

which upon a finding by the County Board of Commissioners that there is no alternative location for such waste handling facility, shall be approved by the County Board of Commissioners in accordance with the requirements of Section 17 of LB 975 of the 99th Legislature, 2nd Session, 2006, known as the Livestock Waste Management Act.

**TABLE 501.04
MINIMUM SEPARATION DISTANCES BETWEEN CONFINED AND INTENSIVE ANIMAL FEEDING USES AND WASTE HANDLING FACILITIES AND ABUTTING AND NEIGHBORING USES**

CONFINED AND INTENSIVE FEEDING USES AND WASTE HANDLING FACILITIES <u>by Category and by Class of Use Served:</u>	MINIMUM DISTANCE FROM WASTE HANDLING FACILITY TO A NEIGHBORING LOT OF RECORD, DWELLING UNIT, CHURCH, SCHOOL, OR PUBLIC USE AREA*	
	<u>North / South **</u>	
	<u>East / West**</u>	
<u>Category A (Aerobic) waste handling facility serving a:</u>		
Class I confined animal feeding use (300 - 1,000 animal units).....	0.25 mile.....	0.125 mile
Class II confined animal feeding use (1,001 - 2,500 animal units).....	0.375 mile.....	0.25 mile
Class III confined animal feeding use (2,501 - 5,000 animal units).....	0.5 mile.....	0.375 mile
Class IV confined animal feeding use (5,001 - 10,000 animal units).....	0.625 mile.....	0.5 mile
Class V confined animal feeding use (10,001 or more animal units).....	0.75 mile.....	0.5 mile
<u>Category ANC (Covered Anaerobic) waste handling facility serving a:</u>		
Class I confined animal feeding use (300 - 1,000 animal units).....	0.25 mile.....	0.125 mile
Class II confined animal feeding use (1,001 - 2,500 animal units).....	0.375 mile.....	0.25 mile
Class III confined animal feeding use (2,501 - 5,000 animal units).....	0.5 mile.....	0.375 mile
Class IV confined animal feeding use (5,001 - 10,000 animal units).....	0.625 mile.....	0.5 mile
Class V confined animal feeding use (10,001 or more animal units).....	0.75 mile.....	0.5 mile
<u>Category FAC (Facultative) waste handling facility serving a:</u>		
Class I confined animal feeding use (300 - 1,000 animal units).....	0.375 mile.....	0.25 mile
Class II confined animal feeding use (1,001 - 2,500 animal units).....	0.5 mile.....	0.375 mile
Class III confined animal feeding use (2,501 - 5,000 animal units).....	0.625 mile.....	0.5 mile
Class IV confined animal feeding use (5,001 - 10,000 animal units).....	0.75 mile.....	0.625 mile
Class V confined animal feeding use (10,001 or more animal units).....	1.0 mile.....	0.75 mile
<u>Category AN (Anaerobic) waste handling facility serving a:</u>		
Class I confined animal feeding use (300 - 1,000 animal units).....	0.5 mile.....	0.375 mile
Class II confined animal feeding use (1,001 - 2,500 animal units).....	0.75 mile.....	0.5 mile
Class III confined animal feeding use (2,501 - 5,000 animal units).....	1.0 mile.....	0.625 mile
Class IV confined animal feeding use (5,001 - 10,000 animal units).....	1.25 mile.....	0.75 mile
Class V confined animal feeding use (10,001 or more animal units).....	1.5 miles.....	1.0 mile
<u>Category AN (Anaerobic) waste handling facility *** serving a:</u>		
Class I intensive animal feeding use (300 - 1,000 animal units).....	0.5 mile.....	0.25 mile
Class II intensive animal feeding use (1,001 - 2,500 animal units).....	0.75 mile.....	0.375 mile
Class III intensive animal feeding use (2,501 - 5,000 animal units).....	1.0 mile.....	0.5 mile
Class IV intensive animal feeding use (5,001 - 10,000 animal units).....	1.25 miles.....	0.625 mile
Class V intensive animal feeding use (10,001 or more animal units).....	1.375 miles.....	0.75 mile
<u>Category A (Aerobic) serving a:</u>		
Municipal or other waste handling facility.....	0.125 mile.....	0.125 mile

Footnotes:

- * Measurement of this distance shall be from the point of the confined or intensive animal feeding use or waste handling facility associated including any site where raw or partially digested liquid or slurry waste is applied to the surface of the land in excess of three hundred sixty (360) hours per calendar year per site, nearest to a lot of record less than twenty (20) acres in area, church, school, public use area or dwelling not on the same premises and not of the same ownership as the waste handling facility, to the nearest wall of such dwelling, church, school, or nearest boundary of a public use area, provided that if one or more impact easement(s), as defined in Section 303.52 of this Resolution, shall have been granted to the owner of the waste handling facility use, in which case any lot of record, church, school, dwelling unit or public use area associated with the land on which any such easement has been granted shall not be included in the minimum distance measurements herein specified. A dwelling unit not of the same ownership and on the same premises as the waste handling facility use shall be interpreted to mean that such dwelling is an occupied or habitable dwelling and, if vacant and not habitable, would not require more cost than the present assessed valuation of the dwelling structure (excluding the valuation of the land) to make such dwelling habitable.
- ** Separation distances are based upon compass directions of prevailing winds and shall be applied as defined in Section 303.84 of this Resolution.
- *** By definition in this Resolution, all waste handling facilities serving intensive animal feeding uses, shall be categorized as AN (Anaerobic) unless a conditional use exception is authorized in accordance with the requirements and procedures of this Resolution where it is clearly demonstrated that a different category of waste handling facility is appropriate.

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

303.54 INTENSIVE ANIMAL FEEDING USE: The feeding of more than three hundred (300) animal units at any one time in partial or total earthen pens or lots which are or used for confinement of animals where manure is or may be in contact with the earth. The determination of the number of animal units in any such use shall be based upon the number of animal units set forth in a permit issued by the Nebraska Department of Environmental Quality or its successor or, in the event such a permit is not required, such determination shall be by written declaration of the one-time capacity of such use to the County. In the event of any dispute over the number of animal units, such determination shall be by actual counting of the animal unit capacity by the Zoning Administrator or other duly appointed official at the time of such dispute. Any waste handling facilities, as defined in Section 303.112 of this Resolution, shall be considered a separate waste handling facility use. For purposes of this Resolution, waste handling facility uses associated with any intensive animal feeding uses shall be categorized as an AN (anaerobic) facility, as defined in Section 303.112 of this Resolution, and classified with regard to the number of animal units served in accordance with the following classes of size:

Class I - An intensive animal feeding use with a design capacity of more than three hundred (300) to one thousand (1,000) animal units,

Class II - An intensive animal feeding use with a design capacity of one thousand and one (1,001) to two thousand five hundred (2,500) animal units.

Class III - An intensive animal feeding use with a design capacity of two thousand five hundred and one (2,501) to five thousand (5,000) animal units.

Class IV - An intensive animal feeding use with a design capacity of five thousand and one (5,001) to ten thousand (10,000) animal units.

Class V - An intensive animal feeding use with a design capacity of ten thousand and one (10,001) or more animal units.

303.55 JUNK YARD: See Salvage Yard (Section 303.97).

303.56 KENNEL: A facility where four (4) or more dogs more than six (6) months of age are boarded, bred, sheltered, cared for or kept on any premises or a building where six (6) or more cats and / or other similar animals more than six (6) months of age are boarded, bred, sheltered, cared for and kept in confinement.

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

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