

## BOARD OF COUNTY COMMISSION AGENDA



May 4, 2026

### CALL TO ORDER 9:00 AM

### PLEDGE OF ALLEGIANCE TO THE FLAG & INVOCATION

### APPROVE OF AGENDA

### CONSENT AGENDA

Approval of Minutes

### PUBLIC COMMENT

*Members of the general public are provided an opportunity to address the Board of County Commissioners in a civil and respectful manner. Those planning to address the Board should check in with the Clerk upon arrival. Speakers are generally allotted up to five minutes to speak. No formal actions shall be taken.*

**\*\*\*NOTE: Public comment may begin to be taken at any time after 9:00 AM and it will be ended as soon as all members of the public that have identified themselves to speak at the time public comment is opened have spoken in accordance with the policy stated above.\*\*\***

### BUSINESS ITEMS

#### **1. EMS Building RFP (9:20 AM – Estimated Time)**

- The Board of Commissioners has tirelessly worked on outlining written updates to the draft Request for Proposals for the EMS Building
- It was determined at the last meeting that the County would secure additional information concerning preparation of detailed bid specifications from local contractors.
- An extended conversation with several local contractors occurred, with the building location identified after viewing the site outdoors with several local contractors.
- Substantial additional review of existing RFP specifications occurred with dialogue between several local contractors and members of the Commission. Detailed notes concerning the dialogue and suggested modifications/additions/deletions to the

draft RFP specifications were recorded by several local contractors.

- It is the County's understanding that the local contractors in attendance at the meeting are working together to identify updates that should be made to the existing RFP, as well as to obtain an updated sketch of the building layout
- It is understood that those contractors will be presenting this information to the County Administrator directly.
- This information has not yet been received by the County Administrator, but it is assumed that the conversation between local contractors and the Commission will continue at this week's meeting.
- It is hoped that by this meeting information will hopefully be fully assembled by the Commission and the local contractors in attendance by the end of this week's meeting, and that the same will be sent to the County Administrator for integration into the RFP specifications this coming week.
- The envisioned time slot for this discussion to continue during this week's meeting is starting at 9:20 AM. Everyone is invited and encouraged to attend this week's discussion.

**2. Best Life Budget Request (10:15 AM – Estimated Time)**

- Susan Futscher, Executive Director, Best Life Community Services (formerly NCTC), has requested to present the organization's annual budget request to the Commission.

**3. Road and Bridge (Adam's Emailed Report Information) (10:15 AM – Estimated Time)**

- A Right of Way request from Blue Valley Telecommunications is included as Exhibit 1 to this Agenda for review and approval by the Commission.
- The bridge crew has started tearing out H-14.
- Adam awarded a tire bid to C&K. (Included as Exhibit 2 to this Agenda are the tire bids.)
- Dust control has been marked and will be applied soon.
- The road crew has been rocking Nightingale Turnpike between 9 highway and old 9.
- The road crew will begin blade pathing when weather permits.
- Old 9 west of Corning will be micro surfaced at the end of the week.
- Adam will be in attendance at the meeting.

**4. Computer and Software Updates (10:25 AM – Estimated Time)**

- LockIt, our IT service provider, has provided quotes for Windows 10 updates for certain computers that are not compatible for Windows 11 upgrades, as well as a quote for the replacement of the three current Commission computers with a single desktop option that would allow for electronic document review and Zoom/Teams connectivity. The quotes were discussed last week and will be up for consideration again this week. The quotes are included as Exhibit 3 with this Agenda for review by the Commission.

**5. Noxious Weeds Chemical Bids (10:30 AM – Estimated Time)**

- Todd Swart has obtained chemical bids (a spreadsheet detailing these bids is included as Exhibit 4 with this Agenda). This spreadsheet includes Todd's recommendations for awards.
- Action Item: Approve the awards for chemical bids as recommended by Todd in the attached Spreadsheet.

**6. Zoning Regulations (10:35 AM – Estimated Time)**

- Since the beginning of 2025, the Planning Commission has been tirelessly working to consider whether, and to what extent, they would propose any zoning regulations for Nemaha County, Kansas.
- After more than a year of substantive review of potential forms of regulation, the Planning Commission voted 6-3 on Monday, April 27, 2026 to recommend approval of the Zoning Regulations that are included as Exhibit 5 to this Agenda.
- In accordance with K.S.A. 12-756, these Zoning Regulations are now submitted to the Commissioners for review.
- K.S.A. 12-756(b) provides, in relevant part, as follows:
  - Upon the development of proposed zoning regulations, the planning commission shall hold a public hearing thereon. Notice of such public hearing shall be published at least once in the official city newspaper in the case of a city or in the official county newspaper in the case of a county at least 20 days prior to the date of the hearing. In the case of a joint zoning board, notice of such hearing shall be published in the official city and official county newspapers. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. The hearing may be adjourned from time to time and at the conclusion of the same, the planning commission shall prepare its recommendations and by an

affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed zoning regulations and shall submit the same, together with the written summary of the hearing thereon, to the governing body.

- On Monday, October 27, 2025, the Planning Commission held its public hearing. The Planning Commission adopted its minutes of this hearing, incorporating three articles from the Sabetha Herald as references providing further detail of this hearing and information on the proposed Land Development Code. A copy of the minutes for said October 27, 2025 meeting, as well as the three referenced articles from The Sabetha Herald that were referenced therein, is included as Exhibit 6 to this Agenda. This is submitted as the written summary of the hearing on the proposed Zoning Regulations, as these were the officially adopted minutes of the Planning Commission concerning the same.
- K.S.A. 12-756(b) further provides, in relevant part, as follows:
  - The governing body either may: (1) Approve such recommendations by the adoption of the same by ordinance in a city or resolution in a county; (2) override the planning commission's recommendations by a 2/3 majority vote of the membership of the governing body; or (3) may return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove. If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by the respective ordinance or resolution, or the governing body need take no further action thereon. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of

inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly. The proposed zoning regulations and any amendments thereto shall become effective upon publication of the respective adopting ordinance or resolution.

**STAFF REPORTS**

County Clerk (As Needed)

County Counselor/County Administrator

**BOARD GOVERNANCE**

Upcoming Meetings and Events

**COMMISSIONER REPORTS**

*Reports of recent engagements and activities.*

**ADJOURNMENT**

**NOTE: Please call the Nemaha County Administrator's office at 785-369-8664 to make an appointment.**

# Exhibit 1

RIGHT-OF-WAY EASEMENT FORM

Sec. 14,23 Twp. 3-S Range 11-E  
Road No. 120th

NEMAHA COUNTY HIGHWAY DEPARTMENT  
710 PIONEER STREET, SENECA, KS 66538  
PHONE 785-336-2168 FAX 785-336-2827

COMES NOW Blue Valley Tele-Communications, Inc.

This 27th day of April, 2026, before the Board of County Commissioners of Nemaha

County, Kansas with plans To bury fiber optic cable from an existing hand-hole via  
(description of work)  
vibrating plow for approximately 400 feet along the south edge of 120th Rd; and  
to bore across 120th Rd. and pull back 1.25" HDPE duct for fiber optic cable.

along or across Nemaha County roads and or bridges as indicated by the herein attached drawings.

Said Petitioner agrees to the following:

1. All work shall be done in a workmanlike manner, and the right-of-way left in a condition satisfactory to Nemaha County. All roads maintained by Nemaha County shall be bored and the surface not be cut.
2. The Owner shall hold Nemaha County harmless from any damage that may result to said roadway because of the construction or maintenance of said facilities, and also safeguard and protect adjacent property.
3. The Owner shall save the County harmless from any damage claims that might arise from construction or maintenance of said facilities.
4. The County shall assume no responsibility for damage to the facilities occasioned by County construction or maintenance operations.
5. That said utility will move, lower or alter said line at any time it is necessary for road construction, as determined by Nemaha County, without any cost to the County.
6. The County will give the Owner notice of any proposed construction or maintenance work that is likely to expose said facility in order that the Owner can arrange to protect the service and avoid damage, if possible.
7. The County will be furnished a map showing location of all facilities.
8. All locations of facilities within the County Right-Of-Way shall be approved by the County verbally or in writing prior to commencing construction.

Signed April 27, 20 26

By Randy Osterhaus

Company Blue Valley Tele-Communications, Inc.

Approved \_\_\_\_\_, 20 \_\_\_\_\_ COMMISSIONERS \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

7-3-5 1 08-11-5 Sec. 14 & 25

Porton Detour  
Sec 120 + 4 M

Existing headlake

Proposed Work  
to bury fiber  
optic cable

Sec. 13

Sec. 14

Sec. 24

Sec. 25

Stringtown Road

Weather

CRGSS  
ROBERT  
IV

563 1200 ft. Rd.

50

Proposed Bore

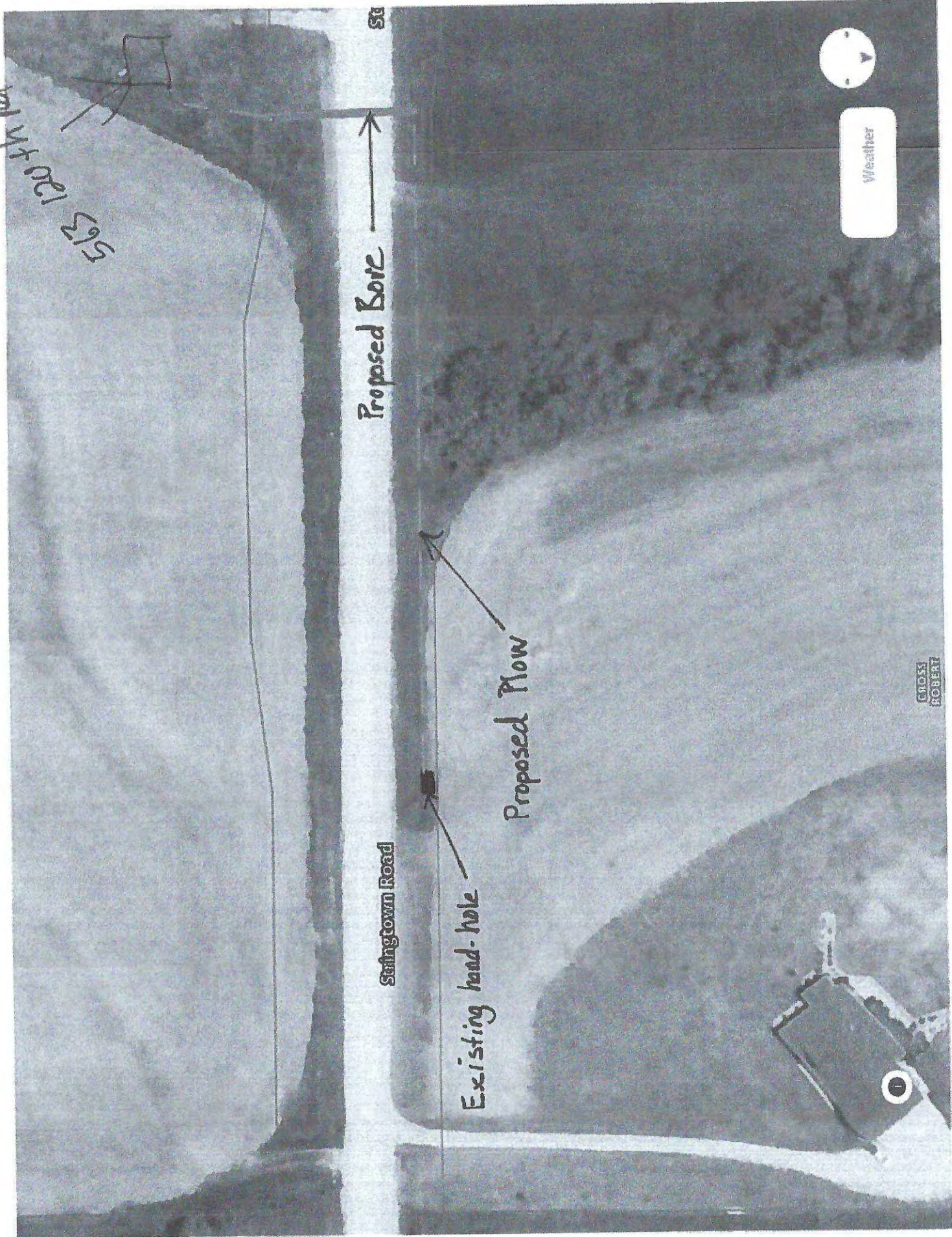
Existing hand-hole

Stoughton Road

Proposed Flow

Weather

CROSS ROBERT



# Exhibit 2

2391030210

## 11R24.5 (16) 149/146K FORTUNE FAM210 ON/OFF C/C A/P

Commercial Truck/Bus, Medium-Duty Truck All-Position Radial tire for On/Off-Road Mixed-Service Applications.

### ITEM SPECS

BrandId	902
Diameter	44
Drd	307525
Ean	0745125491097
InchWidth	11
LoadCapacityDual	6610
LoadCapacitySingle	7160
MaxInflationPressure	130
MeasuringRimWidth	8.25
MinDualSpacing	12.5
Model	FAM210
ModelId	29873
OverallDiameter	43.5
RevolutionsPerMile	464
Rim Diameter	24.5
RoundedDiameter	44
Section Width	11.0
SegmentTags	All Terrain, Commercial
Sidewall	BSW
StaticLoadedRadius	20.3
Tread Depth	24
TreadWidth	8.5
Upc	840139600104
VehicleTypeTags	Medium Truck
Weight	121
WinterClass	studless



LR/SR

PLY RATING

149K

16

### BENEFITS

- ✓ For longer tire life and resistance to scrapes, chips and cuts
- ✓ For improved traction
- ✓ For improved weight distribution
- ✓ For casing durability and retreading

### FEATURES

- ✓ Special chip/cut compound
- ✓ 4-rib unique tread design
- ✓ Optimized footprint
- ✓ 4-belt construction

C+K

\$2,733.04





# Becker Repair and Performance LLC

Estimate # 20738

713 72nd Rd  
Centralia, KS. 66415  
Phone: (785)-857-3215  
beckerrepairandperformance.com | brpllc.office@gmail.com  
Payment Due: 15th of each Month

## Estimate

**Estimate Due: \$1,417.94**

Nemaha County Road and Bridge - 0  
Adam Kuckelman

Estimate Date: 04/29/2026  
Service Advisor:  
Customer ID: 448

VIN: License Plate: TIRES KS  
Odometer: In 1

Type	Description	Part #	Qty/Hr	Sale	Total
<b>Job Title</b>				Initials:	<b>\$1,417.94</b>
Note	c&c				
Part	FIRESTONE FS560 16PLY *THESE DO NOT HAVE CUT & CHIP* Size: 11R24.5	560	1.00	\$376.36	\$376.36
Part	Excise Tax		1.00	\$0.25	\$0.25
Part	FIRESTONE FS821 16PLY CUT & CHIP Size: 11R24.5	821	1.00	\$515.00	\$515.00
Part	Excise Tax		1.00	\$0.25	\$0.25
Part	TOYO M325 A/P 16PLY CUT AND CHIP DESIGNED FOR THE LOGGING/MINING INDUSTRY Size: 11R24.5	546190	1.00	\$525.83	\$525.83
Part	Excise Tax		1.00	\$0.25	\$0.25
Parts: \$1,417.19		Labor: \$0.00	Fees: \$0.75	Tax: \$0.00	Total: \$1,417.94

I hereby authorize the above repair work to be done along with the necessary material and hereby grant you and/or your employees permission to operate the vehicle described for testing and/or inspection. Express mechanic's lien is hereby acknowledged on above vehicle to secure the amount of repairs thereto. SMOG: I understand that I can have emission service and/or adjustments done elsewhere. I hereby waive this right. TEARDOWN ESTIMATE: I understand that my vehicle will be reassembled within \_\_\_ days of the date shown above if I choose not to authorize the service recommended. All Parts removed will be discarded unless instructed otherwise: Save all Parts \_\_\_\_. NOT RESPONSIBLE FOR LOSS OR DAMAGE TO CARS OR ARTICLES LEFT IN CARS IN CASE OF FIRE, THEFT OR ANY OTHER CAUSE.

Labor	\$0.00
Parts	\$1,417.19
Fees	\$0.75
<b>Subtotal</b>	<b>\$1,417.94</b>
Taxes	\$0.00
<b>Estimate Total:</b>	<b>\$1,417.94</b>

INVOICES ARE DUE UPON RECEIPT.

Finance charges will be assessed one month from the closing date of the statement. Charges are computed at a rate of 1.5% per month which is an annual rate of 18% applied to the unpaid balance after deducting current payments.

Signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_





# POMP'S TIRE SERVICE, INC.

REMITTANCE ADDRESS:  
POMP'S TIRE SERVICE, INC  
P O BOX 88697  
MILWAUKEE, WI 53288-8697  
CREDIT DEPT 800-536-2940

ESTIMATE #	988802
------------	--------

POMP'S TIRE-TOPEKA NORTH  
2128 N.E. MERIDEN ROAD  
HIGHWAY 24 EAST  
TOPEKA, KS 66608

PAGE: 1

785/235-9246

CUSTOMER: NEMAHA COUNTY HWY DEPT.  
ATTN: ACCOUNTS PAYABLE  
1961541 710 PIONEER STREET  
SENECA, KS 66538

CREATED BY CM  
FAX NUMBER: 785-336-2827  
BUSINESS: 785/336-2168 0  
SALESMAN: CHRIS MCDANIEL  
ESTIMATE DATE: 04/27/26

TERMS: 1 PMT DUE 10TH OF MON AFTR INV

PRODUCT	MECHANIC	QUANTITY	PRICE	F.E.T.	EXTENSION
11R24.5/16 F/S FS560 PLUS		8	376.36		3010.88
F156582					
TIRE USER FEE - KS	<i>No cut + Chip</i>	8	.25		2.00
MERCHANDISE:					3010.88
OTHER:					2.00
ESTIMATE TOTAL:					3012.88

\*\*\*A COPY OF THIS ESTIMATE HAS BEEN EMAILED\*\*

\*\*\*\*\* Valid for 30 days \*\*\*\*\*



## FIRESTONE - 11R24.5 H FS560 PLUS



### Firestone

Commercial Truck/Bus. Medium-Duty  
Truck Steer/All-Position Radial tire  
Designed for Steer Applications in  
Regional Haul Service and Pickup &  
Delivery Service. -- Tread Design Differs  
Depending on Size/Application --

#### Features

- Wide flow-through grooves and cross-rib sipes
- Solid shoulder design
- Stress relief sipes
- Sidewall protector ribs
- Wide tread
- 19/32nds tread depth
- Cap/base compounding
- Firestone Truck Tire Limited Warranty



*5 Star Price \$295.89*

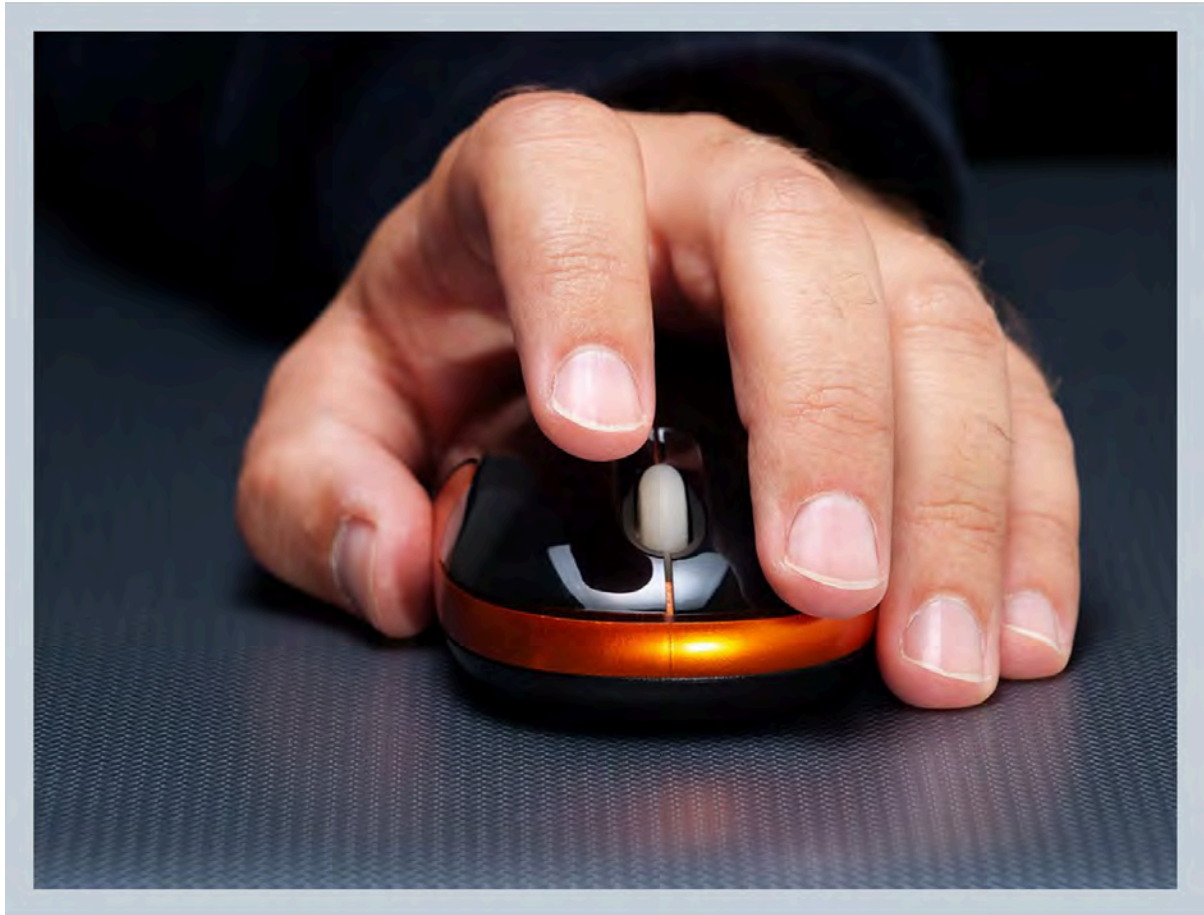
#### Benefits

- Enhance wet traction



## Exhibit 3

Prepared for: Nemaha County





QUOTE #	2550
DATE	03/24/2026

Prepared for:

Austin Parker  
607 Nemaha St Seneca, Kansas

P: 7853698664

E: austin@parkerparkerlawfirm.com

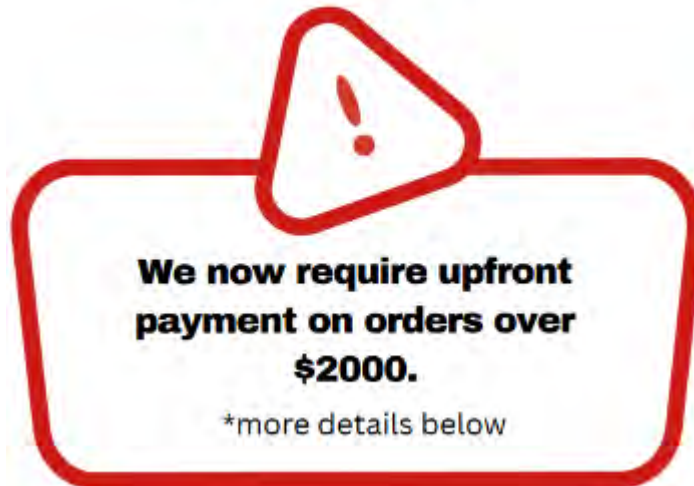
Prepared by:

Stephanie Badawieh  
206 S Mill St  
Beloit, KS 67420

P: 785-534-1626

E: sbadawieh@lockit.tech

**Please notice!**



Labor

Installing new Extended Security Updates on your computer is considered a project and as such will be billable. LockIT typically estimates between 10-20 minutes for an Extended Security Update install. This includes initial prep and follow up adjustments. Our project hourly rate is \$180 and our project mileage rate is \$2.75 per mile, round trip. Please note these charges are NOT listed as a totaled, line item.

All Mandatory

Description	Price	Qty.	Amount
<b>Windows 10 ESU Year 1 (2025 - 2026) [Commercial]</b>	\$61.00	3	\$183.00
Windows 10 ESU Year 1 (2025 - 2026) [Commercial]	Each		

Upfront	\$183.00
Tax	\$0.00
<b>Total</b>	<b>\$183.00</b>

Notes:

Some people like email, some like a phone call or texting. I'm available for all three! Get back to me using your preferred communication choice and I'm happy to be of further assistance.

\*Please note product totaling \$2000 or more will be automatically invoiced upfront. Labor will be billed separately following project completion.

Please note orders under \$1000 may be subject to a shipping charge.

Manufacturer warranties cover parts only and does not account for LockIT time spent diagnosing, conversing with support or installing warrantied parts. All time will be billed at our hourly rate if not on a service agreement.

Legal:

This quote is made and entered into pursuant and subject to the terms and conditions under the Master Services Agreement (“Agreement”) between the Parties located at [Online MSA](#) and the Parties agree to be bound by its terms.

To accept this quotation, sign here and return:

( Austin Parker )

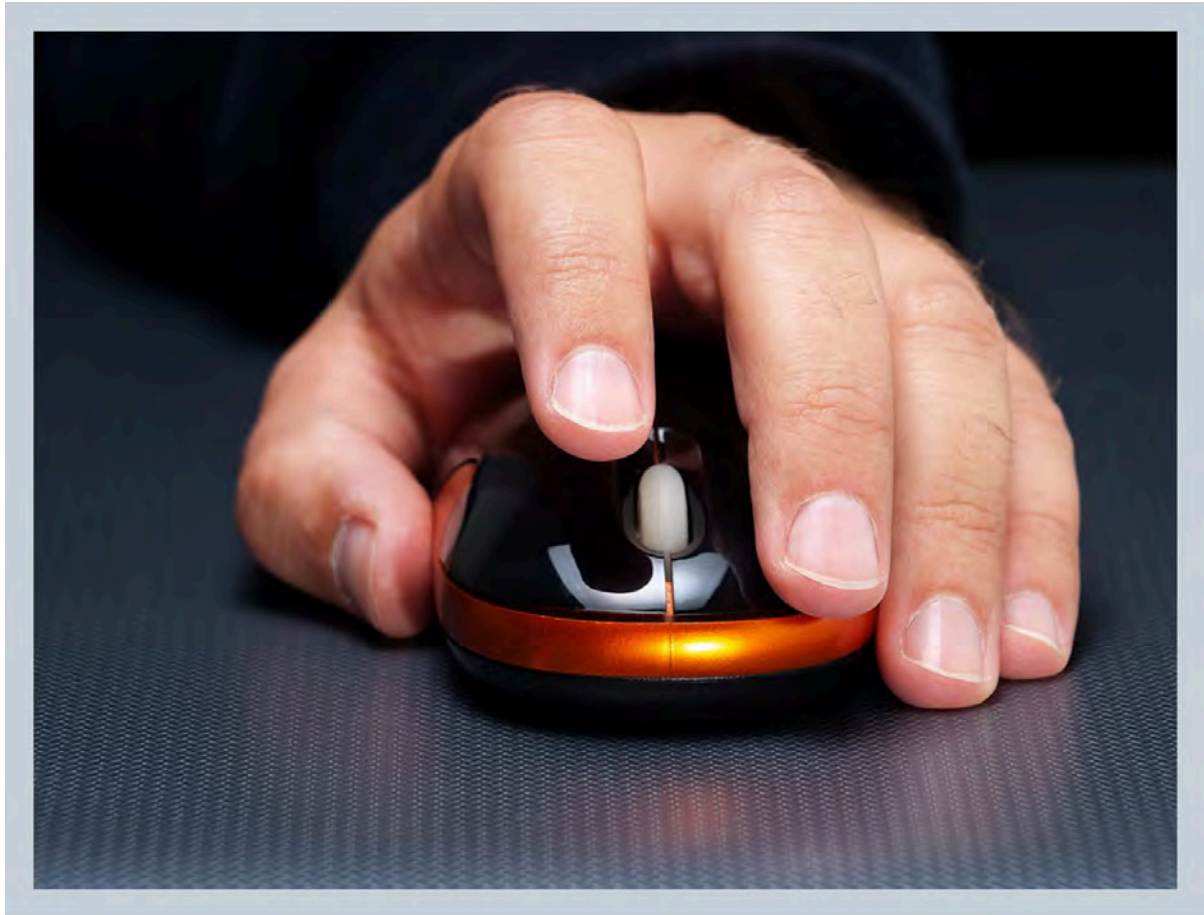
***Thank You for Your Business!***

***LockIT Technologies, LLC***



Replacements for Windows 10 Machines

Prepared for: Nemaha County





QUOTE #	2551
DATE	03/24/2026

Prepared for:

Austin Parker  
607 Nemaha St Seneca, Kansas

P: 7853698664

E: austin@parkerparkerlawfirm.com

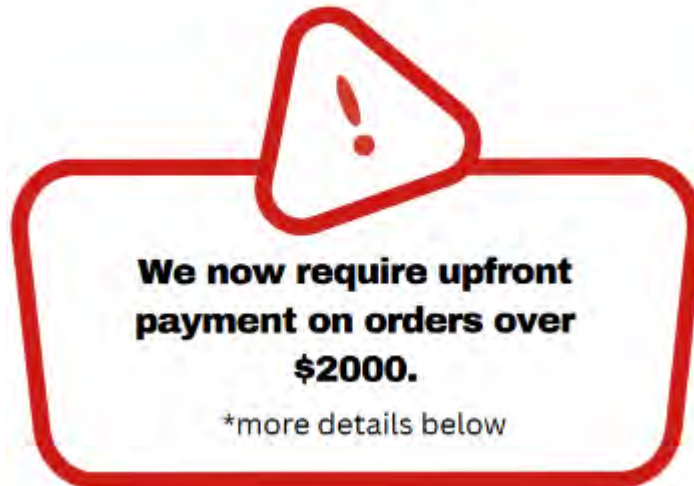
Prepared by:

Stephanie Badawieh  
206 S Mill St  
Beloit, KS 67420

P: 785-534-1626

E: sbadawieh@lockit.tech

**Please notice!**



Hello!


Here is an option for our most popular PC, the Lenovo Tiny. You can uncheck the monitors if they are not needed. I've included a video to show how the TiO monitor and PC work together.

## Labor

A new computer is considered a project and as such will be billable. LockIT typically estimates between 4-6 hours for a computer install. This includes initial prep in our office, setup on site and follow up adjustments relating to the install. Our project hourly rate is \$180 and our project mileage rate is \$2.75 per mile, round trip. Please note these charges are NOT listed as a totaled, line item.



## PCs

 Allow only one

Description	Price	Qty.	Amount
<input type="radio"/> <b>Lenovo ThinkCentre M70q Gen 5 Desktop Computer - Intel Core i5 14th Gen i5-14400T - 16 GB - 512 GB SSD - Tiny - Black</b> Lenovo ThinkCentre M70q Gen 5 Desktop Computer - Intel Core i5 14th Gen i5-14400T - 16 GB - 512 GB SSD - Tiny - Black	\$1,399.00 Each	1	\$1,399.00



<input checked="" type="radio"/> <b>Lenovo ThinkCentre M70q Gen 5 Intel® Core™ i7 i7-14700T 16 GB DDR5-SDRAM 512 GB SSD Windows 11 Pro Mini PC Black</b>	\$1,659.00 Each	1	\$1,659.00
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Lenovo ThinkCentre M70q Gen 5. Processor family: Intel® Core™ i7, Processor model: i7-14700T. Internal memory: 16 GB, Internal memory type: DDR5-SDRAM, Memory clock speed: 5600 MHz. Total storage capacity: 512 GB, Storage media: SSD. On-board graphics card model: Intel UHD Graphics 770. Operating system installed: Windows 11 Pro, Operating system architecture: 64-bit. Power supply: 135 W. Chassis type: Mini PC. Product type: Mini PC. Weight: 2.76 lbs (1.25 kg). Product color: Black



<input type="radio"/> <b>Lenovo ThinkCentre M90q Gen 6 Desktop Computer - Intel Core Ultra 5 235 - 32 GB - 512 GB PCI Express NVMe 4.0 x4 SSD - Tiny - Black</b>	\$1,959.00 Each	1	\$1,959.00
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Lenovo ThinkCentre M90q Gen 6 Desktop Computer - Intel Core Ultra 5 235 - 32 GB - 512 GB PCI Express NVMe 4.0 x4 SSD - Tiny - Black



## Monitors

All Optional

Description	Price	Qty.	Amount
<input checked="" type="checkbox"/> <b>Lenovo ThinkCentre TIO24 Gen5 24 Class Webcam Full HD LED Monitor - 16:9 - Black</b>	\$338.00 Each	1	\$338.00

Lenovo ThinkCentre TIO24 Gen5 24" Class Webcam Full HD LED Monitor - 16:9 - Black



<input checked="" type="checkbox"/>	<b>ThinkVision T24-40 23.8 inch Monitor</b>	\$195.00	1	\$195.00
	ThinkVision T24-40 23.8 inch Monitor	Each		



**Conference Speaker**

All Optional

Description	Price	Qty.	Amount
<input checked="" type="checkbox"/> <b>Conference Speaker and Microphone</b>	\$99.00	1	\$99.00
Conference Speaker and Microphone, 360° Omnidirectional Microphone USB Speakerphone with USB Hub and Intelligent DSP Noise Reduction/Echo Cancellation for 8-10 People Business Conference	Each		



Sub Total \$2,291.00

Tax \$0.00

**Total \$2,291.00**

**Notes:**

Some people like email, some like a phone call or texting. I'm available for all three! Get back to me using your preferred communication choice and I'm happy to be of further assistance.

\*Please note product totaling \$2000 or more will be automatically invoiced upfront. Labor will be billed separately following project completion.

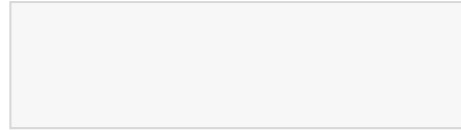
Please note orders under \$1000 may be subject to a shipping charge.

Manufacturer warranties cover parts only and does not account for LockIT time spent diagnosing, conversing with support or installing warrantied parts. All time will be billed at our hourly rate if not on a service agreement.

Legal:

This quote is made and entered into pursuant and subject to the terms and conditions under the Master Services Agreement (“Agreement”) between the Parties located at [Online MSA](#) and the Parties agree to be bound by its terms.

To accept this quotation, sign here and return:



( Austin Parker )

***Thank You for Your Business!***

***LockIT Technologies, LLC***



Agenda item for 5-4-26  
Nemaha County Noxious Weed Department for review

## Exhibit 4

This was sent to Austin Parker 5-1-26

4-28-2026 I contacted the chemical distributors by email for their prices of:

360 gal Remedy, 2 x 2 1/2

360 gal 2,4-D Amine 4 #, 2 x 2 1/2

720 gal Freelexx, 2 x 2 1/2

10 gal Milestone, 2 x 2 1/2

	Remedy	2,4-D Amine 4#	Freelexx	Milestone 2x21/2
Nutrien	\$42.80	\$14.97	\$35.00	\$285.00

MFA	\$49.35	\$15.45	\$35.00	\$325.00
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Van Diest Supply	\$42.54	\$15.29	\$35.00	\$285.00
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My recommendation is:

Van Diest Supply: 360 g Remedy @ \$ 42.54 g = \$15,314.40

720 g Freelexx @ \$35.00 g = \$25,200.00

10 g Milestone @ \$285.00 g = \$2,850.00

Nutrien Supply: 360 g Amine 4# @ \$14.97 g = \$5,389.20

Funding source: Noxious Weed chemical commodities

Todd Swart, Director

# **LAND DEVELOPMENT CODE OF NEMAHA COUNTY, KANSAS**

**Pursuant to Article 7, Chapter 12 of the Kansas Statutes Annotated**

\_\_\_\_\_ **2026**

**NEMAHA COUNTY BOARD OF COUNTY COMMISSIONERS**

**NEMAHA COUNTY PLANNING COMMISSION**

**COUNTY STAFF**

**COUNTY COUNSELOR AND CONSULTANT**

Austin K. Parker, S.J.D., L.L.M., J.D.

## ARTICLE 1

### TITLE; PURPOSE DEFINITIONS; DISTRICT AND GENERAL REGULATIONS

#### Sections:

1-101 Title

1-102 Purpose

1-103 Jurisdiction

1-104 Definitions

1-105 Districts

1-106 General Regulations Governing All Zoning Districts

1-101 Title: This code, including the Zoning District map made a part hereof, shall be known and may be cited as the "Land Development Code of Nemaha County, Kansas", and shall hereinafter be referred to as "this Code."

1-102 Purpose: This code is intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of all the citizens of Nemaha County, Kansas.
2. To create zoning districts sensitive to the needs of the residents while protecting and enhancing the rural character and values of the County.
3. To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the primary use of land for agricultural uses.
4. To provide adequate notice on subsequent changes to this Code and an opportunity for interested parties to be heard in accordance with the laws of the State of Kansas.
5. To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas.

6. To inform the public regarding future development in Nemaha County, Kansas, and its environs, thereby providing a basis for wise decisions with respect to such development.

1-103 Jurisdiction: Except as otherwise provided herein, this Code shall apply to all unincorporated areas and all incorporated areas of Nemaha County, Kansas where a city has not enacted zoning regulations in accordance with the laws of the State of Kansas. Specifically, this Section is designed to bring all unincorporated areas within Nemaha County, Kansas under this Code.

1-104 Definitions: For the purpose of this Code, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word "shall" is mandatory and not directory while the word "may" is permissive; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABUTTING**: Adjoining or bordering.
2. **ACCESS**: The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
3. **ACCESSORY BUILDING**: A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children's playhouses.

4. ACCESSORY USE: A subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include, but are not fireplaces, and satellite dish antennas.
5. ADMINISTRATIVE OFFICER: See Zoning Administrator.
6. AGRICULTURAL PURPOSES, LAND USED FOR: The use of a tract of land for the production of plants, animals and/or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; cattle, sheep, poultry, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental or greenhouse products. To be clear, using land for agricultural purposes includes the use of land in this County for all lawful purposes by a matter of right except for those specific purposes for which a Special Use Permit is required as set forth below. As such, land used for agricultural purposes shall not include the following, which shall not be allowed except as permitted by a Special Use Permit issued in accordance with the provisions of this Code and relevant State law:
  - a. High-Demand Industrial and Technological Uses: The construction, operation, or expansion of any High-Demand Commercial/Industrial and Technological Use requires a Conditional Use Permit in the AG Agricultural District.

These uses are non-agricultural and may not be established by right in the AG District. This includes any non-agricultural use with ~~very~~ large Commercial/Industrial electrical or water needs, including but not limited to Data Centers, Server Farms, Cloud Computing Facilities, High-Density Computing Uses, Cryptocurrency Mining Facilities, and similar technology-based operations.

Agricultural uses are not included in this category, regardless of the amount of electricity or water they require.
  - b. The operation or maintenance of a commercial slaughterhouse which is any slaughterhouse above 25,000 square feet in enclosed operation.

- c. The installation, operation or maintenance of sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, waste tire collection or processing facilities or any other such similar areas.
  - d. The installation, operation or maintenance of commercial energy infrastructure including, wind farms, solar farms, ethanol refineries, power generating plants, energy/electricity transfer stations, high voltage dc/ac transmission lines over 115 kV, oil and gas storage and pipeworks, or any other such similar areas.
  - e. The establishment, regulation, operation or expansion of an Airport or Aircraft Landing Field, public or private.
  - f. Any type of commercial mineral or rock mining/extrusion activities, including rock quarries.
  - g. The construction or operation of a Correction or Detention Center.
  - h. Sexually-Oriented Businesses and Adult-Entertainment Stores and Retail Shops.
  - i. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower 50 feet or more in height; whether publicly or privately owned.
7. AIRCRAFT: A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot air balloons, and the like.
8. AIRPORT OR AIRCRAFT LANDING FIELD: Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, and tie down areas, hangars, and other necessary buildings and open spaces.
9. ALTERATION: A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.

10. AMENDMENT: The process of change or alteration to the Land Development Code in one of the following forms:
- a. A comprehensive revision or modification of the zoning text and/or maps.
  - b. A text change in the zone requirements.
  - c. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
  - d. The approval of a Conditional Use Permit as provided within this Code.
11. APPLICANT: The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
12. BOARD OF ZONING APPEALS: That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to this Code.
13. BUILDABLE WIDTH: The width of that part of a lot not included within any required open space.
14. BUILDING: Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
15. CONDITIONAL OR SPECIAL USE: A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention to siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in this Code and may have special conditions and safeguards attached to assure that the public interest is served.
16. CONDITIONAL USE PERMIT: A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
17. CONSTRUCTION/DEMOLITION LANDFILL: A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
18. CONSTRUCTION/DEMOLITION WASTE: Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses,

commercial buildings, other structures, pavements, curbing, bridges, and trees and brush; but not asbestos.

19. COUNTY: The Board of County Commissioners of Nemaha County, Kansas, or its delegated staff, boards or agencies.
20. DISTRICT: A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
21. DWELLING: Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
22. EASEMENT: A grant by a property owner to specific persons or to the public to use land for a specific purpose or- purposes. Also, a right acquired by prescription.
23. ESTABLISHED SETBACK: The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
24. FAMILY: One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.
25. GOVERNING BODY: The Board of County Commissioners of Nemaha County, Kansas.
26. HAZARDOUS WASTE: Any waste meeting the definition of KS.A. 65-3430 and amendments thereto.
27. HAZARDOUS WASTE DISPOSAL FACILITY: Any facility which meets the requirements as defined in KS.A. 65-3430, as amended.
28. HIGH-DEMAND INDUSTRIAL AND TECHNOLOGICAL FACILITIES: Facilities or operations, whether primary or accessory, that require substantial consumption of electricity and/or water, whether continuous, intermittent, or peak-demand, at levels exceeding those of agricultural, residential, or light commercial uses, and

that rely on such utilities as a core component of their function. Includes (but is not limited to): Data centers, server farms, cryptocurrency mining operations, large-scale cloud computing facilities, and similar high-density digital or industrial processing sites.

29. INDUSTRIAL LANDFILL: A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.
30. INDUSTRIAL SOLID WASTE: Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
31. OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
32. PERSON: Any individual, partnership, joint venture, corporation, or other business or legal entity.
33. PLANNING COMMISSION: The Planning Commission of Nemaha County, Kansas.
34. SANITARY LANDFILL: A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 *et seq.*, and amendments thereto.
35. SOLID WASTE: Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.
36. STORE OR STORAGE: As related to waste tires, means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and such other beneficial uses determined not to create health or environmental risks by the Secretary of Health and Environment of the State of Kansas.
37. STRUCTURE: Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.

38. TRANSFER STATION: A facility, including land and buildings, used for the handling and processing of solid waste to be bundled, bailed or otherwise packaged for transport to another site for disposal in a solid waste landfill. Transfer station can include material recovery operations, recycling facilities and any other ancillary and/or accessory operation associated with the management of solid waste.
39. USE: The specific purpose for which land or a building is used.
40. WASTE TIRE: A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, *et seq.*, and amendments thereto.
41. WASTE TIRE COLLECTION CENTER: A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.
42. WASTE TIRE PROCESSING FACILITY: A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
43. WASTE TIRE SITE: A site at which 1,000 or more whole tires are accumulated.
44. ZONE OR DISTRICT: A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.
45. ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Governing Body to administer the requirements of this Code.

1-105 Districts: Nemaha County, Kansas is hereby classified as within the "AG" Agricultural District. The above listing shall be considered as listing the districts in their respective order from most restrictive to least restrictive. Requests for "rezoning" may be approved for a more restrictive classification than that requested based on the above listing.

Such land, and the district classification thereof, shall be shown on the official map designated as the "Zoning District Boundary Map of Nemaha County, Kansas", (Appendix A). Such Zoning District Boundary Map, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of this Code

as if it were fully described herein, and shall be filed as part of this Code with the Zoning Administrator of Nemaha County, Kansas. Said Map shall be available for inspection in the office of the Zoning Administrator as well as in the office of the County Clerk, and any later alterations of the Map, adopted by amendment as provided by this Code, shall be filed and made available for public reference. The above stated map shall hereinafter be referred to as the "map" in this document.

When uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Code, the following rules shall apply:

1. In cases where a boundary line is given a position within a road, street, alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such road, street, alley, or stream varies slightly from the location as shown on the maps, then the actual location shall control.
2. In cases where a boundary line is shown as being located a specific distance from a road, street or alley line or other physical feature, this distance shall control.
3. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
4. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of this Code are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Code of the Governing Body.
5. In unsubdivided property, unless otherwise indicated, the district boundary line on the map accompanying and made a part of this Code shall be determined by the use of the scale contained on such map.
6. When a lot held in one ownership on the effective date of this Code is divided by a district boundary line, the entire lot shall be construed to be within the less

restrictive district; unless otherwise indicated on the map or by Code of the Governing Body.

7. Where a district boundary follows a road, street, alley, watercourse or other right-of-way, in case of vacation of said road, street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated road, street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

#### 1-106 General Regulations Governing All Zoning Districts:

1. Except as hereinafter provided:
  - a. No land may be used except for a purpose permitted in the district in which it is located.
  - b. No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
2. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of this Code.
3. Nothing contained in this Code shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.

**ARTICLE 2**  
**"AG" AGRICULTURAL DISTRICT REGULATIONS**

Sections:

2-101 Application and Use Regulations

2-101 Application and Use Regulations: The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the regulations in the "AG" Agricultural District. The purpose of this District is to provide for a full range of activities that are consistent with the overall land use of the County by a matter of right. The County's primary land use is agricultural, with some commercial, residential and industrial development consistent with this land use type scattered through the County. As such, all types of land use except those specifically requiring a conditional or special use permit under these regulations are allowed by a matter of right.

## ARTICLE 3

### CONDITIONAL USES

Sections:

3-101 Application of Conditional Uses

3-102 Qualification of Existing Special Use Exceptions

3-103 Additions and Changes to Conditional Uses

3-104 Conditional Uses Enumerated

3-105 Continuance of a Conditional Use

3-101 Application of Conditional Uses:

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted, except as otherwise specified, in any district from which they are prohibited.

Before the location or establishment thereof, or before any change or use of the property existing at the time of the effective date of this Code or permitted as herein provided is made, a development plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and property shall be submitted to the Planning Commission as specified in Article 4 of this Code. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 7 of this Code and shall review such development plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will

not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to those items identified in Article 4 of this Code.

### 3-102 Qualifications of Existing Special Use Exceptions:

Uses operating under an existing Special Use Exception approved prior to the adoption of this Code shall continue as if approved under this Code. As of the initial adoption of this Code, no such Special Uses are known to exist. Changes in operations of uses that are listed herein as requiring a Conditional Use Permit that would have required an amendment to the existing Special Use Exception shall be considered as a Conditional Use and considered as provided herein.

### 3-103 Additions and Changes to Conditional Uses:

All requests for additions and structural alterations to Conditional Uses previously approved by the Governing Body shall be considered in the same procedure as outlined in Section 3-101 herein.

### 3-104 Conditional Uses Enumerated:

The following Conditional Uses may be approved by the Governing Body as provided in this Article:

- a. High-Demand Industrial and Technological Uses: The construction, operation, or expansion of any High-Demand Commercial/Industrial and Technological Use requires a Conditional Use Permit in the AG Agricultural District.

These uses are non-agricultural and may not be established by right in the AG District. This includes any non-agricultural use with ~~very~~ large Commercial/Industrial electrical or water needs, including but not limited to Data Centers, Server Farms, Cloud Computing Facilities, High-Density Computing Uses, Cryptocurrency Mining Facilities, and similar technology-based operations.

Agricultural uses are not included in this category, regardless of the amount of electricity or water they require.

- b. The operation or maintenance of a commercial slaughterhouse which is any slaughterhouse above 25,000 square feet in enclosed operation.
- c. The installation, operation or maintenance of sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, waste tire collection or processing facilities or any other such similar areas.
- d. The installation, operation or maintenance of commercial energy infrastructure including, wind farms, solar farms, ethanol refineries, power generating plants, energy/electricity transfer stations, high voltage dc/ac transmission lines over 115 kV, oil and gas storage and pipeworks, or any other such similar areas.
- e. The establishment, regulation, operation or expansion of an Airport or Aircraft Landing Field, public or private.
- f. Any type of commercial mineral or rock mining/extrusion activities, including rock quarries.
- g. The construction or operation of a Correction or Detention Center.
- h. Sexually-Oriented Businesses and Adult-Entertainment Stores and Retail Shops.
- i. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower 50 feet or more in height; whether publicly or privately owned.

### 3-105 Continuance of a Conditional Use:

A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of authorization, as long as all conditions placed on it are met; however, if that particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held and a new Conditional Use Permit approved.

**ARTICLE 4**  
**PLAN APPROVAL GUIDELINES**

Sections:

4-101 Purpose

4-102 Application, Review, Approval Procedure

4-103 Development Plan.

4-104 Development Plan - Phasing, Time Restrictions

4-105 Appeals of Planning Commission Action on Development Plan

4-106 Remedies for Noncompliance

4-101 Purpose:

The procedures and requirements set forth in this Article, or the requirements set forth elsewhere in this Code when referred to in this Article, are for the development plans required for Conditional Use Permits designated elsewhere in this Code. These requirements are specifically intended to accommodate:

1. The consideration of an application for a Conditional Use under the provisions of this Code.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of this Code. Such adjustments or modifications may be made as a part of the rezoning or Conditional Use process, or may be allowed after approval by the Planning Commission upon request of the applicant.

4-102 Application, Review, Approval Procedure:

In order to assure that proposed uses requiring Conditional Use permits meet the requirements of this Code and will be compatible with surrounding properties and uses, it is hereby required that all applications for a Conditional Use Permit include a development plan which must be approved as specified within this Article prior to any construction on the property. The procedure for approval of a development plan shall consist of the following:

1. Application for a Conditional Use permit; and,
2. Submission of a development plan.

The development plan shall be submitted at the time the application is submitted and no application shall be deemed complete nor set for public hearing until said development plan is submitted. No building permit shall be issued for a Conditional Use Permit until the property has been zoned and the development plan for the entire property and/or each phase of development has been approved in accordance with the provisions of this Code.

#### 4-103 Development Plan:

Application for a Conditional Use and development plan approval shall be made in accordance with the procedures outlined in Article 7 of this Code. The application shall include a development plan which describes the applicant's intentions for the use and development of the property. The development plan shall include and/or display the following information:

1. A topographic survey at no more than 2 foot contour intervals, drawn to a scale of 1" = 100' or greater, indicating the legal description, property boundary, existing contours, existing utilities and easements, and natural and manmade features of the property.
2. A development plan, drawn to the same scale as the topographic survey indicating:
  - a. existing contours (shown as dashed lines);
  - b. proposed contours (shown as solid lines);
  - c. location and orientation of all existing and proposed buildings and structures;

- d. areas to be used for parking, including the number and arrangement of stalls;
  - e. areas to be developed for screening, including the location of plant materials, and screening structures and features;
  - f. pedestrian and vehicular circulation, and their relationship to existing roads, streets, alleys and public right-of-way;
  - g. points of ingress and egress;
  - h. location of all existing and proposed utilities (sanitary sewage systems, water systems, storm drainage systems, gas lines, telephone lines and electrical power lines);
  - i. drainage controls (retention or detention ponds);
  - j. location, size and characteristics of identification and business signs;
  - k. lighting layout, appurtenances, and intensity of illumination;
  - l. proposed finished floor elevations of all buildings and structures.
3. A statement of intent shall accompany the preliminary development plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties that are located within approximately one (1) mile of the boundary lines of the property in question through the planning of the site and the location and design of structures.

The Planning Commission shall review the application along with the development plan and shall approve or deny the development plan, or may request modifications to the development plan as deemed necessary to carry out the spirit and intent of this Code. To be specific, the Planning Commission may require, at the applicant's expense, assistance from industry professionals and consultants to aid in their review of any such application. In the event such assistance is anticipated, any Applicant may be required to provide a deposit to cover such costs as a part of their initial application. Approval by the Planning Commission shall constitute approval and permanency of the development plan, thereby establishing the criteria for construction of the proposed development.

In the process of reviewing any development plan, the Planning Commission may provide approval of the development plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings.
6. Plans for control or elimination of smoke, dust, gas, odors, noise or vibration caused by the proposed use.
7. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
8. Such other conditions and/or limitations that are deemed necessary.

#### 4-104 Development Plan - Phasing, Time Restrictions:

The applicant may proceed with construction based on the entire development plan, or may elect to develop the property in phases. The applicant may submit the development plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all Conditional Uses approved with a development plan shall have construction begun within one (1) year of said approval by the Planning Commission. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Planning commission stating the reasons construction has not begun and at what time construction is expected to begin. If the Planning Commission agrees, one (1) year is the maximum allowable extension. No successive or additional extension applications will be considered.

The Planning Commission shall review the development plan and shall act on said plan in a reasonable time period. Upon approval by the Planning Commission, the development plan shall be filed for record in the office of the Zoning Administrator.

After the development plan has been approved, and when in the course of carrying out the development plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved development plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved development plan, the revised development plan must be submitted and approved by the Planning Commission before any further work can proceed. Said revised development plan shall not require another public hearing unless the Planning Commission determines that the revisions requested are so significant that the public interest will be protected only by conducting a public hearing on said revised development plan. Regardless of whether a public hearing is required or not, at no time shall the Conditional Use previously approved be subject to disapproval. The only issue in said review shall be the requested revisions to the previously approved development plan.

#### 4-105 Appeals of Planning Commission Action on Development Plan:

Any decision of the Planning Commission regarding development plans may be appealed to the Governing Body, whose decision shall be final. An appeal shall be filed in writing with the Zoning Administrator not later than fifteen (15) days following the date of the Planning Commission's final action. If no appeal is taken within that time, the decision of the Planning Commission shall be final. The appeal shall set forth the basis for the appeal and the relief sought by the applicant. The Zoning Administrator shall schedule the appeal before the Governing Body no later than thirty (30) days following the filing of the appeal. The Zoning Administrator shall notify all interested persons in writing of the time and place of the Governing Body's meeting at least ten (10) days prior to said meeting.

#### 4-106 Remedies for Noncompliance:

If the applicant fails to comply with the time requirements herein established, the approved development plan shall be declared null and void and no permit for construction shall be issued until a new development plan has been approved following the procedures previously cited. The Conditional Use permit shall remain in effect but shall do so without an approved development plan. If the approved development plan is voided, the Planning Commission or the Governing Body may initiate an action to have the Conditional Use permit revoked.

**ARTICLE 5**  
**THE BOARD OF ZONING APPEALS**

Sections:

5-101 Organization and Procedure

5-102 Powers

5-103 Variances

5-104 Special Exceptions

5-105 ~~Special Yard and Height Exceptions~~

5-106 Guidelines for Conditions

5-107 Application

5-108 Stay of Proceedings

5-109 Public Hearing

5-110 Findings and Records of Proceedings

5-111 Lapse of Special Exception

5-112 Decisions of the Board

5-101 Organization and Procedure:

The full membership of the Nemaha County Planning Commission as established by the Governing Body, is hereby declared to be the Nemaha County Board of Zoning Appeals and, as such, shall function with its full membership as the Board of Zoning Appeals as referred to herein. In all instances within this Article and/or this Code where reference is made to the Board of Zoning Appeals, said board shall be the Nemaha County Planning Commission acting as the Board of Zoning Appeals.

The Board of Zoning Appeals shall administer the details of the application of this Code in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of this Code.

5-102 Powers:

The Board of Zoning appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Code.
2. To hear and decide special exceptions to the terms of this Code upon which such Board is required to pass under this code.
3. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship, and so that the spirit of this Code shall be observed and substantial justice done.

#### 5-103 Variances:

All variance requests will be addressed in accordance with the provisions of Kansas law, including but not limited to K.S.A. 12-759 as the same may be amended or modified.

#### 5-104 Special Exceptions:

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of this Code as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by this Code:

1. The extension of an existing nonconforming building and the existing use thereof, upon the property occupied by such building at the time of the passage of this Code; or the erection of an additional building upon the property owned at the time

of the passage of this Code by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.

5-106 Guidelines for Conditions:

Where, in this Code, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals, where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require.

5-107 Written Application Required:

Written application for an appeal, a special exception, or a variance referred to in this Article shall be filed with the Board or its agent. Unless otherwise specified in this Code or other applicable County codes or ordinances, said application shall be submitted to the County Clerk within 30 days of the action requiring said appeal, variance or special exception.

5-108 Stay of Proceedings:

Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of this Code, said appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property.

In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

#### 5-109 Public Hearing Required:

The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a certified list of property owners, and their addresses, within 1000 feet of the property for which the variance or special exception is being sought. Notice of the time and place of the public hearing shall be published once in the official County paper not less than 20 days prior to the date of such public hearing. In addition, all property owners within 1000 feet shall be notified by registered mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

#### 5-110 Findings and Records of Proceedings:

The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

#### 5-111 Lapse of Special Exceptions or Variances:

After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of this Code shall thereafter govern.

#### 5-112 Decisions of the Board:

In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning appeals may bring an action in the District Court of Nemaha County, Kansas, to determine the reasonableness of any such order or determination.

**ARTICLE 6**  
**ADMINISTRATION**

Sections:

6-101 Enforcement

6-101 Enforcement:

It shall be the duty of the Zoning Administrator to enforce the provisions of this Code It shall also be the duty of all officers and employees of Nemaha County, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of this Code, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation.

**ARTICLE 7**  
**AMENDMENTS**

Sections:

7-101 Who May Petition or Apply

7-102 Procedures for Consideration of Request for Amendments, Revisions or changes

7-103 Posting of Sign

7-104 Traffic Studies

7-105 Factors to be Considered

7-106 Limitations on Reapplication for Amendments

7-101 Who May Petition or Apply:

Applications for amendments, revisions or changes in the Zoning District Boundary Map in effect for Nemaha County, Kansas, or for a Conditional Use Permit, may be made by any person who owns the land for which such an amendment, revision, change or conditional use permit is sought, or by the owner's agent as defined by this Code. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to any public hearing.

Recommendations for amendments, revisions or changes to the Zoning Code or the Zoning District Boundary Map may also be made by the Planning Commission upon its own motion, for final determination by the Governing Body; likewise the Governing Body may amend the Zoning Code or the Zoning District Boundary Map upon its own motion; provided, however, such proposed amendments shall first be submitted to the Planning Commission for recommendation and report as provided herein.

7-102 Procedures for Consideration of Request for Amendments, Revisions or Changes:

All applications or requests for amendments, revisions or changes to the Zoning Code or the Zoning District Boundary Map or for a Conditional Use Permit shall be made ~~to the Zoning Administrator~~ in writing to the Zoning Administrator and the payment of an application fee established by the Governing Body. Immediately upon receipt of an application for rezoning or conditional use by the owner of a particular tract of land, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof. All such applications shall be set down for hearing not later than 60 days after receipt of a completed application. Notice of such hearing shall be published once in the official County newspaper at least 20 days prior to the date set for said hearing and a hearing shall be granted to any person at the time and place specified in such notice. In addition to such publication notice, notice of such proposed hearing shall be mailed to all the owners of land located within 1000 feet of the area proposed to be altered at least 10 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such notice shall be paid for at the sole cost of the applicant, shall be given by regular first class mail, and shall be in the form of a letter explaining the proposed change. Such mailed notices shall be addressed to the owners of land mentioned above and not to occupants of such lands.

The applicant, at the applicant's sole cost, shall provide a certified list of the owners of said lands at the time of the filing of the application. The applicant shall furnish proof that he is the owner, the owner's agent, or has an option to buy the land described in the application, in which case the present owner must consent in writing to the application prior to the public hearing.

In the case of an application to amend, revise or change the Zoning Code, whether by an individual, the Planning Commission or the Governing Body, all the above-stated requirements shall be followed except:

1. No fee shall be required if the request is from the Planning Commission or the Governing Body.

2. Notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a certified list of the owners of land shall not be required.

For action on zoning amendments, a quorum of the Planning Commission is more than one-half of all of the members. In accordance with the provisions of K.S.A. 12-745, as the same may be amended from time to time, as well as Nemaha County Resolution 2021-6 dated September 8, 2020, a vote either for or against an amendment by a majority of all the Planning Commission members appointed to and serving on the Planning Commission constitutes a recommendation of the Planning Commission; whereas a vote either for or against an amendment by less than a majority of all the members of the Planning Commission appointed to and serving on the Planning Commission constitutes a "failure to recommend". When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Board of County Commissioners may either (1) adopt such recommendation by resolution; (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Board of County Commissioners; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove. The Planning Commission, after reconsidering the same, may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. Upon receipt of such recommendations, the Governing Body may adopt or may revise or amend and adopt such recommendations by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body after the Planning Commission's next regularly scheduled meeting after receiving the Governing Body's statement specifying disapproval, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.

If the zoning amendment shall affect the boundaries of any zone or district, the resolution of the Governing Body shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment and shall reincorporate such

map as amended. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or "fails to recommend," if a protest against an amendment, supplement or change is filed in the office of County Clerk within 14 days after the date of the conclusion of the public hearing duly signed and acknowledged by the owners of 20 percent or more of any property proposed to be rezoned, or by the owners of 20 percent or more of the total area, excepting public streets and highways, which is located within 1000 feet of the boundaries of the property proposed to be rezoned, such amendment shall not be passed except by three-fourths majority vote of the Governing Body.

7-103 Posting of Sign:

Each applicant for a rezoning and each applicant for a Conditional Use Permit shall, within 48 hours of filing such application, procure (at applicant's sole expense) and place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be approved by the Zoning Administrator prior to posting and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Said sign shall read as follows:

REZONING PENDING  
(or)  
CONDITIONAL USE PERMIT PENDING  
Application Number \_\_\_\_\_  
From \_\_\_\_\_ To \_\_\_\_\_  
PUBLIC HEARING BEFORE THE  
NEMAHA COUNTY PLANNING COMMISSION  
on  
(date) (time)  
\_\_\_\_\_ on \_\_\_\_\_

NOTE: Unauthorized Removal, Defacing, or Destruction of this Sign Punishable upon Conviction by Fine not exceeding \$100.00 and/or not more than thirty (30) days imprisonment.

Said sign shall be maintained and kept in place by the applicant until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application.

The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing both streets. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

#### 7-104 Traffic Studies:

In the case of an application for rezoning of land or for a conditional use permit for a use which may, in the opinion of the Planning Commission or Governing Body, substantially change traffic patterns, or create traffic congestion, either the Planning Commission or Governing Body may require that the applicant, at the applicant's sole cost, procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such traffic study shall show the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner; that vehicular ingress and

egress from the site onto public streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public street system. The results of the traffic study shall be used in determining the impact of the proposed rezoning or conditional use permit and guide the development of a recommendation or decision regarding the same.

7-105 Factors to be Considered:

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:
  - a. Whether the change in classification would be consistent with the intent and purpose of this Code;
  - b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
  - c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
  - d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
  - e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
  - f. The suitability of the applicant's property for the uses to which it has been restricted;
  - g. The length of time the subject property has remained vacant or undeveloped as zoned;

- h. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
  - i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
  - j. The recommendations of permanent or professional staff;
  - k. Whether the proposed amendment would be in conformance to and further enhance the implementation of any Comprehensive Plan in effect for the County at the time of consideration of any such proposed amendment;
  - l. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and,
  - m. Such other factors as may be relevant from the facts and evidence presented in the application.
2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood/area and the zoning jurisdiction.
3. In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

4. The Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:
  - a. Whether approval of the Conditional Use would be consistent with the intent and purpose of this Code;
  - b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood/area;
  - c. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
  - d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
  - e. The length of time the subject property has remained vacant or undeveloped as zoned;
  - f. Whether the applicant's property is suitable for the proposed use;
  - g. The recommendations of permanent or professional staff;
  - h. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
  - i. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
  - j. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent will not adversely affect the property in the area affected.
  - k. Such other factors as may be relevant from the facts and evidence presented in the application.

7-106 Limitations on Reapplication for Amendments:

Whenever an application for amendment, supplement, change, rezoning or conditional use permit has been denied by the Governing Body, such application or one substantially similar shall not be reconsidered sooner than ninety (90) days after the said denial.

**ARTICLE 8**  
**INTERPRETATION, CONFLICT, REMEDIES AND PENALTY**

Sections:

8-101 Interpretation and Conflict

8-102 Remedies Available

8-103 Penalty

8-101 Interpretation and Conflict:

In interpreting and applying the provisions of this Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by this Code to interfere with, or abrogate or annul any easements, covenants or other agreement between parties; provided, however, that where this Code imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provisions of this Code shall govern. If any property is not given a zoning classification on the Zoning District Boundary Map because of error or omission, such property shall be classified "AG" Agricultural District until changed by amendment, unless authorized by this Code.

8-102 Remedies Available:

In case any building or structure is or is proposed to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this Code, the Zoning Administrator, County Counselor, or other appropriate authority of Nemaha County, Kansas, may in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, relocation,

alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

8-103 Penalty:

Any person or corporation who shall violate any of the provisions of this Code or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of this Code shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof shall be subject to the same fine as hereinbefore provided.

**ARTICLE 9**  
**MISCELLANEOUS**

Sections:

9-101 Validity

9-102 Accrued Rights and Liabilities Saved

9-103 Severability

9-104 Effective Date

9-105 Repealing Clause

9-106 Maintenance of Nonconforming Uses

9-107 Existing Wind Energy Project

9-101 Validity:

If any section, paragraph, subdivision, clause, phrase, or provision of this Code shall be adjudged invalid or held unconstitutional the same shall not affect the validity of this Code as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

9-102 Accrued Rights and Liabilities Saved:

The repeal of all existing land development regulations by the adoption of this Code as provided for in Section 9-105 herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said regulations or parts thereof. Said regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of this Code, for the purpose of such rights, fines, penalties, forfeitures, liabilities or actions thereof.

9-103 Severability:

Each article, section and subdivision or a section of this Code are hereby declared to be independent of every other article, section, or subdivision or section, so far as inducement for the passage of this Code is concerned.

9-104 Effective Date:

This Code, being designated as the "Land Development Code of Nemaha County, Kansas," shall be in full force and effect from and after passage of its authorizing Resolution by the Governing Body of Nemaha County, Kansas.

9-105 Repealing Clause:

This Code repeals all other existing land development regulations of Nemaha County, Kansas, in their entirety. However, specifically, the Land Development Code of Nemaha County, Kansas does not affect, repeal or curtail any existing land development permits or specific agreements related to the development or use of land within Nemaha County, Kansas that were previously entered into by Nemaha County, Kansas.

9-106 Maintenance of Nonconforming Uses:

Additionally, all existing nonconforming uses or buildings that are in place prior to the adoption of this Code shall not be affected, altered or limited by the enactment of this Code. The extension of any such nonconforming use or building is subject to compliance with the provision of this Code.

9-107 Existing Wind Energy Project:

There is an existing wind farm development project approved in favor of Soldier Creek Wind, LLC, with existing Agreements and project scope already approved by Nemaha County, Kansas. The scope of this approval was finalized in the Development Agreement

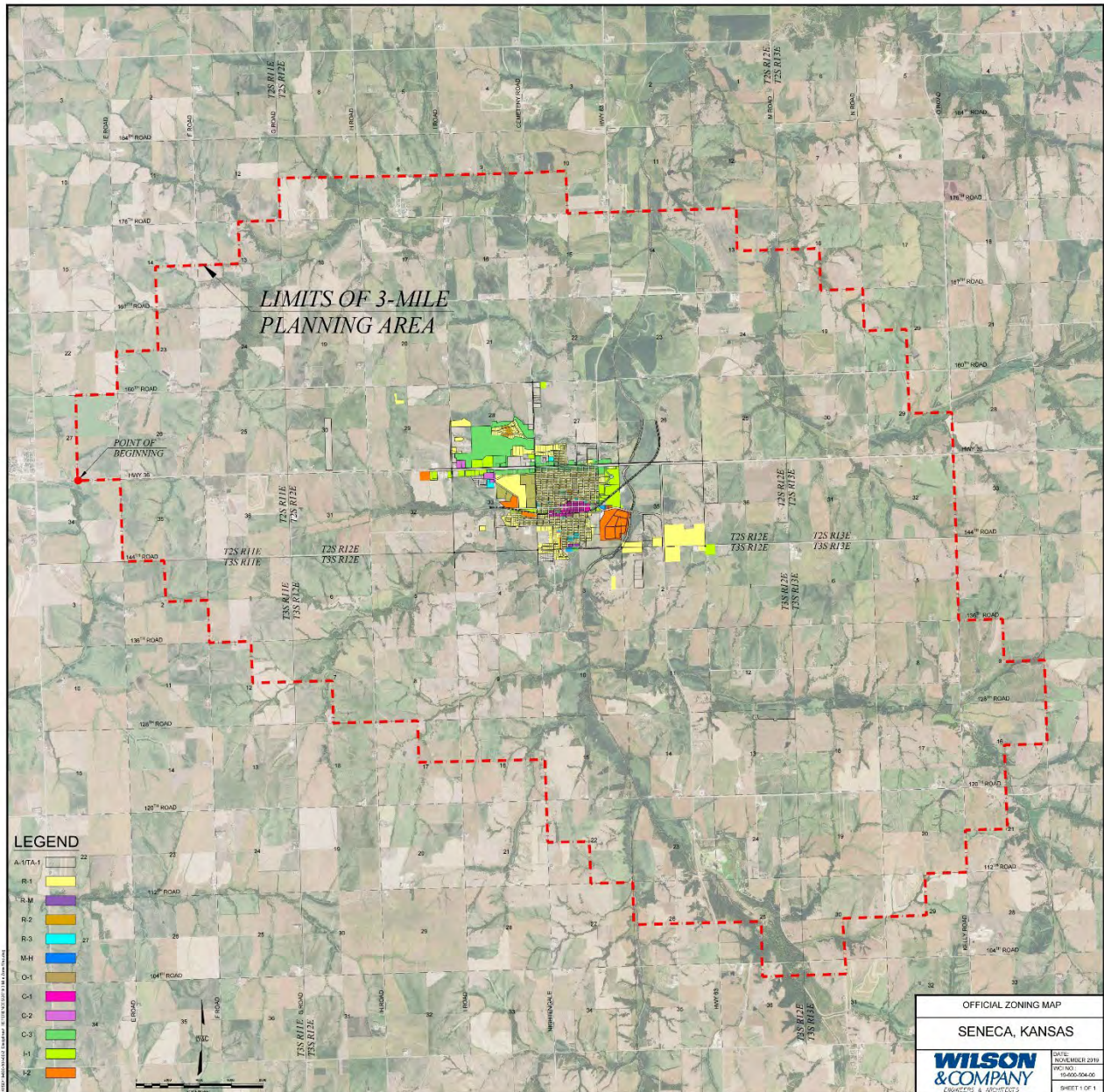
made and entered into on the 26<sup>th</sup> day of February 2020 by and between the Board of County Commissioners for Nemaha County, Kansas and Soldier Creek Wind, LLC (the "Development Agreement").

As such, the exact scope of the Soldier Creek wind project is not allowed to exceed three hundred (300) megawatts under the Development Agreement and the exact locations of the approved wind project turbines allowed to be located in Nemaha County, Kansas under the Development Agreement is defined within the body of the Development Agreement, the Site Plan that is Exhibit A to the Development Agreement and the Soldier Creek Wind Energy Project – Turbine Positions 2019-07-16 document that is included as an attachment to the Development Agreement. The exact size, scope and location of the approved wind project defined in the prior sentence is hereinafter referred to as the "Soldier Creek Wind Project".

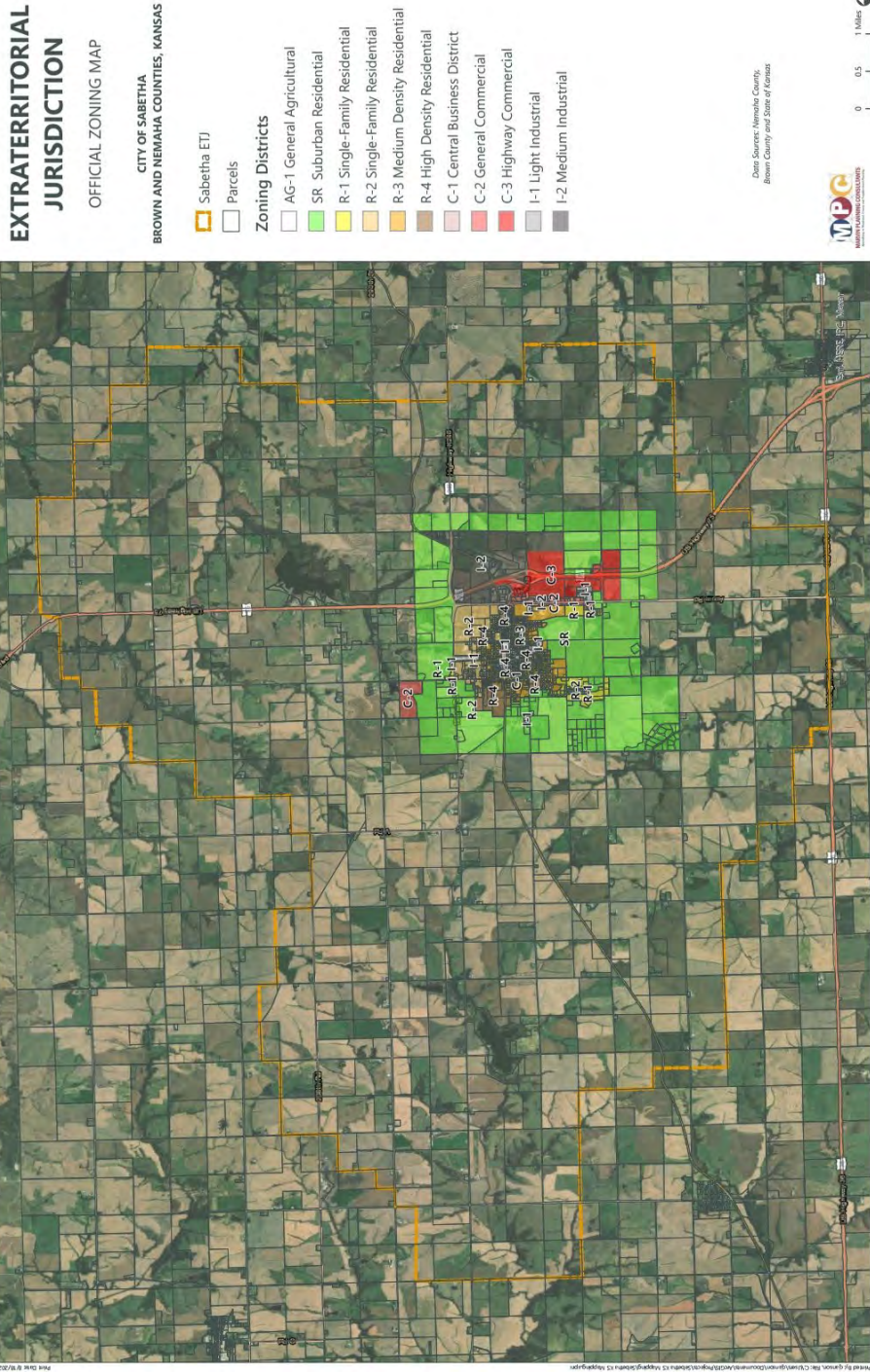
To be clear, nothing related to the defined scope of the Soldier Creek Wind Project is in any way, shape or form curtailed, affected, terminated or limited by this Code. However, any future expansion of the scope of the Soldier Creek Wind Project shall require a Conditional Use Permit in accordance with the terms and conditions set forth above.

**APPENDIX A: Placeholder for “Zoning District Boundary Map of Nemaha County, Kansas” to be provided by the County Commissioners**

**APPENDIX B: Seneca existing ETJ Map**



# APPENDIX C: Sabetha existing ETJ Map



## Exhibit 6

Chairman Brent Alverson called the Monday, October 27, 2025, meeting of the Nemaha County Planning Commission to order at 6:55 p.m. in the Nemaha County Community Building with Planning Commission members Galen Ackerman, Brent Alverson, Freda Dobbins, Marya Haverkamp, Charity Henry, Todd Rokey, Bob Ruddick, Martin Schmelzle and Michael Schmelzle and Secretary Nancy Gafford present. County Counselor/ County Administrator Austin Parker was also present along with a group of interested citizens from the public.

At 7:00 p.m. Chairman Alverson opened the public hearing for the consideration of the proposed Land Development Code for Nemaha County (LDC). County Counselor/County Administrator Austin Parker (Author of the LDC) spent the next thirty minutes explaining the LDC to the assembled group.

The following Nemaha County citizens spoke at the hearing:

Kathy O'Brien—General Manager Nemaha/Marshall Electric Co-Op, Seneca,  
Steve Macke, Baileyville.  
Luke Sunderland—City Attorney for both the cities of Sabetha and Seneca, Sabetha.  
Andy Grove, Bern  
Roger Becker, Corning  
Kenneth Keegan, Baileyville  
Sarah Feldkamp, Seneca  
Ed Meyer, South of Corning  
Douglas Schmelzle, Seneca  
Diane Haverkamp, Corning  
Karen Bauman, Sabetha  
Mary Ann Holsapple, Seneca,  
Steve Brooks, Seneca City Administrator, Seneca  
Don Lueger, Seneca,  
Debbie Stallbaumer, Seneca  
Matt Becker, Centralia

All the above listed citizens spoke on the proposed Land Development Code for Nemaha County. Their comments may be heard by listening to the audio recording of the complete hearing on the Nemaha County Website. \*

Mr. Parker addressed a few questions from the public. He also clarified the adoption and modification processes for the LDC.

Following the public comments Chairman Alverson closed the public hearing at 8:45 p.m. and thanked the public for coming. He informed the public the Planning Commission would be considering the comments at the next Planning Commission meeting.

The Planning Commission returned to its regular meeting. Due to Thanksgiving and Christmas activities in November and December, it was consensus that the Planning Commission would hold one more meeting before the end of the year. Chair Alverson will

send an Email survey to see if Monday, December 1, 2025, will work for a November-December meeting.

Brent Alverson moved and Freda Dobbins seconded the motion to approve the Monday, September 22, 2025, minutes as Emailed. Motion carried.

Meeting adjourned at 9:00 p.m. with the date of the next meeting to be determined by the Email which will be sent by Chairman Alverson.

Respectfully submitted by

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Nancy Gafford, Secretary

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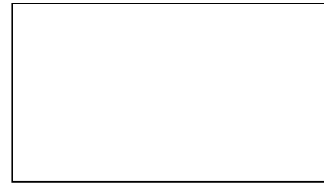
Brent Alverson, Chairman

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Date

\*For further detail on the hearing and information on the proposed Land Development Code for Nemaha County, please refer to "A deep dive into Nemaha County's proposed zoning code" published in the Wednesday, October 8, 2025 issue of The Sabetha Herald. "Land Development Code public hearing set for next Monday" published in the Wednesday, October 22, 2025 issue of The Sabetha Herald and "More than 125 people attend zoning public hearing" in the Wednesday, November 5, 2025 issue of The Sabetha Herald.



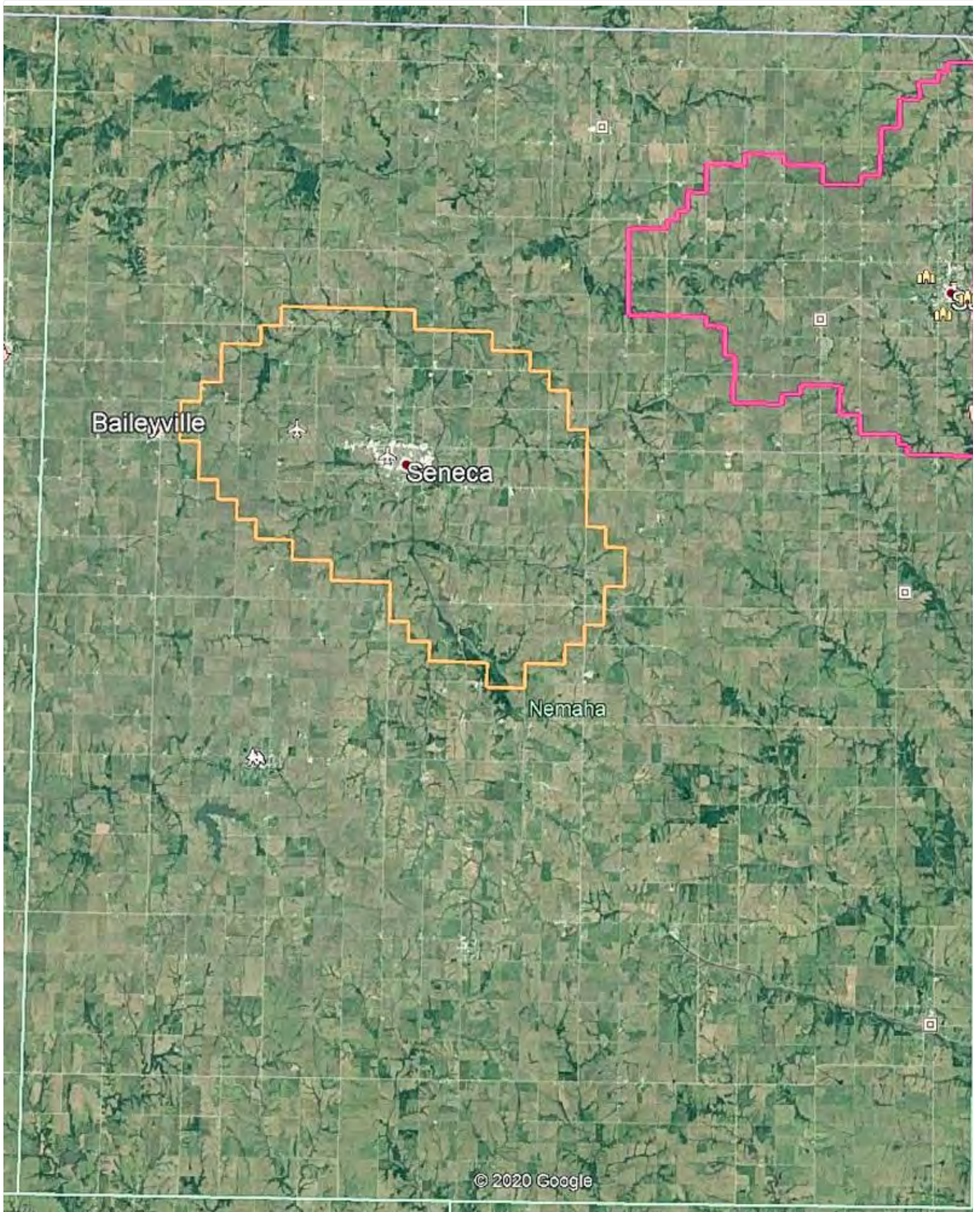


# A deep dive into Nemaha County's proposed zoning code

🕒 October 7, 2025 👤 by Heather Stewart (<https://www.sabethaherald.com/author/heatherstewart/>)

🗨️ 0 (<https://www.sabethaherald.com/2025/10/07/a-deep-dive-into-nemaha-countys-proposed-zoning-code/#respond>)

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*(<https://www.sabethaherald.com/wp-content/uploads/2025/10/Land-Development-Code-Explained.jpg>)*  
*(<https://www.sabethaherald.com/wp-content/uploads/2025/10/Land-Development-Code-Explained.jpg>)*  
*Figure A: This image depicts a full map of Nemaha County, which shows Seneca and Sabetha's current ETJ. The "Zoning District Boundary Map of Nemaha County, Kansas" will look similar to this. This map also will be available for viewing during the public hearing.*

**A public hearing for the proposed zoning code — “Land Development Code of Nemaha County, Kansas” — is scheduled for 7 p.m. Monday, Oct. 27, in Seneca.**

Zoning has been a hot topic for numerous years across northeast Kansas, and now, the Nemaha County Planning Commission has developed a zoning code titled, “Land Development Code of Nemaha County, Kansas.” This zoning code, which has been in the works for multiple months — or even years — is now scheduled for a public hearing on Monday, Oct. 27, in Seneca at the Nemaha County Community Center, located at 1500 Community Drive in Seneca.

The Nemaha County Planning Commission voted — by majority — to bring the “Land Development Code of Nemaha County, Kansas” to the public at their Monday, Sept. 22, meeting. Members of the Nemaha County Planning Commission are Galen Ackerman, Brent Alverson, Freda Dobbins, Charity Henry, Todd Rokey, Bob Ruddick, Martin Schmelzle and Michael Schmelzle.

The proposed zoning code is available in its entirety through the Nemaha County Clerk’s office. A copy of the proposed “Land Development Code of Nemaha County, Kansas” can be requested or reviewed prior to the public hearing at the Nemaha County Clerk’s office during regular business hours from 8 a.m. to 4:30 p.m. It can also be found on our website at *SabethaHerald.com*.

**Diving into the details**

The “Land Development Code of Nemaha County, Kansas” was developed pursuant to K.S.A. 12-7. The Nemaha County Planning Commission developed this proposed zoning code with assistance by the Nemaha County Counselor and Consultant Austin Parker.

The code is divided into nine Articles and a brief summary of each article is listed below.

Article 1

Article 1 lays out the purpose of the code, the jurisdiction the code covers, definitions, districts and zoning regulations.

According to the document, the purpose of the proposed zoning code is:

- To promote the health, safety, morals, comfort and general welfare of all the citizens of Nemaha County, Kansas.
- To create zoning districts sensitive to the needs of the residents while protecting and enhancing the rural character and values of the County.
- To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the primary use of land for agricultural uses.
- To provide adequate notice on subsequent changes to this Code and an opportunity for interested parties to be heard in accordance with the laws of the State of Kansas.
- To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas.

- To inform the public regarding future development in Nemaha County, Kansas, and its environs, thereby providing a basis for wise decisions with respect to such development.

As for jurisdiction, this code applies to all unincorporated areas and all incorporated areas of Nemaha County where a city has not enacted zoning regulations in accordance with the laws of the State of Kansas. The cities of Sabetha and Seneca both have their own zoning around the respective cities, which is referred to as "Extraterritorial Jurisdiction (ETJ)." This code will not affect those jurisdictions that are already in place. Furthermore, this section is designed to bring all unincorporated areas within Nemaha County under this Code.

This section also provided multiple definitions for words within the document. Then, it also states that the official map with district classifications "Zoning District Boundary Map of Nemaha County, Kansas" will be available with the Zoning Administrator and in the County Clerk's office.

See Figure A for a full map of Nemaha County that shows Seneca and Sabetha's current ETJs. The "Zoning District Boundary Map of Nemaha County, Kansas" will look similar to this. This map also will be available for viewing during the public hearing. This map, as well as Seneca and Sabetha's ETJ maps will be available on our website at *SabethaHerald.com*.

The code states that "Nemaha County, Kansas is hereby classified as within the 'AG' Agricultural District." Additionally, according to K.S.A. 12-758, zoning does "not apply to the use of land for agricultural purposes..."

The proposed code also addresses district boundaries and when uncertainty exists, there are multiple rules that will apply when determining boundaries.

Finally, in Article 1, the proposed code says the following for General Regulations Governing All Zoning Districts:

- No land may be used except for a purpose permitted in the district in which it is located;
- No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.
- If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of this Code.
- Nothing contained in this Code shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.

## **Article 2**

In Article 2, Agricultural District Regulations are explained.

It states that the purpose of the District is "to provide for a full range of activities that are consistent with the overall land use of the County by a matter of right."

In this instance, a district is defined as a section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

Then, since Nemaha County's primary land use is agricultural — with some commercial, residential and industrial development — scattered throughout the county, all types of land use except those requiring a conditional or special use permit under these regulations are allowed.

### **Article 3**

Article 3 covers "Conditional Uses," which is defined as the following:

"A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention to siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in this Code and may have special conditions and safeguards attached to assure that the public interest is served."

The proposed "Land Development Code" says there may be some instances when some "uses may be desirable." However, they may be incompatible with other uses in the district. Therefore, before any location or establishment of a building or structure can be built, a development plan with sufficient detail, as well as a statement for the proposed use of the buildings, structures, and property needs to be submitted to the Planning Commission.

Then, the Planning Commission will hold a public hearing and will review the development plan and statements. Then, after a careful study of how the buildings, structures or uses will effect the surrounding property, a recommendation will be given to the Nemaha County Commissioners for a final decision.

However, if there are any existing "Special Use Exceptions" which were approved prior to the adoption of the zoning code, they will continue as if they were approved under this zoning code.

If any additions or structural changes to conditional uses are requested to previously approved structures, then the same procedure will take place, including a public hearing, which will occur prior to a decision being made.

The following are the conditional uses which can be approved by the Nemaha County Commissioners under this zoning code:

- The operation of a junkyard or automobile graveyard as defined under K.S.A. 68-2203.
- The operation or maintenance of a commercial slaughterhouse, which is any slaughterhouse above 25,000 square feet in enclosed operation.
- The installation, operation or maintenance of sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, waste tire collection or processing facilities or any other such similar areas.
- The installation, operation or maintenance of commercial energy infrastructure including: wind farms, solar farms, ethanol refineries, power generating plants, energy/electricity transfer stations, electrical power and transfer lines, oil and gas storage and pipeworks, or any other such similar areas.

- The establishment, regulation, operation, or expansion of an Airport or Aircraft Landing Field, public or private.
- Any type of commercial mineral or rock mining/extrusion activities, including rock quarries.
- The construction or operation of a Correction or Detention Center.
- Sexually-Oriented Businesses and Adult-Entertainment Stores and Retail Shops.
- Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower 50 feet or more in height – whether publicly or privately owned.

Then, according to the proposed zoning code, a conditional use permit will be allowed to continue — unless specified otherwise — as long as the conditions that were placed on that conditional use are met. However, if the approved conditional use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held and a new Conditional Use Permit approved.

#### **Article 4**

Article 4 of the proposed zoning code, covers “Plan Approval Guidelines.” These guidelines explain what all is required for Conditional Use Permits. According to the proposed code, requirements that should be detailed in the application plan include the intended use, a topographic survey, and a development plan that includes height, open space, setbacks, parking, loading, etc. These items may be adjusted or modified so the property may be developed in a reasonable manner, and at the same time, not be detrimental to the public welfare and the interests of the community. Adjustments or modifications can be made as a part of the rezoning or Conditional Use process, or may be allowed after approval by the Planning Commission upon request of the applicant.

This article also states it is required that all applications for a Conditional Use Permit include a development plan, which must be approved prior to any construction on the property. The procedure for approval of a development plan should consist of the following:

1. Application for a Conditional Use permit; and,
2. Submission of a development plan.

The development plan and application must be submitted together. Then, a public hearing can be set. According to the proposed zoning plan, no building permit will be issued for a Conditional Use Permit until the property has been zoned and the development plan for the entire property and/or each phase of development has been approved.

The proposed development will take into account properties that are within approximately one mile of the proposed property.

Then, the Planning Commission will review the application along with the development plan and will approve or deny the development plan. The Planning Commission can also request modifications to the plan. The Planning Commission may provide approval of the plan with conditions that they find necessary to protect the public interest and surrounding properties.

According to the proposed zoning code, if approved, construction must begin within one year of approval. One single extension of one year may be granted following approval of a written request.

There is also an appeals process developed if an applicant wants to appeal a decision made by the Planning Commission.

## **Article 5**

Article 5 establishes the Board of Zoning Appeals. According to the proposed zoning code, the full membership of the Nemaha County Planning Commission is declared to be the Board of Zoning Appeals.

As stated in the proposed zoning code, the Board of Zoning Appeals has the power to hear and decide on appeals and to hear and decide on special exceptions made. This section also delves more into the guidelines that the Board of Zoning Appeals will be required to follow.

## **Article 6**

Article 6 dives into the administration of the code and gives the Zoning Administrator the authority to enforce the guidelines of the "land development code." This section also states that it is the "duty of all officers and employees of Nemaha County, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of this Code, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation."

## **Article 7**

Article 7 addresses details regarding amendments to the "land development code," including who may petition or apply, posting of signs, traffic studies and more.

According to the proposed "land development code," applications for amendments, revisions or changes in the Zoning District Boundary Map or for a Conditional Use Permit, may be made by any person who owns the land for which such an amendment, revision, change or conditional use permit is sought.

The proposed code also says, "All applications or requests for amendments, revisions or changes to the Zoning Code or the Zoning District Boundary Map or for a Conditional Use Permit shall be made to the Zoning Administrator in writing to the Zoning Administrator and the payment of an application fee established by the Governing Body."

These amendment applications will have a hearing set no later than 60 days after the application is completed.

If approved, the zoning code also would require applicants to post signs stating "Rezoning Pending" or "Conditional Use Permit Pending" at the lot or tract of land stated on the application. The proposed code also states that if the Planning Commission or Nemaha County Commission believe that the rezoning of the land will substantially change traffic patterns or create congestion, the Planning Commission or Nemaha County Commission can require that the applicant pay for a professional traffic study.

The section of the proposed code also gives multiple factors that need to be considered with a change in zoning classification.

Then, whenever an application for amendment, supplement, change, rezoning or conditional use permit has been denied by the Nemaha County Commission, the application or one similar will not be reconsidered sooner than 90 days after the denial.

### **Article 8**

Article 8 addresses interpretation, conflict, remedies and penalty. A few of the items mentioned in this section include:

- If any property is not given a zoning classification on the Zoning District Boundary Map because of error or omission, the property shall be classified “AG” Agricultural District until changed by amendment.
- If any person violates the provisions of the “land development code,” they will be liable to a fine of no more than \$500. Then, each day such violation is permitted to exist, will constitute a separate offense.

### **Article 9**

The last section — Article 9 — covers miscellaneous items for the code, but some of the important statements are:

- The effective date for the “Land Development Code of Nemaha County, Kansas” will be in effect after its passage by Resolution by the Nemaha County Commission.
- The existing wind farm development project — Soldier Creek Wind, LLC — is already in place and will continue under the previously agreed upon terms. However, any future expansion of the scope of the Soldier Creek Wind Farm shall require a Conditional Use Permit.

### **Public Hearing Guidelines**

During the public hearing, Nemaha County patrons will have an opportunity to address the board regarding the proposed Land Development Code. According to Ackerman and Alverson, those who wish to comment during the public comment portion will be required to sign up to speak. Below are other rules that the planning commission has established for the hearing.

- The hearing will begin promptly at the scheduled time and will be limited to two hours in duration.
- Following the presentation of the Land Development Code by the Nemaha County Planning Commission, a block of time will be provided for public comment.
- If 30 or fewer citizens are signed up to comment, each will be allocated two minutes.
- If more than 30 are signed up, individual time will be shortened to 90 seconds.
- To best facilitate all citizens wishing to comment, please respect the timekeeper’s signal that your time has ended.

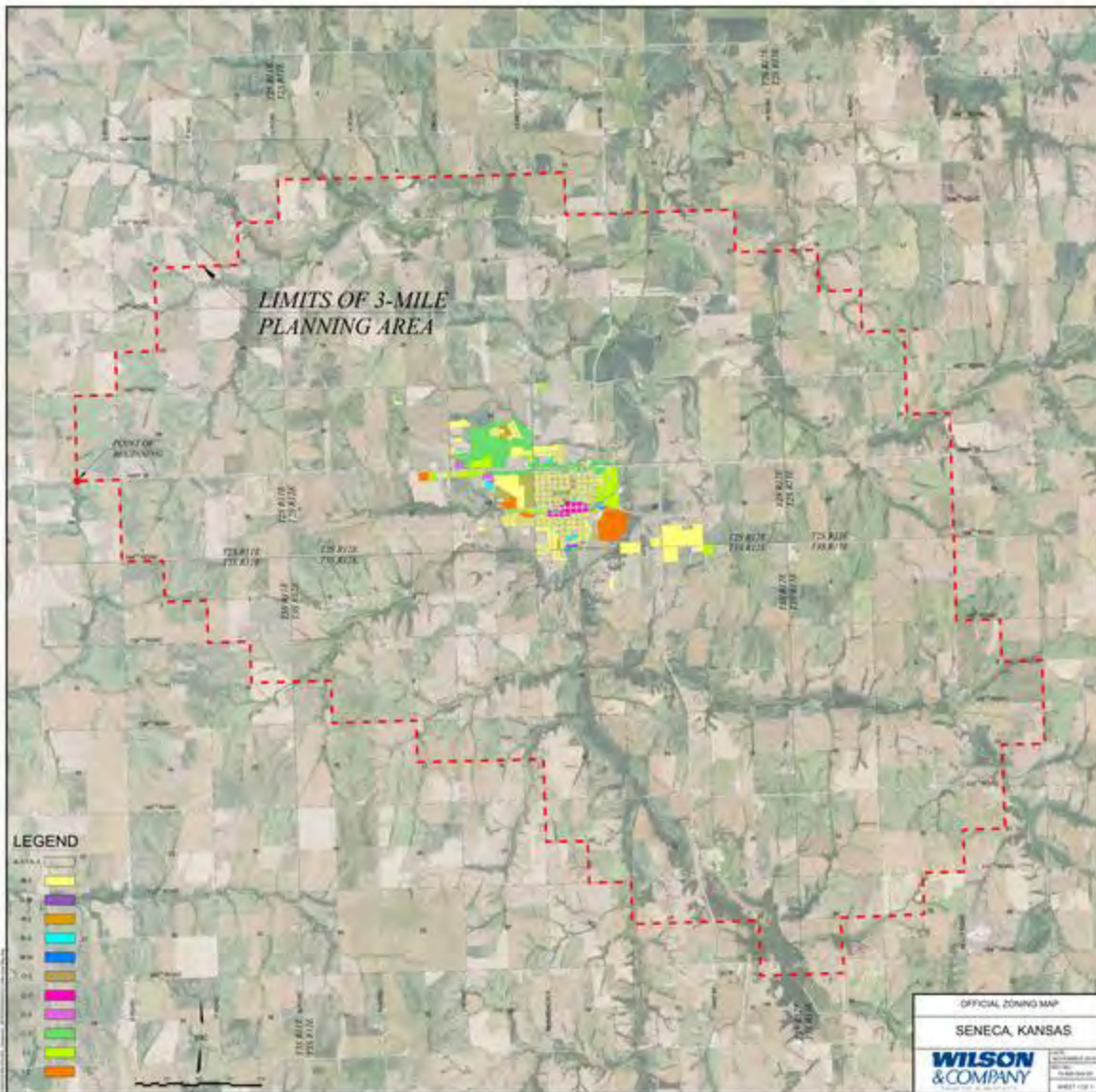
- If the two-hour hearing conclusion is reached before your name is called, you may submit your signed written comments to the County Clerk’s office by noon on Friday, Oct. 31.

After the public hearing, the board could take a vote to adopt the proposed “Land Development Code of Nemaha County, Kansas.”

If approved by the Nemaha County Planning Commission, the final document will be presented to the Nemaha County Commissioners — Ben Glace, Jason Koch and Joe Dalinghaus — for final approval.





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Heather Stewart is one of two co-editors for The Sabetha Herald, where she has been on staff since 2015. Heather is a 2011 Kansas State University graduate with a degree in psychology. She lives in Sabetha with her husband.

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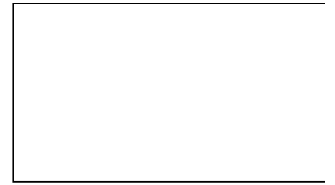
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# Land Development Code public hearing set for next Monday

🕒 October 21, 2025 👤 by Heather Stewart (<https://www.sabethaherald.com/author/heatherstewart/>)

🔗 0 (<https://www.sabethaherald.com/2025/10/21/land-development-code-public-hearing-set-for-next-monday/#respond>)

The public hearing for Nemaha County’s proposed zoning code — Land Development Code for Nemaha County — is slated for next Monday.

The Nemaha County Planning Commission Board — Galen Ackerman, Brent Alverson, Freda Dobbins, Charity Henry, Todd Rokey, Bob Ruddick, Martin Schmelzle, Marya Haverkamp and Michael Schmelzle — approved the final document for the next steps on Monday, Sept. 22. Then, the board set a public hearing date for 7 p.m. Monday, Oct. 27. The meeting will be held at the Nemaha County Community Center located at 1500 Community Drive in Seneca.

During the meeting, Nemaha County patrons will have an opportunity to address the board regarding the proposed Land Development Code. According to Ackerman and Alverson, those who wish to comment during the public comment portion will be required to sign up to speak. Below are other rules that the planning commission has established:

- The hearing will begin promptly at the scheduled time and will be limited to two hours in duration.
- Following the presentation of the Land Development Code by the Nemaha County Planning Commission, a block of time will be provided for public comment.
- If 30 or fewer citizens are signed up to comment, each will be allocated two minutes.
- If more than 30 are signed up, individual time will be shortened to 90 seconds.
- To best facilitate all citizens wishing to comment, please respect the timekeeper’s signal that your time has ended.
- If the two-hour hearing conclusion is reached before your name is called, you may submit your signed written comments to the County Clerk’s office by noon, on Friday, Oct. 31.

Following the public comment portion of the meeting, the board could then take a vote to adopt the proposed “Land Development Code of Nemaha County, Kansas.”

If approved by the Nemaha County Planning Commission, the final document will be presented to the



A copy of the proposed Land Development Code of Nemaha County, Kansas, can be requested or reviewed prior to the public hearing at the Nemaha County Clerk's Office during regular business hours from 8 a.m. to 4:30 p.m.

The Oct. 8 issue of The Sabetha Herald featured a overview of the "Land Development Code of Nemaha County, Kansas."

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Heather Stewart is one of two co-editors for The Sabetha Herald, where she has been on staff since 2015. Heather is a 2011 Kansas State University graduate with a degree in psychology. She lives in Sabetha with her husband.



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# More than 125 people attend zoning public hearing

🕒 November 4, 2025 👤 by Heather Stewart (<https://www.sabethaherald.com/author/heatherstewart/>)

🔗 0 (<https://www.sabethaherald.com/2025/11/04/more-than-125-people-attend-zoning-public-hearing/#respond>)

More than 125 Nemaha County residents took time out of their Monday, Oct. 27, evening to attend the public hearing for a proposed zoning code for Nemaha County. Present for the hearing were planning commission members Galen Ackerman, Brent Alverson, Freda Dobbins, Charity Henry, Todd Rokey, Bob Ruddick, Martin Schmelzle, Marya Haverkamp and Michael Schmelzle. County Counselor/Administrator Austin Parker was also present to discuss the plan in detail.

To open the meeting, Alverson had the board members introduce themselves and went over the “rules” of the public hearing. Alverson said that during the public comment portion of the meeting, those who wanted to speak would be allowed two minutes. Alverson also explained that a survey was sent out to Nemaha County residents a few years ago and based on that response, the planning commission began to develop a zoning code due to numerous responders saying they did not want more wind energy coming into Nemaha County.

Now that the planning commission has developed a draft, it was brought before the public for their input.

“This is a working document,” Alverson said. “Remember, that this is not set in stone.”

Then, Parker began his presentation into the document.

## Diving into the Land Development Code

Parker said he was brought into this project when he was asked to assist with exploring the option of having “some form of land regulation in Nemaha County, Kansas.”

“Almost a year ago today, I was asked whether I would be willing to look and prepare for consideration a draft form of regulation that would address energy, and I said, ‘yes, if you are asking, I would be willing to look at that,’” Parker said. “...I was asked to put together a draft document; there was a desire to look at regulations. The desire was to put the least number of potential regulations up for consideration.”

Parker — who has multiple law degrees and a doctorate in planning and zoning law at the University of Kansas — said the proposed code is not “a multi-zoned code.” Meaning, the proposed document has Nemaha County zoned, in its entirety, in one code — agriculture — not including the extraterritorial jurisdictions in Sabetha and Seneca.

“Why does the code have the parts that you will see?” Parker said. “State statute — K.S.A. 12-7 — tells us how it is that we are able to regulate land use.”

Parker went on to say that the 41-page document is “just about as short as you can make, the zoning code. If you’re making not just a zoning regulation that prohibits one activity. All of the stuff that’s in the zoning code, with the exception of some definition, mainly all refers back to state statute requirements.”

Parker emphasized that if the proposed code is adopted, it says that residents can do anything with their land except under a few circumstances.

“You can do anything with your land in Nemaha County, except for those specific purposes for which a special use permit is required,” Parker said. “...This is not a building permit. May it never be said that this code requires a building permit. There are no other permits required underneath this code for anything other than a special use permit for very specific items.”

According to Parker, the nine special uses that this proposed code will regulate are:

- The operation of a junkyard or salvage yard.
- The operation or maintenance of a commercial slaughterhouse, which is any slaughterhouse above 25,000 square feet in enclosed operation.
- The installation, operation or maintenance of sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, waste tire collection or processing facilities, or any other such similar areas.
- The installation, operation or maintenance of commercial energy infrastructure including: wind farms, solar farms, ethanol refineries, power generating plants, energy/electricity transfer stations, electrical power and transfer lines, oil and gas storage and pipeworks, or any other such similar areas.
- The establishment, regulation, operation or expansion of an Airport or Aircraft Landing Field, public or private.
- Any type of commercial mineral or rock mining/extrusion activities, including rock quarries.
- The construction or operation of a Correction or Detention Center.
- Sexually-Oriented businesses and adult-entertainment stores and retail shops.
- Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower 50 feet or more in height – whether publicly or privately owned.

Parker said that everything is zoned “agriculture,” because that was the easiest thing to call it.

“It’s just as if, without a special use permit, you had no zoning,” Parker said. “All we did was come up with a special use process, and to do that, you had to put everything in one zone.”

Then, Parker said the proposed code states that the regulations on the agricultural district is “to provide for a full range of activities that are consistent with the overall land use of the county by a matter of right.”

"The county's primary land use is agricultural, with some commercial, residential and industrial development consistent with this land use type scatter from the county as such, all types of land use except those specifically requiring a conditional or special use permit, which we just identified, are allowed by a matter of right, no permit required," Parker said.

Then, Parker went over the portion of the code that discussed the application process, review process and approval procedure if someone were wanting to pursue one of the special/conditional uses listed above. He also discussed the appeal process. Parker also said this proposal should cost \$0 annually to administrate due to the applicant paying all fees assessed.

According to the proposed code, Parker said that if someone requests a special use permit, a notice goes to all people with 1,000 feet of the proposed boundaries.

Parker said that under the review process of a special permit application, the planning commission will have to decide whether the proposed project will have a greater impact to the public health, safety and general welfare, will outweigh the hardship imposed upon the applicant.

Parker emphasized that nothing changes with anything that is currently in place, even if it is one of the proposed special uses. Then, in regards to the current wind energy project, Parker said the proposed code states, "any future expansion of this wind project shall require a conditional use permit in accordance with the terms and conditions set forth above."

"You have a wind energy project, if someone wanted to expand it, they have to get a conditional use permit," Parker said.

Parker also said that this code does keep any wind and solar out of the county, but whoever wants one has to ask for it.

To close out his portion of the meeting, Parker said, "I do not care personally whether this code is ever adopted. I don't care. I don't care whether you have regulations. I don't care whether you have more wind turbines, or whether you don't have more wind turbines, or whether you have anything else in the county that you might like or might not like. I have done what I was asked to do, which is to produce this code."

## **Public Comment**

Kathy O'Brien, who lives in Nemaha County and is the General Manager of the Nemaha Marshall County Electrical Cooperative, spoke first. She expressed concern that since they have approximately 600 miles of electric distribution line in Nemaha County, that multiple studies would need to be completed anytime they needed to replace an electrical pole. Those expenses would need to be passed on to their customers.

"...For us to be required to get a conditional use permit for each one of those 500 poles, have an engineering study for each of those 500 poles and 10 miles of line, have a topographical map of every one of those poles, is daunting," O'Brien said. "Again, we are owned by these members in the audience today, and the cost of those, all that stuff, will be passed on to our members through rates. And we feel that this is an overstep, and we ask that you eliminate the requirement for the transfer lines to be required to do that. We think that we have the best interest of our members and that we can manage that ourselves without having to have a required use permit for that."

Then, Steven Macke of Baileyville spoke in opposition to the zoning code.

"I'm not in favor of zoning in Nemaha county as I feel it is a property rights issue," Macke said. "I believe the property development rights should remain with the property owner, not taken away. Once these property rights are lost, they will never be returned. Obviously, the main reason zoning is being pushed is just to keep more commercial wind and solar companies out of Nemaha County. But the unintended consequences will be the real problem. It doesn't take long on reading through all the stipulations outlined in the proposed code to see that an entrepreneur will have to jump through numerous hoops to obtain a conditional use permit in order to start any new non-agriculture business in this county. Talk about crushing an entrepreneurial spirit. I also cannot believe there wasn't a map released with this proposed land and development code, especially since it explicitly references the zoning district boundary map of Nemaha County, Kansas... I am for free enterprise and limited government involvement. Zoning opens the door for future overreach, additional regulations and more barriers for property owners who are simply trying to use their property productively. We should be encouraging innovation and growth without adding unnecessary layers of bureaucracy that will only discourage our progress."

Luke Sunderland of Sabetha — City Attorney for both Sabetha and Seneca — said both cities wanted to keep their current extraterritorial jurisdictions (ETJ) in place.

"...Uncertainty is really the root of why ETJs are in place," Sunderland said. "That is for a city to be able to plan around growth and development and the nature of the city as well. What the ETJs do now for both cities and the county as a whole is to provide certainty – certainty regarding energy projects, regarding effective procedures to safeguard vital resources, and certainty regarding structure for growth, and, most importantly, certainty that anybody in an ETJ, that those residents are not burdened by overt zoning regulations..."

Andy Grove of Bern spoke in favor of the proposed zoning code, saying that the code is in place to protect Nemaha County's rural character and rural way of life.

"...This unique and very special place we live, will undoubtedly be shaken and hurt significantly more by the industrialization of the remainder of the county, which is really what I think is at stake here," Grove said. "This is not about restriction, in my view, it's about protection. It's not about taking away property rights. In my view, it's about protecting them. The citizenry, I believe, is behind you [the planning commission] and in support of your leadership, implementing these necessary land use protections to safeguard our county, our farms, our homes and our rural way life."

Roger Becker of Corning said he was against the zoning code proposal because of the need for rock quarries in the county. He also said the proposal will deter entrepreneurs from starting a new business or expand current operations "due to the paperwork." Then, he added a comment about the current power generation with the current Soldier Creek Wind Farm.

"...One thing I just realized is that the wind farm has a 300 megawatt limit," R. Becker said. "We have new generators coming out that will allow them, without changing anything other than the generator, to increase power production. It seems to me, if you're going to do this, take that limit out and increase it. No more towers, fine, but the generation capacity of these new generators are much more. Please, vote no on this proposal."

Kenneth Keegan, who lives north of Baileyville, said he was not in favor of the proposed zoning code.

Sarah Feldkamp, who lives in Gilman Township, said — in her experience as a real estate appraiser — that wind turbines can affect property values, and to consider what allowing more turbines in the county could do to your neighbor's property value, as well as your own property value.

"...Everybody talks about their property rights. But do they consider how that might affect in certain circumstances, not all, but how does that affect your neighbor?" Feldkamp said. "And does that matter? I think it's time to start considering there's going to be certain circumstances where there's a good chance your property value could be affected by the choice of your neighbors..."

Ed Meyer of Corning said he is not in favor of the proposed zoning code.

"I'm in the Soldier Creek Wind Farm," Meyer said. "I just want to say I'm against this only because I don't want to give up any more of our personal rights. I do want to thank you all, because I know you're all not getting paid to be here, except for Austin [Parker]."

Doug Schmelzle of Seneca thanked the planning commission for their time and work on the project, and then said he was opposed to zoning.

"I'm against your land development code for zoning, if you can call it whatever you want to call it, but it is a zoning regulation," Schmelzle said. "I feel it was unneeded, unnecessary. Yes, I'm a landowner and businessman. It's interesting that this survey did not come out and really say, 'are you in favor of zoning or not in favor of zoning?' I also find it really interesting. We've got an election coming up in just a week or so. Why wasn't this issue put up for public vote? Instead of allowing three commissioners to decide. I find it kind of puzzling... I do believe I'm opposed to the idea of zoning."

Diane Haverkamp of Corning said she "fully supported the land development code as it's written or with a few modifications."

"Please recall the survey that was done in 2023 and where 60 percent wanted no more industrial wind," Haverkamp said. "I felt like Mr. [Austin] Parker did a great job explaining the code. There's nine things that are going to require a special use permit and the rest of the farming, there's no affect... Be a good neighbor. Be a good steward."

Karen Bauman, who lives in Nemaha County, said she doesn't know why the county needs zoning.

"...Nemaha County has never been zoned and the population has increased. I have not read or been informed of all the positive reasons why we need zoning. Only thing is to prevent solar and wind turbine. The county needs more electricity. Many times our electricity goes off, comes back on and have to start all of our appliances again, so we need to have the county planning on where can we get more electricity. Our taxes increased the last 10 years. I don't mind paying taxes for certain departments — road and bridge, Sheriff's Department, all things that we have now — I don't mind paying more taxes. Now that we are doing this and getting your zoning administrator, all this is going to cost us more money. For example, Jackson County has planning and land offices. They have appeals, appointments, applications. Pottawatomie County, they also have a zoning administrator, county counselor and zoning clients, inspector. I understand once you're zoned, you're always zoned, and they can change things every day as they see a need. Where is the landowner's rights?"

MaryAnn Hoisapple, who lives in Nemaha County and who used to work for Nemaha County, said she believes more of the leases for the wind turbines could have been regulated instead of adding more regulations in other areas.

Steve Brooks of Seneca was present in his official capacity as the City Administrator of Seneca.

"Our preference would be to maintain the current ETJ. Primary reason for that is protection of our assets outside of the city limits, which would be the water resources that we have, and also the airport," Brooks said. "...the city of Seneca respectfully requests that you give consideration to ETJ. We would like to leave it the way it is and have conversation about that with you."

Don Lueger of St. Benedict said he believes it is better to be proactive than reactive.

"When the Soldier Creek industrial project was originally proposed, the then county commissioners and the citizens, for that matter, were in a reactive position, pretty much at the mercy of the big corporate wind industry," Lueger said. "Basically, there's nothing any of us could have done to stop Soldier Creek from coming. We were in a reactive situation. Perhaps it is not widely known, but there is another industrial wind project already proposed called Pony Express, owned by Invenergy, waiting in wings. That project is more than two and a half times the size of the Soldier Creek project... Adoption of the land plan is the only possible or realistic way to stop the Pony Express Project... I thank the planning commission, for all their hard work on this issue, and would recommend the Planning Commission and county commissioners adopt the Land Development Plan with perhaps some improvements."

Then, Debbie Stallbaumer of Seneca came forward and said this plan is to protect the county from something that "might be coming."

"There is a reason why this code was needing to be developed in the first place," Stallbaumer said. "It is to protect our land from something that might be coming... I thank you for your attention to this. I support some type of a land development zoning because we do care what our county is going to look like in the future."

### **Response to Public Comment**

After everyone who signed up finished speaking, Parker and Alverson responded to a few questions.

Parker said that O'Brien's comment on the electrical transmission lines was "a well taken point."

After a short discussion regarding the way the proposed code was written and how the Nemaha-Marshall Electrical Cooperative works, Alverson said that the power lines that they run are "distribution lines" and the planning commission will work on clarifying that in the updated zoning code.

Then, Matt Becker of Centralia asked if he could ask a question despite not signing up. M. Becker said he was still trying to form his own opinion on zoning but asked for clarification on what constitutes a junkyard. He also asked about things being built on property that is not necessarily for agriculture use, especially if it could potentially overload the public roads if the setback isn't far enough.

Parker addressed M. Becker's concerns, saying the Nemaha County Commission could enact building permits outside of zoning code if they decided to, but offered some reassurance.

"I don't control any man's vote, but having listened to the three county commissioners, if you believe that hell is a hot place, they're gonna play hockey in hell before a building permit comes to this county," Parker said.

Then, members of the crowd expressed concern that if this passed now, any future county commission could change the zoning code.

Parker said that if any changes wanted to be made to the zoning code, the future Board of County Commissioners would have to go through this same process, including a public hearing, before anything could be changed.

After more discussion, the next steps in the process were discussed.


The planning commission will work on adjusting the current proposed zoning code and once they have made their adjustments, they will make a recommendation to the Board of County Commissioners. Then, the proposed zoning code would have to be adopted by a two-thirds vote of the Board of County Commissioners.


To close out the meeting, Parker offered one final piece of advice for residents of Nemaha County.


“The only way that they are going to adopt a code is if three county commissioners are so convinced of the need for code that in spite of the wave of people that are in this room against this...” Parker said. “There are approximately 128 people to 150 people in this room. You are doing the right thing by engaging in this process. The people up here were asked to perform a job for no pay. I’ve been working with governing bodies my entire life. Both my parents were government attorneys. I am a fifth generation public servant in the State of Kansas. Some of you will never talk to certain people anymore because they made a decision one way or another. Please don’t. They are people. This is a divided issue for this community... Please respect the fact that they are just people making a decision. They may do something you disagree with, but don’t allow it to break your community. That’s the only advice I can give you.”


The Planning Commission will meet again at 6 p.m. Monday, Dec. 1, in the Pioneer Building in Seneca.

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Heather Stewart is one of two co-editors for The Sabetha Herald, where she has been on staff since 2015. Heather is a 2011 Kansas State University graduate with a degree in psychology. She lives in Sabetha with her husband.

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