

# LEGISLATIVE BILL 106

Approved by the Governor May 27, 2015

Introduced by Watermeier, 1; Johnson, 23; Murante, 49.

A BILL FOR AN ACT relating to zoning; to provide for a committee and an assessment matrix; and to provide powers and duties.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Director of Agriculture shall appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix described in subsection (2) of this section. Experts shall include representation from county board members, county zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director. The committee shall review the matrix annually and recommend to the department changes as needed.

(2) The Department of Agriculture shall, in consultation with the committee created under subsection (1) of this section, develop an assessment matrix which may be used by county officials to determine whether to approve or disapprove a conditional use permit or special exception application. The matrix shall be developed within one year after the effective date of this act. In the development of the assessment matrix, the department shall:

(a) Consider matrices already developed by the counties and other states;  
(b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The matrix shall consider risks and factors mitigating risks if the livestock operation were constructed according to the application;

(c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications. To every extent feasible, the matrix shall include criteria that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree; and

(d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

(3) The Department of Agriculture may develop criteria in the matrix which include factors referencing the following:

(a) Size of operation;  
(b) Type of operation;  
(c) Whether the operation has received or is in the process of applying for a permit from the Department of Environmental Quality, if required by law;  
(d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Environmental Quality;  
(e) Odor control practices;  
(f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;  
(g) Community support and communication with neighbors and other community members;  
(h) Manure storage and land application sites and practices;  
(i) Traffic;  
(j) Economic impact to the community; and  
(k) Landscape and aesthetic appearance.

(4) In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

(a) Protective of public health or safety;  
(b) Practical and workable;  
(c) Cost effective;  
(d) Objective;  
(e) Based on available scientific information that has been subjected to peer review;  
(f) Designed to promote the growth and viability of animal agriculture in this state;  
(g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and  
(h) Usable by county officials.