

AMENDMENTS TO LB106

(Amendments to Standing Committee amendments, AM521)

Introduced by Watermeier, 1.

1 1. Insert the following new section:

2 Sec. 10. Section 23-114.01, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 23-114.01 (1) In order to avail itself of the powers conferred by
5 section 23-114, the county board shall appoint a planning commission to
6 be known as the county planning commission. The members of the commission
7 shall be residents of the county to be planned and shall be appointed
8 with due consideration to geographical and population factors. Since the
9 primary focus of concern and control in county planning and land-use
10 regulatory programs is the unincorporated area, a majority of the members
11 of the commission shall be residents of unincorporated areas, except that
12 this requirement shall not apply to joint planning commissions. Members
13 of the commission shall hold no county or municipal office, except that a
14 member may also be a member of a city, village, or other type of planning
15 commission. The term of each member shall be three years, except that
16 approximately one-third of the members of the first commission shall
17 serve for terms of one year, one-third for terms of two years, and one-
18 third for terms of three years. All members shall hold office until their
19 successors are appointed. Members of the commission may be removed by a
20 majority vote of the county board for inefficiency, neglect of duty, or
21 malfeasance in office or other good and sufficient cause upon written
22 charges being filed with the county board and after a public hearing has
23 been held regarding such charges. Vacancies occurring otherwise than
24 through the expiration of terms shall be filled for the unexpired terms
25 by individuals appointed by the county board. Members of the commission
26 shall be compensated for their actual and necessary expenses incurred in

1 connection with their duties in an amount to be fixed by the county
2 board. Reimbursement for mileage shall be made at the rate provided in
3 section 81-1176. Each county board may provide a per diem payment for
4 members of the commission of not to exceed fifteen dollars for each day
5 that each such member attends meetings of the commission or is engaged in
6 matters concerning the commission, but no member shall receive more than
7 one thousand dollars in any one year. Such per diem payments shall be in
8 addition to and separate from compensation for expenses.

9 (2) The commission: (a) Shall prepare and adopt as its policy
10 statement a comprehensive development plan and such implemental means as
11 a capital improvement program, subdivision regulations, building codes,
12 and a zoning resolution; (b) shall consult with and advise public
13 officials and agencies, public utilities, civic organizations,
14 educational institutions, and citizens relating to the promulgation of
15 implemental programs; (c) may delegate authority to any of the groups
16 named in subdivision (b) of this subsection to conduct studies and make
17 surveys for the commission; and (d) shall make preliminary reports on its
18 findings and hold public hearings before submitting its final reports.
19 The county board shall not hold its public meetings or take action on
20 matters relating to the comprehensive development plan, capital
21 improvements, building codes, subdivision development, or zoning until it
22 has received the recommendations of the commission.

23 (3) The commission may, with the consent of the governing body, in
24 its own name: Make and enter into contracts with public or private
25 bodies; receive contributions, bequests, gifts, or grants of funds from
26 public or private sources; expend the funds appropriated to it by the
27 county board; employ agents and employees; and acquire, hold, and dispose
28 of property. The commission may, on its own authority: Make arrangements
29 consistent with its program; conduct or sponsor special studies or
30 planning work for any public body or appropriate agency; receive grants,
31 remuneration, or reimbursement for such studies or work; and at its

1 public hearings, summon witnesses, administer oaths, and compel the
2 giving of testimony.

3 (4) In all counties in the state, the county planning commission may
4 grant conditional uses or special exceptions to property owners for the
5 use of their property if the county board of commissioners or supervisors
6 has officially and generally authorized the commission to exercise such
7 powers and has approved the standards and procedures the commission
8 adopted for equitably and judiciously granting such conditional uses or
9 special exceptions. The granting of a conditional use permit or special
10 exception shall only allow property owners to put their property to a
11 special use if it is among those uses specifically identified in the
12 county zoning regulations as classifications of uses which may require
13 special conditions or requirements to be met by the owners before a use
14 permit or building permit is authorized. ~~The applicant for a conditional~~
15 ~~use permit or special exception for a livestock operation specifically~~
16 ~~identified in the county zoning regulations as a classification of use~~
17 ~~which may require special conditions or requirements to be met within an~~
18 ~~area of a county zoned for agricultural use may request a determination~~
19 ~~of the special conditions or requirements to be imposed by the county~~
20 ~~planning commission or by the county board of commissioners or~~
21 ~~supervisors if the board has not authorized the commission to exercise~~
22 ~~such authority. Upon request the commission or board shall issue such~~
23 ~~determination of the special conditions or requirements to be imposed in~~
24 ~~a timely manner. Such special conditions or requirements to be imposed~~
25 ~~may include, but are not limited to, the submission of information that~~
26 ~~may be separately provided to state or federal agencies in applying to~~
27 ~~obtain the applicable state and federal permits. The commission or the~~
28 ~~board may request and review, prior to making a determination of the~~
29 ~~special conditions or requirements to be imposed, reasonable information~~
30 ~~relevant to the conditional use or special exception. If a determination~~
31 ~~of the special conditions or requirements to be imposed has been made,~~

1 ~~final permit approval may be withheld subject only to a final review by~~
2 ~~the commission or county board to determine whether there is a~~
3 ~~substantial change in the applicant's proposed use of the property upon~~
4 ~~which the determination was based and that the applicant has met, or will~~
5 ~~meet, the special conditions or requirements imposed in the~~
6 ~~determination. For purposes of this section, substantial change shall~~
7 ~~include any significant alteration in the original application including~~
8 ~~a significant change in the design or location of buildings or~~
9 ~~facilities, in waste disposal methods or facilities, or in capacity.~~

10 (5) The power to grant conditional uses or special exceptions as set
11 forth in subsection (4) of this section shall be the exclusive authority
12 of the commission, except that the county board of commissioners or
13 supervisors may choose to retain for itself the power to grant
14 conditional uses or special exceptions for those classifications of uses
15 specified in the county zoning regulations. The county board of
16 commissioners or supervisors may exercise such power if it has formally
17 adopted standards and procedures for granting such conditional uses or
18 special exceptions in a manner that is equitable and which will promote
19 the public interest. In any county other than a county in which is
20 located a city of the primary class, an appeal of a decision by the
21 county planning commission or county board of commissioners or
22 supervisors regarding a conditional use or special exception shall be
23 made to the district court. In any county in which is located a city of
24 the primary class, an appeal of a decision by the county planning
25 commission regarding a conditional use or special exception shall be made
26 to the county board of commissioners or supervisors, and an appeal of a
27 decision by the county board of commissioners or supervisors regarding a
28 conditional use or special exception shall be made to the district court.

29 (6) Whenever a county planning commission or county board is
30 authorized to grant conditional uses or special exceptions pursuant to
31 subsection (4) or (5) of this section, the planning commission or county

1 board shall, with its decision to grant or deny a conditional use permit
2 or special exception, issue a statement of factual findings arising from
3 the record of proceedings that support the granting or denial of the
4 conditional use permit or special exception. If a county planning
5 commission's role is advisory to the county board, the county planning
6 commission shall submit such statement with its recommendation to the
7 county board as to whether to approve or deny a conditional use permit or
8 special exception.

9 2. On page 1, line 15, strike "forty-five" and insert "one hundred
10 eighty"; and in line 23 after "operations" insert ", which includes any
11 land application of livestock waste".

12 3. On page 2, line 3, after "existing" insert "nonconforming uses";
13 in line 9 strike "seeking" and insert "to seek a"; in line 18 after
14 "counties" insert "and other states"; in line 23 after the semicolon
15 insert the following new subdivision:

16 "(c) Develop a set of standard minimum distance requirements from
17 neighboring residences, public use areas, and critical public areas to be
18 used in conjunction with the matrix developed pursuant to this section";
19 in line 24 strike "(c)" and insert "(d)"; and in line 31 strike "(d)" and
20 insert "(e)".

21 4. On page 3, strike beginning with "The" in line 13 through line 14
22 and insert "Consideration of proximity of a livestock operation to
23 neighboring residences, public use areas, and critical public areas that
24 exceed the standard minimum distance requirements established in
25 subsection (1) of this section"; and in line 17 strike "application" and
26 insert "land application sites and".

27 5. On page 4, line 4, strike "four" and insert "two"; in line 29
28 strike "areas" and insert "zoning districts"; and in line 30 after
29 "person" insert "or entity".

30 6. On page 5, lines 27 and 28, strike "grandfather in" and insert
31 "retain".

1 7. On page 6, line 14, after the period insert "If a county planning
2 commission's role is advisory to the county board, the county planning
3 commission shall submit a statement of factual findings arising from the
4 record of proceedings with its recommendation to the county board as to
5 whether to approve or deny the livestock operation siting permit."; and
6 in line 16 strike "areas" and insert "zoning districts".

7 8. On page 7, strike beginning with "base" in line 11 through
8 "record" in line 12 and insert "issue a statement of factual findings
9 arising from the record of proceedings".

10 9. On page 12, line 7, strike "section" and insert "sections" and
11 after "23-114" insert "and 23-114.01"; and in line 8 strike "is" and
12 insert "are".

13 10. Renumber the remaining section accordingly.