

RESOLUTION NO. _____

KEITH COUNTY, NEBRASKA
HEALTH AND SAFETY RESOLUTION

ARTICLE 1: TITLE AND PURPOSE

Section 1: Title

This Resolution may be known and may be cited and referred to as the Health and Safety Resolution of Keith County, Nebraska

Section 2: Authorization

Pursuant to Section §23-174.10 of the Revised Nebraska State Statutes (1997), in any county which has adopted county zoning and subdivision regulations, the county board, by resolution, may make regulations as may be necessary or expedient to promote the public health, safety, and welfare, including regulations to prevent the introduction or spread of contagious, infectious, or malignant diseases; to provide rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water; and make and prescribe regulations for the construction, location, and keeping in order of all slaughterhouses, stockyards, warehouses, sheds, stables, barns, commercial feedlots, dairies, junk and salvage yards, or other places where offensive matter is kept, or is likely to accumulate. Such regulations shall be not inconsistent with the general laws of the state and shall apply to the entire county except within the limits of any incorporated city or village.

Section 3: Jurisdiction

The jurisdiction of this Resolution shall apply to the entire county except within the limits of any incorporated city or village.

ARTICLE 2: DEFINITIONS

Section 2.01 Construction and General Terminology.

For the purpose of carrying out the intent of this Resolution, words, phrases, and terms shall be deemed to have the meaning ascribed to them. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular; and the masculine gender shall include the feminine.

2.01.01. The word "Board" shall mean the Board of Commissioners of Keith County.

2.01.02. The word "Building" includes the word "Structure," but shall not include "Temporary Structures".

2.01.03. The word "Commission" shall mean the Planning Commission of Keith County.

2.01.04. The word "County" shall mean Keith County.

2.01.05. The words "County Register" shall mean the County Register of Deeds of Keith County.

2.01.06. The word "Federal" shall mean the Government of the United States of America.

2.01.07. The word "shall" is mandatory; and the word "may" is permissive.

2.01.09. The word "State" shall mean the State of Nebraska.

2.01.10. The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."

- 2.01.11. The words "Zoning Map" shall mean the Official Zoning Map of Keith County.
- 2.01.12. The words "Zoning Administrator" shall mean the Zoning Administrator for Keith County.
- 2.01.13. The word "Resolution" shall mean the Health and Safety Regulation of Keith County.
- 2.01.14. The words "Comprehensive Plan" shall mean the Keith County Comprehensive Development Plan.
- 2.01.15. The words "Zoning and Subdivision Regulations" shall mean the adopted and amended Zoning and Subdivision Regulations of Keith County

Section 2.02 Abbreviations and Acronyms

For purposes of this Resolution this section contains a listing of abbreviations and acronyms used throughout this document.

CAFO = Concentrated Animal Feeding Operation

FCC = Federal Communication Commission

kV = Kilovolt

kW = Kilowatt

LFO = Livestock Feeding Operation

NDEQ = Nebraska Department of Environmental Quality or successor department

R.O.W. = right-of-way or rights-of-way

USDA = United States Department of Agriculture

Section 2.03: Definitions

2.03.01 **AGRICULTURAL USE** shall mean 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 concentrated animal feeding operation, as defined in the Keith County Zoning and Subdivision Regulations, containing more than defined in Section 2.03.02 at any one time or intensive animal feeding operation, as defined in the Keith County Zoning and Subdivision Regulations, containing more than animals than defined in Section 2.03.02 at any one time and further provided that such use shall not include any waste handling facilities, as defined in Section 2.03.208 of this Resolution. A concentrated 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 animals involved in such use. The seasonal confinement of an unrestricted number of ruminant animals for birthing, weaning or backgrounding purposes for less than two hundred seventy five (275) days in any calendar year in lots or pens normally used for crop production or vegetation shall not be considered a concentrated or intensive animal feeding use, but shall be considered an agricultural use.

2.03.02 **ANIMAL FEEDING OPERATION** (either AFO or CAFO) shall mean an Animal Feeding Operation (either AFO or CAFO) shall mean an area of more than the following numbers of animals used for more than 45 days a year;

Cattle 299 head

Dairy Cows 199 head

Horses 149 head

Chickens - Laying Hens, Broilers, liquid manure handling system
8,999 head

Chickens - Laying Hens, no liquid manure handling system
 4,999 head
 Chickens, other than laying hens, no liquid manure handling system
 37,499 head
 Sheep/Lambs 2,999 head
 Swine, >55 lb. 749 head
 Swine, <55 lb. 2,999 head
 Turkeys 16,499 head
 Ducks - If using a liquid manure handling system
 1,499 head
 Ducks - If using other than a liquid manure handling system
 9,999 head

2.03.03 **ANIMAL HUSBANDRY** shall mean the care and raising of animals.

2.03.04 **ANIMAL WASTE** shall mean any animal excrement, animal carcass, feed waste, animal waste water, or other waste associated with the care and feeding of animals.

2.03.05 **ANIMAL WASTE WATER** shall mean 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 2.03.122 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 concentrated or intensive animal feeding use.

2.03.06 **APPLICATION AREA** shall mean land utilized for the land application of livestock wastes.

2.03.07 **APPLICATOR** shall mean any person engaged in the application of chemicals by means of chemigation. Applicator shall include any person operating equipment used for chemigation whether for themselves or on behalf of the permit holder for the land on which the chemigation will take place.

2.03.08 **AQUIFER** shall mean a geological formation, group of formations, or part of a formation that is capable of yielding water to a well, spring, or other point of discharge, in usable amounts.

2.03.09 **BENEFICIAL FILL** shall mean the use of uncontaminated sand, gravel, stone, soil, rock, brick, concrete rubble, asphalt rubble, or similar material, or some combination thereof, for the purpose of erosion control, erosion repair, channel stabilization, landscaping, road bed preparation or other land improvement.

2.03.10 **BEST MANAGEMENT PRACTICES (BMP)** shall mean schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective and practicable methods for specific sites to prevent or reduce the discharge of pollutants to waters of the State or control odor where appropriate. Best management practices also include operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal or drainage from raw material storage

2.03.11 **BULK FERTILIZER** shall mean any liquid fertilizer held in an individual container of undivided capacity greater than 55 U.S. gallons liquid measure.

2.03.12 **BULK PESTICIDE** shall mean any liquid pesticide held in an individual container of undivided capacity greater than 55 U.S. gallons liquid measure.

2.03.13 **CHEMICAL** shall mean any fertilizer, fungicide, herbicide, or pesticide mixed with the water supply.

2.03.15 **CHEMIGATION** shall mean any process whereby chemicals are applied to land or crops in or with water through an on-farm irrigation distribution system.

2.03.16 **CLOSURE** shall mean those actions, which are taken upon the cessation of the use of a solid waste management facility, which prepares the facility for post-closure care, and assures the protection of human health and the environment.

2.03.17 **COLLECTION** shall mean the act of removing and conveying solid waste from the storage area to a solid waste management facility.

2.03.18 **COMMENCEMENT OF CONSTRUCTION** shall mean any substantial action, such as clearing of land, excavation or other action that reflects a substantially irreversible commitment to physically construct a facility, or that may affect the environment of a facility. The term does not include: site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other pre-construction monitoring, or testing to establish background information related to the suitability of the site for the protection of environmental values.

2.03.19 **COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.

2.03.20 **COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.

2.03.21 **COMPATIBLE USE** shall mean a land use of one type that is suitable for direct association, location near or abutting a land 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 activities, and because neither use will diminish the value and enjoyment of the other.

2.03.22 **CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)** - Concentrated Animal Feeding Operation (CAFO) shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilation.

2.03.23 **CONSTRUCTION AND DEMOLITION WASTE** shall mean waste which results from land clearing, the demolition of buildings, roads or other structures, including, but not limited to, beneficial fill materials, wood (including painted and treated wood), land clearing debris other than yard waste, wall coverings (including wall paper, paneling and tile), drywall, plaster, non-asbestos insulation, roofing shingles and other roof coverings, plumbing fixtures, glass, plastic, carpeting, electrical wiring, pipe and metals. Such waste shall also include the above listed types of waste that result from construction projects. Construction and demolition waste shall not include friable asbestos waste, special waste, liquid waste, hazardous waste and waste that contains polychlorinated biphenyl (PCB), putrescible waste, household waste, industrial solid waste, corrugated cardboard, appliances, tires, drums, and fuel tanks.

2.03.24 **CONSTRUCTION AND DEMOLITION WASTE DISPOSAL AREA** shall mean any solid waste disposal area used for the sole purpose of disposal of construction and demolition waste.

2.03.25 **CONTRIBUTING DRAINAGE AREA** shall mean surface area, other than the open lot, from which runoff cannot be diverted around the livestock operation and/or the livestock waste control facility.

2.03.26 **COUNCIL** shall mean the Environmental Quality Council.

2.03.27 **DEBRIS BASIN** shall mean an individually designed low gradient, broad, flat channel with a supporting ridge on the lower side, which functions to trap and store settleable solids (both manure and sediment) for subsequent removal.

2.03.28 **DEPARTMENT** shall mean the Nebraska Department of Environmental Quality

2.03.29 **DEWATERING DAYS** shall mean those days which have suitable weather and soil conditions for land application of accumulated livestock wastes.

2.03.30 **DISCARDED HOUSEHOLD APPLIANCES** shall mean clothes washers and dryers, water heaters, heat pumps, air conditioners, dehumidifiers, refrigerators, freezers, trash compactors, dishwashers, conventional ovens, ranges, stoves, and wood stoves.

2.03.31 **DISCHARGE** shall mean the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the State or in a place which will likely reach waters of the State.

2.03.32 **DISEASE VECTORS** shall mean any rodents, flies, mosquitoes, or other animals, including insects, capable of transmitting disease to humans.

2.03.33 **DISPOSAL SITE** shall mean that portion of a facility used for disposal of waste. It consists of disposal units and a buffer zone.

2.03.34 **DISPOSAL OF SOLID WASTE** shall mean the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air, land or water of the state.

2.03.35 **DISTRICT** shall mean a natural resources district created pursuant to Chapter 2, article 32 of Nebr. RRS 1997.

2.03.36 **DIVERSION TERRACE** shall mean an individually designed grade channel with a supporting ridge on the lower side, constructed across the slope with a non-erosive grade.

2.03.37 **ENGINEERED BARRIER** shall mean a man-made structure or device that is intended to improve the facility's ability to meet the performance objectives in Chapter 4 of Title 194.

2.03.38 **FERTILIZER** shall mean any formulation or product used as a plant nutrient which is intended to promote plant growth and contains one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication. Anhydrous ammonia, dry fertilizer, and unmanipulated animal and vegetable manures shall not be included in this definition for the purposes of these regulations.

2.03.39 **FLOODPLAIN** shall mean the lowland and relatively flat areas adjoining inland waters that are inundated by the 100-year flood.

2.03.40 **GARBAGE** shall mean rejected food wastes, including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.

2.03.41 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

2.03.42 **HAZARDOUS WASTE** shall mean any waste designated or defined as a hazardous waste by N.A.C. Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska, which for purposes of general definition is a solid waste which, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

1. Cause, or significantly contribute to, an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

2.03.43 **HAZARDOUS WASTE, CONVERTED (TREATED)** shall mean any waste defined as hazardous which has been processed in a manner that would either eliminate or dilute the level of the hazardous material. These include soils contaminated by lead, arsenic, chemicals used in the manufacturing of ballistics and munitions, and other items as declared by the Environmental Protection Agency, Corps of Engineers, Nebraska Department of Environmental Quality or other controlling agency.

2.03.44 **HOLDING POND** shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

2.03.45 **HOUSEHOLD WASTE** shall mean any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

2.03.46 **INFECTIOUS WASTE** shall mean a solid waste capable of causing an infectious disease. For a waste to be deemed infectious, consideration will be given to those elements required in order for infection to occur. These elements include the presence of a pathogen or causative organism, of significant virulence, in an adequate dose, which is able to gain a portal of entry in a susceptible host. Infectious waste shall include, but not be limited to, substances from the following classifications:

1. Blood, Blood Products and Body Fluids. This classification includes fluid blood, blood products and body fluids, and any items contaminated with any of these fluids, if a pourable quantity (ability of a liquid or semi-solid form to drip or flow) is present. The term blood and blood products includes serum, plasma, and other blood components. The term body fluid includes semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, peritoneal fluid, pericardial fluid, amniotic fluid and any other body fluid visibly contaminated with blood.
2. Infectious Sharps Waste. This classification includes all discarded items from diagnosis, treatment, or immunization which can potentially transmit disease by breaking the human skin, and includes hypodermic needles, scalpels, razor blades, breakable glass containers, blood vials, culture dishes, used slides, glass products and broken glass or other sharp items that have come into contact with or have been contaminated by material considered infectious.
3. Laboratory Waste. This classification includes all cultures and stocks of infectious agents, including specimen cultures from medical and pathological laboratories, cultures and stocks from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.
4. Contaminated Animal Waste. This classification includes blood and body fluids, carcasses, body parts, excrement and bedding from animals contaminated with agents that may cause human disease.
5. Waste Identified by Infectious Waste Generators. This classification includes those wastes determined by the infectious waste generator or the infectious waste generator's infectious control staff/committee to be treated as infectious waste because of the risk of disease posed by such waste.

2.03.47 **INSTITUTIONAL CONTROL AGENCY OR CUSTODIAL AGENCY** shall mean the Nebraska Department of Health.

2.03.48 **INTEGRATED SOLID WASTE MANAGEMENT** shall mean solid waste management which is focused on planned development of programs and facilities that reduce waste toxicity and volume, recycle marketable materials, and provide for safe disposal of residuals.

2.03.49 **IRRIGATION DISTRIBUTION SYSTEM** shall mean any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of ground or surface water, through which livestock wastes or a mixture of water and livestock wastes is drawn and applied for agricultural or horticultural purposes. Irrigation distribution system shall not include any hand-held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.

2.03.50 **JUNK** shall mean materials which will not be utilized if not collected and processed for reuse or recycling, including but not limited to mean: old scrap; copper; brass; iron; steel; rope; wire; glass; rags; batteries; paper trash; rubber; debris; demolition waste; abandoned mobile homes, dismantled or wrecked; untaxed, untitled or unlicensed vehicles or parts thereof; and other old or scrap ferrous or nonferrous material.

2.03.51 **JUNK YARD**: See Salvage Yard.

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

2.03.53 **LAND POLLUTION** shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state.

2.03.54 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.

2.03.55 **LEACHATE** shall mean liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials removed from such waste.

2.03.56 **LEAD-ACID BATTERIES** shall mean electrical storage batteries with cells that contain lead electrodes and an acidic electrolyte, such as those commonly used in motor vehicles.

2.03.57 **LIQUID MANURE** shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface; provided, however, only liquid manure collected in lagoons may be applied through the use of a center pivot or tow-line irrigation systems. (See definition of Lagoon.)

2.03.58 **LIQUID MANURE STORAGE PITS** shall mean earthen or lined pits wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production. In no event shall liquid manure that is stored or collected in a Liquid Manure Storage Pit be applied through the use of a center pivot or towline irrigation system. (See definition of Liquid Manure and Lagoon.)

2.03.59 **LIQUID WASTE** shall mean any waste which contains free liquids which will readily separate from the solid portion of a waste under ambient temperature and pressure as determined by the federal Environmental Protection Agency Paint Filter Liquid Test Method 9095 of Test Methods for Evaluation Solid Waste Volume 1 section C November 1986.

2.03.60 **LIVESTOCK OPERATION** shall mean the feeding or holding of beef cattle, dairy cattle, horses, swine, sheep, poultry and other livestock in buildings, lots or pens, which normally are not used for growing of crops or vegetation, but does not include the holding of cattle in calving operations for less than ninety days per year. Two or more livestock operations under common ownership are deemed to be a single livestock operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock wastes.

2.03.61 **LIVESTOCK WASTE CONTROL FACILITY** shall mean any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons or other such devices utilized to control livestock wastes.

2.03.62 **LIVESTOCK WASTES** shall mean animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock wastes.

2.03.63 **MONITORING** shall mean the combination of activities designed to assess the impact of the solid waste or nuclear disposal area upon the environment.

2.03.64 **MUNICIPAL SOLID WASTE** shall mean household waste and/or the combination of household waste with industrial or commercial solid wastes.

2.03.65 **MUNICIPAL SOLID WASTE DISPOSAL AREA** shall mean a publicly or privately owned discrete area of land or excavation that receives household waste, alone or in combination with other types of wastes such as commercial solid waste, industrial waste, no hazardous sludge, or conditionally exempt small quantity generator waste, and which is not a land application unit, surface impoundment, injection well, or waste pile. For the purposes of these regulations, the term "landfill" may be used interchangeably with this term.

2.03.66 **NATURAL DISASTER** shall mean the occurrence of widespread or severe damage or loss of property resulting from any natural cause, including but not limited to, flood, earthquake, wind or storm.

2.03.67 **NEBRASKA LIVESTOCK OPERATION NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT** shall mean a permit issued pursuant to Title 119 (NAC) controlling discharges of livestock wastes into waters of the State

2.03.68 **NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

2.03.69 **ODOR** shall mean that characteristic of a substance, which makes it offensive to the human sense of smell, as determined by the majority of any three (3) or more people. Such people shall include the Zoning Administrator, a representative of the use being investigated for odor impact, and one or more other neutral persons as agreed upon by the Zoning Administrator and the owner of the use being investigated for odor impact.

2.03.70 **OPEN BURNING** shall mean the combustion of solid waste without:

1. Control of combustion air to maintain adequate temperature for efficient burning;
2. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
3. Control of the emission of the combustion products.

2.03.71 **OPEN DISCHARGE SYSTEM** shall mean a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.

2.03.72 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

2.03.73 **OPERATING RECORD** shall mean a record or file maintained by an owner or operator to contain documents and records pertaining to the solid waste management facility.

2.03.74 **OPERATOR** shall mean the person responsible for the overall operation of a livestock operation.

2.03.75 **OWNER** shall mean the person who owns any portion of any business, facility or livestock operation or part of a livestock operation.

2.03.76 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

2.03.77 **PERMITHOLDER** shall mean the owner or operator of land who applies or authorizes the application of chemicals to such land by means of chemigation. The permitholder shall be the party primarily responsible for any liability arising from chemigation on the property.

2.03.78 **PESTICIDE** shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, insect, rodent, nematode, fungus, weed, or other form of plant or animal life or virus, except viruses on or in living humans or animals, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

2.03.79 **PESTICIDE, RESTRICTED USE** shall mean a pesticide that is classified for restricted use under the provisions of section 3(d) (1) (C) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 135, et seq.

2.03.80 **PREVAILING WINDS** shall mean the prevailing seasonal winds for Keith County. These winds are from the North, Northwest in the winter months and South and Southeast in the summer months. Wind directions with regard to regulations in this Resolution shall be further defined as follows, determined using magnetic north as determined through use of a compass:

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

2.03.81 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five individuals. This definition shall include:

1. Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
2. Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

2.03.82 **PUTRESCIBLE** shall mean capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors, gases, etc. Kitchen wastes, offal, and dead animals are examples of putrescible components of solid waste.

2.03.83 **RECYCLED** shall mean the use of recovered waste materials, such as post-consumer material, in the manufacture or production of new items.

2.03.84 **RECYCLING** shall mean the process by which recovered waste materials are transformed into new products in such a manner that the original products may lose their identity.

2.03.85 **RECYCLING CENTER** shall mean any facility which is maintained and operated for the purpose of receiving, collecting and processing source-separated recyclable materials for resale or transfer. For the purposes of this definition, "processing" shall mean the modification of materials by baling, crushing, grinding, chipping or other means to prepare the materials for markets.

2.03.86 **RECYCLING COLLECTION SITE** shall mean a premise which is maintained and operated for the purposes of receiving and collecting source separated recyclable materials, and shall not include on site activities for significantly processing or modifying the collected materials.

2.03.87 **REFUSE** shall mean putrescible and non-putrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, industrial wastes, and other such wastes.

2.03.88 **RELEASE** shall mean, but is not limited to, any discharging, spilling, leaking, pumping, emitting, emptying, or dumping of pesticide, fertilizer, or materials containing pesticide or fertilizer, upon land, beneath the surface of the land, or into waters of the State, either by accident or otherwise, except that this definition shall not apply to normal field applications or to the normal rinsing and washing activities on the loadout facility.

2.03.89 **RUBBISH** shall mean non-putrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety.

2.03.90 **RUN-ON** shall mean any precipitation, leachate, or other liquid that drains over land onto any part of a facility.

2.03.91 **SALVAGE OPERATION** shall mean the controlled and safe removal and collection of valuable or useful waste materials at any point in the solid waste stream.

2.03.92 **SALVAGE YARD** shall mean 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.

2.03.93 **SATURATED ZONE** shall mean that part of the earth's crust in which all voids are filled with water.

2.03.94 **SCAVENGING** shall mean the uncontrolled and unsafe removal of materials at any point in the solid waste stream.

2.03.95 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

2.03.96 **SLUDGE** shall mean any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

2.03.97 **SOLID MANURE** shall mean 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 animals which contains not less twenty five percent (25%) solids by weight.

2.03.98 **SOLID WASTE** shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations, and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923.

2.03.99 **SOLID WASTE FOR LIVESTOCK FACILITIES** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

2.03.100 **SOLID WASTE COMPOST SITE** shall mean a tract of land, location, area or premises used for composting solid waste.

2.03.101 **SOLID WASTE DISPOSAL** shall mean the disposal of solid waste, including any household waste, commercial solid waste, fossil fuel combustion ash, nonhazardous sludge, industrial solid waste, or construction and demolition waste.

2.03.102 **SOLID WASTE DISPOSAL AREA** shall mean a discrete area of land or excavation which receives solid waste and includes all contiguous land and structures, other appurtenances and improvements on the land used for the disposal of solid wastes or improvements necessary to carry out the disposal of solid wastes. Solid waste disposal areas shall include, but not be limited to the following disposal areas: municipal solid waste disposal area, construction and demolition disposal areas, fossil fuel combustion ash disposal area, industrial disposal areas, delisted hazardous waste disposal areas and land application units for repeated disposal or treatment of special wastes.

2.03.103 **SOLID WASTE MANAGEMENT** shall mean the systematic administration of activities which provide for the collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste.

2.03.104 **SOLID WASTE MANAGEMENT FACILITY** shall mean a public or private site, location, tract of land, installation or building which has been used for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste, and shall include solid waste disposal areas and solid waste processing facilities.

2.03.105 **SOLID WASTE MANAGEMENT PLAN** shall mean a plan adopted by a county or municipality, including a joint plan adopted by an agency, for integrated solid waste management.

2.03.106 **SOLID WASTE PROCESSING** shall mean the process by which solid wastes are physically or chemically changed, temporarily stored, or salvaged prior to being transferred to a solid waste disposal area or to a secondary materials recovery facility.

2.03.107 **SOLID WASTE PROCESSING FACILITIES** mean any facility where solid wastes are processed, and shall include, but not be limited to solid waste compost sites, materials recovery facilities, recycling centers and solid waste transfer stations.

2.03.108 **SOLID WASTE TRANSFER STATION** shall mean any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off of the premises of the facility from vehicles or containers, into other vehicles or containers for transportation to a solid waste disposal area or solid waste processing facility.

2.03.109 **SPECIAL WASTE** shall mean a solid waste, except waste which is regulated as a hazardous waste, which possesses physical, chemical, or biological characteristics that make it different from general municipal solid waste, or construction and demolition waste, and which requires special handling, treatment, or disposal methodologies in order to protect public health, safety, and the environment.

2.03.110 **STORAGE** shall mean the containment of solid waste on a temporary basis in such a manner as not to constitute disposal of such waste.

2.03.111 **STORAGE FACILITY** shall mean a location where bulk pesticide or bulk fertilizer is stored. A storage facility shall include the entire contiguous tract of land upon which bulk pesticide or bulk fertilizer is loaded, unloaded, mixed, blended, or stored.

2.03.112 **SUMP** shall mean any pit or reservoir open to visual inspection, designed to temporarily collect and contain an accumulation of rinsed or washed off material or spilled liquids, structurally sound, and compatible with the materials contained.

2.03.113 **SURFACE IMPOUNDMENT** shall mean a facility or part of a facility that is a natural topographic depression, human-made excavation, or diked area formed primarily of earthen materials, or lined with synthetic materials, that is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

2.03.114 **SURFACE WATERS** shall mean all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within, or bordering upon, the State. Impounded waters in this definition do not include areas designated by the Department as wastewater treatment or wastewater retention facilities or irrigation reuse pits.

2.03.115 **SURVEILLANCE** shall mean the monitoring and observation of the disposal site for purposes of detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements of this Title.

2.03.116 **TOTALLY COVERED OR ENCLOSED** shall mean an area protected from precipitation and any subsequent drainage so that unwanted moisture does not enter the structure.

2.03.117 **TRANSFER** shall mean the act of transporting the solid waste from the point of storage to a processing facility and/or final disposal site.

2.03.118 **UNDERGROUND STORAGE** shall mean any container, combination of containers, surface impoundment, pit, pond, or lagoon, including underground pipes connected to such storage, which is used to store an accumulation of pesticide, fertilizer, fertilizer or pesticide solution, or related material and the volume of which is ten percent or more beneath the surface of the ground.

2.03.119 **UPPERMOST AQUIFER** shall mean the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary

2.03.120 **WASTE HANDLING FACILITY** shall mean any and all structures, combination of structures, underfloor pits, catch basins, aerobic lagoons, anaerobic digestion system, pipelines, diversion terraces, 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 concentrated and intensive animal feeding use generating waste, or municipal facility, used to store, process, digest, compost, transport, distribute, control or otherwise dispose of waste materials, other than solid waste as defined in Section

2.03.100 of this Resolution. Any facility, 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 allowable types and 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 use in which all waste is collected and digested utilizing aerobic digestion facilities and processes, including aerobic lagoons, including aerobic lagoons, wherein the Biochemical Oxygen Demand (BOD) loading shall not exceed 0.17 pounds per one hundred (100) gallons of water in lagoon, and dust, hazardous gases, odor or other air contaminants emitted from any building or structure is collected and processed to minimize air contamination.

Category R (Run-off / Catch basins): A waste handling facility use in which rainwater or other liquid run-off from open lots, waste storage sites, composting sites or other areas, which is contaminated with manure or other wastes, is impounded in liquid form for a period not exceeding one-hundred twenty (120) days in any calendar year. Compliance with the impoundment time limitation shall require evaporation of the liquid and cleaning out of the solid materials in the basin and/or pumping and injection of the liquid waste into the soil or for use in adding moisture to an aerobic composting process and cleaning out of the solid materials in the basin.

Category S (Solid): A waste handling facility where solid manure, as defined in Section 2.03.99 of this Resolution, or other solid animal wastes is moved to and/or collected mechanically, but not by water flow, and aerobically processed utilizing aerobic composting or temporarily stored for a period of not more than one hundred twenty(120) days prior to land application.

2.02.121 **WASTE OIL** shall mean any oil that has been refined from crude oil, used, and as a result of such use, is contaminated by physical or chemical impurities, or used oil as defined in Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska.

2.02.122 **WASTE PILE** shall mean any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

2.02.123 **WASTEWATER LAGOON** (See Lagoon.)

2.02.124 **WATER POLLUTION** shall mean the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

2.02.125 **WATER TABLE** shall mean the surface of underground gravity-controlled water.

2.02.126 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

2.02.127 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

2.02.128 **YARD WASTE** shall mean grass and leaves. For the purposes of composting, yard waste shall mean grass and leaves in combination with chipped trees and branches and other organic material collected as the result of the care of ornamental plants, lawns, shrubbery, vines and gardens.

ARTICLE 3: NUISANCES

Section 3.01 Nuisances; Generally Defined

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or other thing either:

1. Injures or endangers the comfort, repose, health, or safety of others,
2. Offends decency,
3. Is offensive to the senses,
4. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, or highway in the County,
5. In any way renders other persons insecure in life or the use of property, or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Section 3.02 Nuisances; Specifically Defined

The maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

1. Any odorous, putrid, unsound or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.
2. Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
3. Filthy, littered or trash-covered cellars, house yards, barnyards, stable-yards, factory-yards, mill yards, granaries, vacant tracts of land, houses, buildings, or premises.
4. Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner provided by the County Board of Commissioners or their representative, nor the dumping of non-putrefying waste in a place and manner approved by the County Board of Commissioners or their representative.
5. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.
6. Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles and/or farm machinery or parts thereof not neatly stored and/or screened from view, or any waste materials when any of said articles or materials create a condition in

which flies or rats may breed or multiply, or which may be a fire danger.

7. Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety.
8. All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobile, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by any persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.
9. Stagnant water permitted or maintained on any lot or tract of ground.
10. Stockyards, granaries, mills, concentrated feeding operations including environmentally controlled housing and open lots, or any other place, building, structure, or enclosure, in which animals or fowls of any kind are concentrated or on which are stored tankage or any other animal or vegetable matter including grain which is being processed, when said places in which said animals are concentrated, or said premises on which said animal or vegetable matter is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate there from, to the annoyance of inhabitants of the County, or are maintained and kept in such a manner as to be injurious to the public health.
11. Landfills and junkyards, which contain known hazardous waste materials, as defined in this Resolution, which have been determined to have contaminated the ground water.
12. All uses where the noxious odors and particulate matter can be proven to have contributed to health problems of nearby property owners; said health concerns shall be documented by a licensed Medical Doctor.
13. All other things specifically designated as nuisances elsewhere in this Resolution.

ARTICLE 4: SPECIAL CONDITIONS

Due to the concern for the public health, safety and general welfare of the residents of Keith County, certain uses may require special conditions to be placed upon the property, building, or structure. These special requirements shall apply to all new applications reviewed for zoning compliance and any existing uses deemed to be a nuisance. These special conditions are for the prevention, abatement, and removal of nuisances within Keith County, provided the nuisance is not so severe that compliance with this Article will not completely negate the nuisance. In cases where the nuisance cannot be mitigated, the nuisance or the use creating said nuisance may be required to cease.

Section 4.01 Slaughterhouses

1. No slaughterhouses shall maintain or stockpile waste material including blood, animal carcasses, or paunch manure on site for more than one week after processing.

2. Slaughterhouses shall maintain all waste material including blood, animal carcasses, or paunch manure in an appropriate location that is screened from sight and contains odor controls.
3. Slaughterhouses may operate a lagoon to handle liquid waste and paunch manure provided said lagoon meets the requirements of NDEQ and the Keith County Zoning Resolution.

Section 4.02 Stockyards, Concentrated Animal Feeding Uses, and Dairies

1. All new operations containing a lagoon as a waste handling system shall be required to meet the requirements of NDEQ and the Keith County Zoning Resolution.
2. All existing operations containing a lagoon as a waste handling system and having been deemed a nuisance by the County Board of Commissioners shall be required to meet the requirements of the Keith County Zoning Resolution in an attempt to mitigate the nuisance. If the nuisance cannot be mitigated then the County Board of Commissioners may require the termination of said nuisance.
3. The County Board of Commissioners may require monitoring wells on any Concentrated Feeding Operation using a waste handling system deemed to have the potential to contaminate the soil and/or water, including groundwater and surface water. This requirement may be in excess of requirements placed upon the operation by NDEQ and other reviewing agencies.
4. Testing and monitoring of any required monitoring well will be at the owner/operator's expense and will be completed by an agreed upon independent testing company. Representatives of the Natural Resources District may be used in lieu of an independent lab.
5. The application of livestock manure from new and existing facilities shall be required to comply with the Keith County Zoning Resolution.
6. A nuisance shall be present if the hydrogen sulfide levels within the ambient air exceed the following:

Hydrogen Sulfide

- 0.05 ppm (70.0 micrograms per cubic meter) for no more than a ½ hour average and not to exceed two times per year.
- 0.03 ppm (42.0 micrograms per cubic meter) for no more than a ½ hour average and not to be exceeded more than two times in any five consecutive days

Measurements shall be taken at the property line between two land owners.

Exemptions for this nuisance are as follows:

1. The owner of concentrated animal feeding uses is exempt from the ambient air standards during the removal of manure from barns or manure storage facilities, and for seven days after the manure is removed. For concentrated animal feeding uses greater than 1,000 animals, the maximum cumulative exemption in a calendar year is 21 days. The operator is required to notify the County Board of Commissioners or their duly appointed representative prior to the anticipated start date of manure removal and shall supply the following information:
 - . The owner of the facility
 - . The location of the facility
 - . The anticipated duration of the manure removal process
 - . The anticipated start date for removal
2. For hydrogen sulfide, measurements made to determine compliance with the standards shall be performed in accordance with any measurement method approved by the County Board of Commissioners. The commissioners

shall approve a measurement method where the sensitivity, precision, accuracy, response time, and interference levels of the method are comparable to that of the measurement methods for other pollutants. When the person seeking to take the measurement has developed and submitted to the county, a quality assurance plan that provides operational procedures for each of the activities described in Code of Federal Regulations, as amended, title 40, part 58, appendix A.2.2, Quality Assurance Requirements for State and Local Air Monitoring Stations.

Section 4.03 Junk and Salvage Yards

1. All Junk and salvage yards shall comply with all Zoning and subdivision regulations in Keith County.
2. All junk and salvage yards new and existing shall be required to be screened with an opaque fence and shall have a height between eight feet and 12 feet. Said fence shall also be required to be a security system to keep unauthorized persons from entering over the top.
3. All junk and salvage yards shall be required to drain all fluids from vehicles and other machinery prior to compacting or placing into long-term storage.
4. All materials placed within a junk or salvage yard shall be stored and stacked in an orderly manner.
5. All Junk and salvage yards shall be required to take measures to prevent the infestation of rats and other vermin. Measures shall be documented and kept on file.

Section 4.04 Landfills

1. Landfills shall be required to notify the County Board of Commissioners of Keith County, which shall hold a public hearing, prior to the acceptance of any hazardous waste materials, contaminated materials, or converted (treated) hazardous waste as defined in this Resolution.
2. The introduction of any hazardous material, contaminated materials, or converted (treated) hazardous waste must meet the requirements of NDEQ and shall also be tested prior to and during deliveries by an independent testing laboratory to be selected by the County and agreed to by the operator.
3. The landfill shall be required to install monitoring wells per NDEQ and Keith County requirements, when deemed necessary, in able to monitor the ground water and to protect the health, safety and general welfare of the residents of Keith County and neighboring counties influenced by the underlying aquifers. Access to the monitoring wells, shall be given to the County Board of Commissioners, their representative and/or the Natural Resources District for the sole purpose of taking samples. No advance notice for the testing shall be required and shall take only take place during normal operating hours.
4. Landfill operators and/or owners shall be required to test the leachate including the volume and physical and chemical characteristics of the leachate every six months. An independent testing lab, agreed upon by both the landfill and the County shall take and complete said testing at the operator's expense. The results of the testing shall be given to the County Board of Commissioners and placed on file.
5. The monitoring and testing of all deep monitoring wells shall be completed annually. An independent testing lab, agreed upon by both the landfill and the County shall complete said testing at the operator's expense. The results of the testing shall be given to the County Board

- of Commissioners and placed on file. Representatives of the Natural Resources District as opposed to an independent lab may do the testing.
6. Upon closure of any facility or portion of a facility, the owner shall comply with the approved closure as provided to NDEQ. Continual testing of any or all monitoring wells may be required by Keith County.

Section 4.05 Telecommunication Towers

1. All telecommunication towers that require lighting shall provide at a minimum a dual lighting system and all strobe lighting shall be required to cease one-half hour before dusk and cannot be reactivated until one-half hour after dawn.

Section 4.06 Nuclear Waste

1. Long-term storage of Nuclear Waste, including Low-level Radioactive Waste, shall not be allowed within the jurisdiction of Keith County.

Section 4.07 Signs including Billboards

1. All abandoned signs, including billboards shall be removed within 90 days of when the use is discontinued.
2. All signs shall be kept in good repair and shall be repair and/or replaced as deterioration occurs, in order to not negatively impact any adjacent properties and roadways.
3. All signs shall keep back 100 feet from any intersection, measured at 45 degrees.

Section 4.08 Abandoned Buildings and Structures

1. All abandoned buildings shall be kept in good repair; otherwise these buildings and structures shall be demolished and hauled away.

Section 4.09 Trash, Litter, Mass accumulation of materials

1. The accumulation and storage of trash shall be prohibited in Keith County unless at a State licensed sanitary landfill.
2. The accumulation of recyclable items shall be screened from view and shall be part of a state and/or county permitted recycling facility.
3. All Recycling Centers shall be required to show evidence that items are rotated out of the facility at least on a quarterly basis.

Section 4.10 Application of Manure

1. The aerial application of animal and/or human waste shall not be done within 1,000 feet of any uncapped well used for human and/or animal consumption. Aerial application shall include any application from any waste handling facility via irrigation equipment, or vehicles/equipment used for liquid applications.

ARTICLE 5: ABATEMENT AND ABANDONMENT

Section 5.01 Abatement

1. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the County to keep such real estate free of public nuisances.

2. Upon determination by the County Board of Commissioners that said owner, occupant, lessee, mortgagee has failed to keep such real estate free of public nuisance shall, thereupon cause the County to serve notice upon the owner, occupant, lessee, mortgagee, or agent thereof, by certified mail.
3. Such notice shall describe the condition as found by the County Board of Commissioners and state that said condition must be remedied at once.
4. If the person receiving the notice has not complied therewith or taken an appeal from the determination of the County Board of Commissioners within five (5) days after receipt of certified mail, the County Board of Commissioners shall notify the County Attorney of noncompliance.
5. If noncompliance occurs, the County Board of Commissioners shall cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee, mortgagee, or agent of the real estate.
6. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the County Board of Commissioners to show cause why such condition should not be found to be a public nuisance and remedied.
7. A return of service shall be required by the County Board of Commissioners
8. Such notice shall be given not less than five (5) days prior to the time of hearing, provided that whenever the owner, occupant, lessee, or mortgagee of such real estate is a non-resident or cannot be found in the State, then the County Clerk shall publish, in a newspaper of general circulation in the County, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing.
9. Upon the date set for the hearing and pursuant to notice, the County Board of Commissioners shall hear all objections made by interested parties and shall present the evidence which the County Board of Commissioners felt justified the public nuisance.
10. If after consideration of all the evidence, the County Board of Commissioners shall find that the said condition is a public nuisance, it shall by Resolution order and direct the owner, occupant, lessee, or mortgagee to remedy the said public nuisance at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the County Board of Commissioners shall be stayed.
11. Should the owner or occupant refuse or neglect to promptly comply with the order of the County Board of Commissioners, the County Board of Commissioners shall proceed to cause the abatement of the described public nuisance through a court order.
12. Upon completion of the work by the County, a statement of the cost of such work shall be transmitted to the County Board of Commissioners which is authorized to bill the property owner or occupant, or levy the cost as a special assessment against the land.
13. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

Section 5.02 Abandonment

1. It shall be the duty of every owner, occupant, lessee, or mortgagee of real estate in the County to remove, demolish, or eliminate all buildings, structures and/or uses upon abandonment.
2. Upon determination by the County Board of Commissioners that said owner, occupant, lessee, mortgagee has abandoned said building,

- structure, and/or use, the County shall cause notice to be served upon the owner, occupant, lessee, mortgagee, or agent thereof, by certified mail.
3. Such notice shall describe the condition as found by the County Board of Commissioners and state that said condition must be remedied at once.
 4. If person receiving the notice has not complied therewith or taken an appeal from the determination of the County Board of Commissioners within five (5) days after receipt of certified mail, the County Board of Commissioners shall notify the County Attorney of noncompliance.
 5. If noncompliance occurs, the County Board of Commissioners shall cause a hearing date to be fixed and notice thereof to be served upon the owner, occupant, lessee, mortgagee, or agent of the real estate.
 6. Such notice of hearing shall be by personal service or certified mail and require such party or parties to appear before the County Board of Commissioners to show cause why such condition should not be found to be an abandonment of a building, structure, and/or use and remedied.
 7. A return of service shall be required by the County Board of Commissioners
 8. Such notice shall be given not less than five (5) days prior to the time of hearing, provided that whenever the owner, occupant, lessee, or mortgagee of such real estate is a non-resident or cannot be found in the State, then the County Clerk shall publish, in a newspaper of general circulation in the County, such notice of hearing for two (2) consecutive weeks, the last publication to be at least one (1) week prior to the date set for the hearing.
 9. Upon the fixed date for the hearing and pursuant to notice, the County Board of Commissioners shall hear all objections made by interested parties and shall present the evidence which the County Board of Commissioners felt justified the declaration of abandonment.
 10. If after consideration of all the evidence, the County Board of Commissioners shall find that the said building, structure, and/or use has been abandoned, it shall by Resolution, order and direct the owner, occupant, lessee, or mortgagee to remedy the said abandonment at once; provided, the party or parties may appeal such decision to the appropriate court for adjudication, during which proceedings the decision of the County Board of Commissioners shall be stayed.
 11. Should the owner or occupant refuse or neglect to promptly comply with the order of the County Board of Commissioners, the County Board of Commissioners shall proceed to cause the abatement of the described abandonment.
 12. Upon completion of the work by the County, a statement of the cost of such work shall be transmitted to the County Board of Commissioners which is authorized to bill the property owner or occupant, or levy the cost as a special assessment against the land.
 13. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

ARTICLE 6: SURETY FUNDS

Section 6.01 Surety Funds

Surety funds shall be obtained as required by the State of Nebraska. Evidence of said surety funds or any waivers shall be provided, in writing, to the County Board of Commissioners prior to commencing construction. This requirement shall only apply to those uses where the State of Nebraska requires surety funds or is empowered to grant a waiver for said funds.

ARTICLE 7: VIOLATION AND PENALTIES

Section 7.01 Violation

1. The erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, automobile, trailer, or land in violation of this act or of any regulation made by the County Board under the provisions of this act shall be a misdemeanor.
2. Any person, partnership, association, club or corporation violating the provisions of this act or of any regulation of the County Board, or erecting, constructing, reconstructing, altering, or converting any structure without having first obtained the proper permits as required by the provisions of this Resolution shall be guilty of a Class III Misdemeanor. Each day such violation exists shall constitute a separate offense.

Section 7.02 Other Remedies

1. In addition to other remedies, the County Board or the proper local authorities of the County, as well as any owners of real estate 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, or use to restrain, correct, or abate such violation, or to prevent the illegal act, conduct business, or use in or about such premises.
2. Any taxpayer or taxpayers of the county may institute proceedings to compel specific performance, by the proper official or officials of any duty imposed by the provisions of these regulations.

Section 7.03 Fines

All violations of this Resolution shall be considered a Class III Misdemeanor. Each day such violation exists shall constitute a separate offense. Each offense shall be subject to a \$100.00 fine.

ARTICLE 8: LEGAL REMEDY AND PENALTIES

Section 8.01 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 8.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections 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 the terms and provisions of this Resolution.

Section 8.03 Repeal of Conflicting Resolutions.

All Resolutions or parts of Resolutions in conflict with this Resolution, or inconsistent with the provisions of this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

Section 8.04 Effective Date.

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

ADOPTED AND APPROVED by the Governing Body of KEITH COUNTY, NEBRASKA

Dated the _____ day, in the month of _____, 2005.

KEITH COUNTY BOARD OF COMMISSIONERS

Chairman

ATTEST:

Keith County Clerk