be considered null and void.

m) Prior to commencing operations, the Permittee shall provide the County with a penal bond in the amount of $525.00 per acre intended to be disturbed to assure compliance with the final reclamation plan, including but not limited to regrading, topsoil conditioning, and re-vegetation. A private engineer must certify at closure of operations that grading and final reclamation has been completed in accordance with the approved plans before the bond may be released.

n) Within nine months after the completion of excavation on any portion of the site, all cuts shall be returned to a slope of less than three to one, the topography and soils shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety and general welfare of the public.

o) A special permit may be approved for up to a three year period of time by the Planning Commission. Such period of time shall commence upon the date the special permit is approved by the Planning Commission. (Resolution No. R-11-0023, March 29, 2011)

p) Permittee shall prepare and submit an annual report to the Director of Building and Safety addressing the status and extent of operations and each condition of the special permit.

q) Permittee shall be subject to an annual site inspection by the Director of Building and Safety or assigns. Such inspection shall be paid for by the applicant. Building and Safety shall:

   1) Inspect the site to determine whether terms, special conditions and requirements imposed by the Planning Commission in the approval of the special permit have been met and complied with; and

   2) Review all complaints from public and other departments/agencies. (Resolution No. R-11-0023, March 29, 2011)

r) The Planning Commission may modify or adjust any of the above conditions or impose additional conditions to preserve the public health, safety, and general welfare or to allow the applicant use of the property, while at the same time, protecting the surrounding property. (Resolution No. R-09-0011, March 10, 2009)


13.022. Industrial. Uses upon which the Planning Commission is required to pass under Article 9 only in the "I" Industrial District. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011)


13.024. Pet Cemeteries. In the "AG" and "AGR" Districts, provided they contain a minimum of five (5) acres.

13.025. Mobile Homes. May be permitted:

a) To be used for residential occupancy when utilized in conjunction with construction of a residence and not to exceed three (3) years in duration in the AG zoning district.

b) To be used for temporary residence renewed annually for the use of a person either giving or receiving care due to health reasons in the AG zoning district.

c) When a mobile home on an individual lot does not conform to the condition required for mobile homes in the “AG”, “AGR” and “R” zoning districts, subject to the following conditions:

1) The lot meets all the height and area regulations of this district except the Planning Commission may increase the yard areas; (Resolution No. R-11-0023, March 29, 2011)

2) The mobile home is securely and permanently attached to a permanent foundation complying with the building codes; and

3) The towing bar and hitch, wheels and tires, and axles are removed. (Resolution No. R-17-0040, May 30, 2017)


13.029. Facilities for the Commercial Storage or Sale of Fertilizer or Toxic or Flammable Agricultural Chemicals. In the "AG" zoning district. (Resolution No. R-17-0040, May 30, 2017)
13.030. Except as provided in Section 17.031, place of religious assembly steeples, towers, and ornamental spires which exceed the maximum district height in the AG, AGR, R, B and I zoning districts. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5408, November 19, 1996)


13.032. Expanded Home Occupations. May be allowed by special permit in the AG zoning district under the following conditions:

a) On-site sales shall be limited primarily to products grown, manufactured, processed, treated or assembled on the premise;

b) Except for a Family as defined by this Resolution, no more than two (2) persons participate in the home occupation on the premises. For purposes of Section 13.032, participation shall exclude deliveries;

c) The lot area shall be 10 acres or larger;

d) Driveways and parking areas shall be provided with an all-weather (gravel or rock) surface to minimize dust and mud;

e) No more than 50% of the floor area of the residence may be used for said business when the home occupation is located within the residence;

f) The total floor area for all buildings used for said business shall not be more than 10,000 square feet;

g) Outside area used for work area, storage or other business activity (of vehicles, equipment, or materials used in the business) and parking shall not exceed 15,000 square feet;

h) All outside business related activity shall be located at least 200 feet from all premise property lines and shall be visually screened from public streets and adjacent property lines. Said visual screening shall be approved as part of the special permit;

i) Dust control of nearby unpaved roads to mitigate the impact of traffic approaching and leaving the premise may be required;

j) Building permits will be obtained as required for all new construction and remodeling of existing buildings under this permit;

k) Only one vehicle/truck over 2.5 tons (gross weight) is permitted on the site. No more than four (4) business vehicles shall be parked or stored outside on the site at any one time;

l) There is no sign other than one non-animated, non-illuminated, non-reflecting nameplate not more than twenty (20) square feet in area, which name plate designates the home occupation carried on within;

m) A site plan for this special permit shall be approved and followed. The Planning Commission/County Board may establish additional conditions such as hours of business operation, maximum daily non-resident trips to and from the business, as deemed appropriate for compatibility, health, safety and welfare relative to this use and activity. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-09-0076, September 29, 2009)

13.034. Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County shall be allowed in the AG zoning district provided that stills be set up in compliance with the requirements of National Fire Protection Association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid. (Resolution No. R-17-0040, May 30, 2017; Resolution No. 3501, July 29, 1980)

13.035. Commercial Feedlot. Commercial feedlot facilities for livestock and poultry shall be allowed by special permit in the AG zoning district. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls; (Resolution No. R-17-0040, May 30, 2017; Resolution No. 5238, June 20, 1995)

13.036. Market Garden. Market Gardens may be allowed by special permit in the AG and AGR zoning districts under the following conditions:

a) Market garden shall have one or more of the following accessory uses associated with the market garden: restaurants, agricultural education and training centers, agricultural tourism, or sales of agricultural products not grown on site. The accessory uses must be located on the same premises as the market garden, and the products of the market garden must be a major feature of the use that is accessory to it;

b) The total area for the market garden and its accessory uses must be at least 20 acres but no more than 40 acres. Areas used for grazing or growing of crops for the feeding of animals on site may be excluded from the total area for the market garden;

c) The combined total area of all market garden accessory uses shall not exceed ten percent of the total area for the market garden. A single family dwelling located on the same premises as the market garden shall not be considered an accessory use to the market garden and shall not be counted toward the combined maximum total area of all the market garden’s accessory uses. The applicant shall provide a site plan showing the location, outdoor area, and building floor area of all accessory uses, their setbacks and intended use;

d) The Planning Commission may limit the maximum square footage of buildings associated with the market garden accessory use;

e) Direct access to a paved road may be required by the Planning Commission based upon the anticipated traffic generated by the use. The applicant shall include an estimate of all traffic generated based on the accessory uses on site in order to address the impact on the adjacent streets;

f) Parking shall be provided at a ratio of one space per 200 square feet of the floor area devoted to retail and service use. When the accessory use includes festivals, special events, or other large gatherings, an overflow parking area may be required with three stalls for every acre included within the special permit area. Parking may be provided on un-paved areas, except for ADA accessible stalls. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-12-0023, March 20, 2012).
13.037. Commercial Composting Operation and/or Commercial Anaerobic Digestion Operation. May be allowed by special permit in the AG zoning district under the following conditions:

a) The applicant shall provide information regarding the nature of the activities related to the permit and include a detailed listing of the types and quantities of materials to be processed;

b) Non-green feedstocks or organic materials which cannot pass a Paint Filter Test shall not be accepted without written approval of the Lincoln-Lancaster County Health Department;

c) The applicant shall provide information regarding the location and dimensions of any buildings on the premises, including any building to be used, in whole or in part, in permitted activity;

d) The area in which the waste is handled, stored or disposed of, must be located at least 750 feet from any dwelling not associated with the facility;

e) The applicant shall provide information on the type and number of vehicles visiting the site per day and the route that these vehicles will take;

f) Visual screening through setbacks, berming and other techniques may be required where the area and/or facility is adjacent to a residence, park, school, roadway, trail or other land use, at the discretion of the Planning Commission;

g) This special permit is final action at the Lancaster County Board of Commissioners. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-14-0007, Jan. 28, 2014)

13.038. Flood Plain Construction. Certain construction may be allowed within the flood plain in conformance with Section 11.025 in all zoning districts. (Resolution No. R-17-0040, May 30, 2017)

13.039. Expansion of Nonconforming Uses. In all zoning districts except the "I" Industrial District, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitutes a nonconforming use. In consideration of applications for such special permits, the following criteria shall be given specific consideration:

a) Effects on adjacent property, traffic, utility service needs;

b) Density of land use zoning for the subject property and adjacent property;

c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit. (Resolution No. R-17-0040, May 30, 2017)

13.040. Heritage Center. In the AG District, a special permit may be granted by the Planning Commission to allow a heritage center subject to the following conditions:

a) More than one main building may be located on a lot in conformance with the district regulations;

b) More than one main building may be located on a parcel of thirty (30) acres or more and buildings shall not cover more than five percent (5%) of the lot area;

c) Mechanical rides shall be prohibited except for sightseeing vehicles;
d) Parking: One space for every 200 square feet of floor area for permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre contained within the special permit;

e) The application shall address the guidelines of the County change of zone policy and include provisions for minimizing impacts on County or community services. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution No. 4277, April 28, 1987)

13.041. Historic Preservation. In any zoning district except the "I" Industrial District, a special permit may be granted to allow the preservation of an historic structure or site and the reuse thereof. Such historic preservation shall be limited to structures or sites identified and approved in the Comprehensive Plan or additional structures or sites identified and approved by resolution of the Planning Commission. A special permit for historic preservation may approve any use in any zoning district in the historic structure or site after review and consideration of the following:

a) A review shall be made in order to balance the significant of the historic structure or site against the proposed use variance from uses otherwise permitted in the district;

b) The extent of exterior change to the structure or site shall be reviewed;

c) The impact on the surrounding area shall be considered;

d) The compatibility of the proposed use to the structure or site shall be reviewed;

e) The manner in which the public shall be able to relate to or utilize the structure of site in the future shall be considered;

f) A plan of the existing and proposed grounds surrounding structure or site, including outdoor furniture and plant material, shall be submitted;

g) A parking layout shall be submitted;

h) Details shall be provided for all proposed modification of the structure or site, both interior and exterior;

i) The State Historical Preservation Officer shall be given the opportunity to review the structure or site and the proposal for reuse thereof;

j) The owner of the structure or site shall file a written agreement with the County accepting all the terms and conditions of the special permit;

k) Details of how the preservation of the structure or site is to be accomplished will be submitted;

l) The type of signage proposed for the structure or site shall be reviewed and approved. (Resolution No. R-11-0023, March 29, 2011; Resolution No. R-11-0023, March 29, 2011)

13.042. Wind Energy Conversion Systems (WECS). In the "R", "B" and "I" Zoning Districts, a special permit may be granted to allow wind energy conversion systems (WECS) over the district height. A special permit may be granted by the Planning Commission subject to the following conditions:
a) The distance from all lot lines to any tower support base of the WECS shall be equal to the height of the tower plus the rotor radius. The Planning Commission may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare;

b) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor. The Planning Commission may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS;

c) The WECS operation shall not cause interference to the radio and television reception on adjoining property;

d) The applicant shall provide access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site;

e) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations application to WECS. (Resolution No. R-11-0023, March 29, 2011; Resolution R-08-0090, Approved October 15, 2008; Resolution No. 3744A, October 5, 1982)


Storage of agriculture conservation construction equipment and materials may be allowed by special permit in the "AG" Zoning District under the following conditions:

a) Such use shall comply with the height and area regulations of the "AG" District; except that the Planning Commission may reduce the minimum lot area to ten acres;

b) Such use shall be permitted for a time period which shall be determined by the Planning Commission. The permittee may request administrative amendments for an extension of time;

c) The permittee shall maintain an exemption application for earth moving equipment for agriculture and soil conservation purposes; Form 410 as authorized by 77-202.46 R.S. or as may be amended;

d) The exemption application shall be filed with the County Assessor's Office and the exempt uses of the total equipment shall not be less than 75%. (Resolution No. R-11-0023, March 29, 2011; Resolution No. 4656, June 26, 1990)

13.044. Special Permit. Special permitted use: Dwellings within 1,320 feet of the property line of a publicly owned lake property of 30 acres or more may be allowed in the AGR district under the following conditions:

a) The Planning Commission may amend the conditions of the special permit upon a showing that exceptional and unusual circumstances exist in connection with the specific parcel of land;

b) All dwellings, occupied buildings and livestock feed lots shall be located a minimum of 600 feet (200 yards) from the property line of the public lake property to protect from noise and gunfire. Adjustment for other factors such as roads, lot size, abutting uses and private agreements should be considered in applying this;
c) Sewer systems shall be designed so no effluent will reach the lake;
d) Well information shall be provided that shows there is adequate quantity and quality of water on the site and the development will not adversely affect adjacent property wells;
e) Unless already in permanent vegetation, a buffer of native grasses and forbs shall be planted within 200' abutting the public property line. Overall use of native plants and "xeroscaping" is encouraged;
f) Any disturbance of surface soils shall use the best management practices to prevent any sediment from moving off site, in accordance with a sediment plan shall be approved by the Lower Platte South Natural Resources District based on the Sediment and Erosion Manual;
g) Exterior lighting shall meet the Lincoln Design Standards for Outdoor Recreational Lighting sections on illumination levels beyond the property line (I.B) and Glare control (III) shielded to prevent trespass of light off the property;
h) Vehicular access points shall be designed so as not to conflict with other entrances and to recognize the additional traffic as well as the character of that traffic on the road. Access to paved roads is required if possible;
i) The boundary between the private and public ownership shall be posted as "private property". The signs shall be at least eleven by fourteen inches and shall be spaced no more than 1,320 feet apart and at all property corners and field entrances;
j) The public agencies of the adjacent lake property shall have the opportunity to review the special permit application as well as the Nebraska Game and Parks Commission, Natural Resources District, Corps. of Engineers and Department of Environmental Quality;
k) All chimneys shall be equipped with spark arresters;
l) No antenna or any other structure over 35' in height shall be permitted unless approved by this permit;
m) The applicant shall acknowledge and advise future purchasers of the full utilization of all legal uses and activities that would normally occur on the public lake property abutting the application. Protective covenants shall be filed on the property containing this information;
n) Density/number of dwelling units permitted in the parcel (a range is suggested of no less than 5 nor more than 10 acres per dwelling unit);
o) The developer shall enter into a written agreement with the County on the conditions of the special permit. (Resolution No. R-11-0023, March 29, 2011; Resolution No. 5428, January 22, 1997)

13.045. Off-Premises Signs. Off-premise signs which do not meet the siting limitations of Article 16.07 b)2)3) and 4) may be allowed by special permit in B and I zoning districts upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community. (Resolution No. R-17-0040, May 30, 2017; Resolution R-00-10, January 26, 2000)

13.046. Sexually Oriented Live Entertainment Establishment. Must meet all applicable federal, state and local regulations and may by special permit be located in the "I" Industrial zone district under the following conditions:

a) It meets minimum separation distance of one thousand five hundred (1,500) feet between such uses.
b) It meets minimum separation distance of one thousand (1,000) feet between such use and from place of religious assembly, public elementary and high schools or private schools having a curriculum equivalent to public elementary or high schools, residential uses, early childhood care facility, public park, hospital, public library, public museum, amusement park, recreation area or playground that primarily serves persons younger than eighteen (18) years old, correctional facility, residential facility licensed by the State of Nebraska in which people reside while receiving therapy, counseling or rehabilitation for physical, emotional or mental disease or disability.

c) All distancing requirements shall be measured using door to door measurement of distance.

Before making a final decision on the issuance of the above building use, the Planning Commission will hold a public hearing to consider the effect of the proposed use “upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety, and general welfare”. (Resolution No. R-17-0040, May 30, 2017; Resolution No. R-11-0023, March 29, 2011; Resolution 00-129, October 13, 2000)

13.047. Race Tracks, Drag Strips and Motor Sport Facilities in "AG" District:

Race tracks, drag strips, and motor sport facilities may be allowed by special permit in the AG zoning district in conformance with the following conditions:

a) The application shall be accompanied by the following information:
   1) A plot plan drawn to an accurate scale showing the layout of the entire site including the track, seating area, restrooms, parking lot, concession stands, lighting facilities, and other pertinent information.
   2) Proposed water and sewer systems.
   3) Drainage and grading plan.
   4) Description of the racing facility, including the type, number and average speed of motorized vehicles and time and frequency of operations.
   5) Landscaping and screening plan.
   6) Proposed measures to mitigate potential adverse environmental impacts, such as air quality, hazardous liquids and glare.
   7) Anticipated peak event attendance and parking needs.
   8) Days and hours of operation.
   9) Description, type, and frequency of other anticipated events or uses incidental to the racing facility described above.
   10) Entrances, exits and traffic flow.
   11) A professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. The professional sound assessment may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If the professional sound assessment predicts or identifies NPL levels that exceed the regulatory limits established in Section 13.016(d), a sound mitigation strategies plan shall be proposed by the applicant. Such sound mitigation strategies plan
shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The sound mitigation strategies plan shall be submitted to the Health Department for review and recommendation for approval or denial of the sound mitigation strategies plan. The Health Department shall take action to recommend approval or denial of the plan within 30 days of receipt.

b) The site shall contain at least seventy (70) acres in the AG district.

c) The proposed water, sewer and drainage facilities shall be reviewed and approved by the Lincoln Lancaster County Health Department.

d) The operation of a race track, drag strip or motor sports facility shall not create an A-weighted Noise Pollution Level (NPL) sound level (dBA) which exceeds the current conditional NPL on the nearest receiving properties with occupied residences in existence on the date of approval of the special permit by more than 10 dB between the hours of 10:00 a.m. and 6:00 p.m., nor more than 6 dB between the hours of 6:00 p.m. and 10:00 p.m. In addition, the NPL level shall not exceed 81 dB, no matter what the baseline NPL level. The current condition NPL noise levels shall be established by conducting noise monitoring at the closest residence(s) in outside areas that will likely be actively used for the enjoyment of their property.

1) Noise samples shall be acquired continuously for one hour using a one second sampling rate.
2) The sound level meter shall be set to the “A” weighting and “fast” mode.
3) The sound level meter shall be calibrated to an approved standard before and after each measurement period.
4) The current condition NPL shall be established by measuring both during what is believed to represent the peak noise conditions and during evening hours.
5) Noise measurements shall be made with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1983 as amended by S1.4A-1985, or the latest approved revision thereof), or its successor body, using a Type I or Type II meter.
6) Noise monitoring shall be conducted by the Health Department.
7) Noise measurements for enforcement purposes shall be conducted using the same protocol as provided in subsection (d)(1), (2), (3), (5) and (6) above. The formula for calculating the NPL shall be:

\[ \text{NPL} = (L_{50} + L_{10} - L_{90}) + \frac{[(L_{10} - L_{90})^2]}{60} \]

8) Before a special use permit is issued for a race track, drag strip or motor sports facility, a professional sound assessment of the proposed race track, drag strip or motor sports facility shall be submitted by the applicant to the Health Department for review and recommendation for approval or denial. This may be done in one of two ways: computer modeling or Health Department approved on-site noise generation and monitoring. If this sound assessment predicts or identifies NPL levels and exceed the regulatory limits established herein, sound mitigation strategies shall be proposed by the applicant. Such sound mitigation strategies shall be signed by an accredited engineer with specialty or advanced knowledge in acoustics. The noise mitigation plan shall be submitted to the Health Department for review and recommendation for approval or denial. The Health Department shall take no action to recommend approval or denial of the plan within 30 days of receipt.
9) Prior to operation, the race track, drag strip or motor sports facility shall install an approved continuous noise monitoring device at a location to be determined by the Health Department. Data collected from this monitor shall be made available to the Health Department. The Health Department shall be provided access to the race track, drag strip or motor sports facility at any reasonable time to inspect, investigate complaints or conduct noise monitoring.

e) The site shall not be located in areas for residential use, rural use/low density residential, schools, parks and open space, and the major ecological and environmental protection areas in accordance with the Comprehensive Plan.

f) The boundary of the property legally described in the application shall be located at least one half (½) mile away from existing cemeteries, hospitals and places of religious assembly and residential areas, rural use/acreage areas, schools and parks and open space as designated by the Comprehensive Plan.

g) The site shall be readily accessible from a major street or paved road with adequate access for law enforcement and emergency vehicles.

h) The site shall be located within reasonable reach of existing fire protection facilities or fire protection may be provided on-site, and shall be approved by the fire protection district. A report thereon shall be obtained from the fire protection district or authority in which the site is located.

i) The events shall not operate between the hours of 10:00 p.m. to 10:00 a.m.

j) The operation of a race track, drag strip or motor sports facility may exceed the noise sound level set forth in Section 13.016(d) for a certain number of events each calendar year upon approval by the Planning Commission. At the time of application for the special permit, the applicant shall request the number of events it proposes to exceed the noise level set forth in Section 13.016(d) each calendar year. In the event the applicant wishes to amend the number of event exceptions in any given year, the applicant must request an amendment to the special permit. The Planning Commission shall act on such request after holding a public hearing. (Resolution No. R-11-0023, March 29, 2011)

The County Board may amend any of the above conditions of the special permit, or impose additional conditions, upon a showing that such conditions are reasonably related to the interest of public health, safety, morals, and the general welfare. (Resolution No. R-07-0061; July 24, 2007)


A Commercial Wind Energy Conversion System (CWECS) may be allowed in the AG District by special permit under the conditions listed below:

a) In cases where CWECS wind turbines are part of a unified plan, parcels which are separated from one another only by the presence of public right-of-way may be combined into one special permit application. When a special permit covers multiple premises, the lease or easement holder may sign the application rather than the lot owner.
b) Turbines shall meet all FAA requirements, including but not limited to lighting and radar interference issues. Strobe lighting shall be avoided if alternative lighting is allowed. Color and finish shall be white, gray or another non-obtrusive, non-reflective finish. There shall be no advertising, logo, or other symbols painted on the turbine other than those required by the FAA or other governing body. Each turbine shall have onsite a name plate which is clearly legible from the public right-of-way and contains contact information of the operator of the wind facility.

c) Each application shall have a decommissioning plan outlining the means, procedures and cost of removing the turbine(s) and all related supporting infrastructure and a bond or equivalent enforceable resource to guarantee removal and restoration upon discontinuance, decommissioning or abandonment. Each tower shall be removed within one year of decommissioning or revocation of the special permit. Upon removal of the tower, there shall be four feet of soil between the ground level and former tower’s cement base.

d) Any proposed turbine which is within half mile of any non-participating dwelling shall provide shadow flicker modeling data showing the expected effect of shadow flicker on non-participating properties. Shadow flicker shall not fall upon any non-participating dwelling, or other building which is occupied by humans, for more than a total of 30 hours per any calendar year. If shadow flicker exceeds these limits, measures shall be taken to reduce the effects of shadow flicker on buildings, which may include shutting the turbine down during periods of shadow flicker. If a turbine violates this standard on a non-participating dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use.

e) Construction and operation shall not adversely impact identified State or Federal threatened or endangered species such as saline wetlands, or rare natural resources such as native prairie and grasslands.

f) No turbine shall obstruct or impair an identified view corridor or scenic vista of public value, as mapped on the Capitol View Corridors map in the Lincoln/ Lancaster County Comprehensive Plan. The views from prominent environmental areas, such as Nine Mile Prairie and Spring Creek Prairie, shall also be protected from adverse visual or noise impacts. Any application which, upon initial review, poses a possible impact to these views will be required to be relocated or provide view shed mapping, and visual simulations from key observation points for review.

g) Setbacks to the turbine base:
1) For the purposes of this section, “turbine height” shall be equal to hub height plus the rotor radius.
2) For a non-participating lot, the setback shall be 2 times the turbine height measured to the property line, or 3 ½ times the turbine height, measured to the closest exterior wall of the dwelling unit, whichever is greater, but at a minimum of 1,000 feet to the property line.
3) For participating dwelling units, the setback shall be 2 times the turbine height measured to the closest exterior wall of the dwelling.
4) The setback to any public right-of-way or private roadway shall be no less than the turbine height.
5) Setbacks to the external boundary of the special permit area shall be no less than as stated above, except that the owner of the adjacent property may sign an agreement allowing that setback to be reduced to the rotor radius plus the setback of the zoning district.

h) The turbine(s) shall not impact a non-participating lot, (vacant or occupied; of any size), to the extent that, because of the location of turbine(s), the lot owner is left with less than 3 acres of land outside of the CWECS setbacks and or the noise impact area in Section (i) below, unless they are part of an agreement with the CWECS owner/operator.
i) Noise: No CWECS or combination of CWECS turbine(s) shall be located as to cause an exceedance of the following as measured at the closest exterior wall of any dwelling located on the property. If a turbine violates a noise standard on a dwelling unit, constructed after the turbine is approved, then the turbine becomes a non-conforming use. For both participating and nonparticipating properties:

1) From the hours of 7 am to 10 pm:
   i. Forty (40) dBA maximum 10 minute Leq or;
   ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 15 hour period.

2) From the hours of 10 pm to 7 am:
   i. Thirty-seven (37) dBA maximum 10 minute Leq or;
   ii. Three (3) dBA maximum 10 minute Leq above background level as determined by a pre-construction noise study. The background level shall be a Leq measured over a representative 9 hour period.

j) A professional pre-construction noise study shall be conducted which includes all property within one mile of a tower support base. The protocol and methodology for such studies shall be submitted to the Lincoln-Lancaster County Health Department for review and approval. Such studies shall include noise modeling for all four seasons and include typical and worst case scenarios for noise propagation. The complete results and full study report shall be submitted to the Lincoln-Lancaster County Health Department for review.

k) Prior to the commencement of construction of any turbine, pre-construction noise monitoring may be conducted to determine ambient sound levels in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

l) Prior to the commencement of construction of any turbine, the applicant shall enter into an agreement with the County Engineer regarding use of County roads during construction.

m) At the discretion of the County Board, post-construction noise level measurements may be required to be performed in accordance with procedures acceptable to the Lincoln-Lancaster County Health Department.

t) All noise complaints regarding the operation of any CWECS shall be referred to the County Board. The County Board shall determine if noise monitoring shall be required to determine whether a violation has occurred. (Resolution No. R-15-0061, November 24, 2015; Resolution No. R-11-0022, March 29, 2011)