

THE MADISON COUNTY PLAN



A Comprehensive Development Plan for Madison County, Nebraska

Prepared with the Citizens of Madison County, Nebraska

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INTRODUCTION

Madison County, Nebraska's seventh most populous county, is located in the northeastern part of the state and has an area of 576 square miles, or 368,640 acres. There are six communities located within Madison County: Norfolk which is the largest, Madison which is the county seat, Battle Creek, Meadow Grove, Newman Grove, and Tilden. The main economic enterprise in Madison County continues to be agriculture. While there was an increase in total county population since the adoption of the previous comprehensive plan in 1975, there has been a trend of decreasing population in rural areas and the smaller communities. Population increases are primarily a result of growth within and around the City of Norfolk. Madison County's comprehensive plan is important for helping to define the character of the leading edge of metropolitan growth, preserving vital environmental resources and agricultural lands, and discouraging unstructured development in rural areas and on the urban fringe of communities.

BASIC PRINCIPLES

This comprehensive plan for Madison County is based on the following basic principles:

- *The planning jurisdiction of Madison County contains unique environmental resources and features that should be recognized and preserved.* These features include a topography of undulating rolling hills, the scenic Elkhorn valley, numerous creeks and streams, and prime agricultural lands. Conventional suburban development in the Norfolk metropolitan area has tended to disregard these environmental resources, except when they make construction economically infeasible.
- *Planning efforts must recognize agriculture and agricultural related industries and services as the primary economic priority for Madison County.* Agriculture will continue to be the primary land use and economic generator within the planning jurisdiction of Madison County. As such, the needs of this vital industry must be upheld and opportunities to increase viability must be explored.
- *Land use planning in Madison County should integrate the needs of development and the need for resource and open space conservation.* Development pressures in the county's planning jurisdiction have grown as more metropolitan area residents seek the uncrowded, rural setting that this area provides. However, unmanaged development erodes the very nature of the rural landscape that new residents seek. The county plan should promote development patterns that accommodate appropriate development while preserving the rural character of the land.

- *Development and land use in the planning jurisdiction should be related to the nature and capacity of the land.* Topography, drainageways, vegetation, soil characteristics, the presence of wetlands, and suitability for farming all have an influence on the type of development that is most appropriate for a given area. Large areas of the jurisdiction are located in the 100-year floodplain, discouraging conventional single-family residential development and intensive confinement operations. Land use policies should be sympathetic and appropriate to the constraints posed by these underlying conditions.
- *Land use policy should encourage unique settings for the metropolitan area.* The jurisdictions of Madison County's municipalities provide abundant land resources for conventional subdivision development with full public improvements at urban densities. Land in the county's jurisdiction should provide a counterpoint to this form of development, establishing unique living environments that grow out of the opportunities presented by the land.
- *Land use and development policies for the county should anticipate a mature, final stage of development.* Many parts of the existing county jurisdiction will never experience end-stage conventional development because of topography, floodplains, or the relative cost of providing urban services. Therefore, the county plan should provide guidance for a mature stage of the development process, rather than being viewed as a transition to higher density growth. As such, land use policy should guide growth toward this mature end stage.

GOALS FOR MADISON COUNTY

An important part of the planning process for Madison County was the definition of community goals and priorities through a strategic planning process. This process assessed community features and defined goals for the twenty-year planning period. A broadly representative planning committee, augmented by participants from the community at large, was the focus of this strategic planning process.

The Strategic Planning Process

A committee representing wide ranging interests throughout Madison County was utilized for the strategic planning process. The participants in this process were asked to rank various elements of the county on a five (highest) to one (lowest) rating. Those items which received the highest ratings (4's and 5's) represent the county's major assets from the perspective of survey participants. Conversely, those items with most frequent low ratings represent major areas for improvement. In this process, a rating of 3.5 or over generally suggests a source of strength. On the basis of responses to the ranking questions and open ended questions on the survey, major county strengths include:

- Quality of elementary school education
- Local economic strength
- Regional medical services
- People
- Overall quality of life
- Quality of secondary school education
- Regional trails and the associated potential of these trails

Significant county weaknesses included:

- High tax levels
- Poor wage levels/quality of jobs
- Inability to attract young families
- Lack of historic resources
- Limited opportunity for recreational activities
- Tourism potential
- Regional parks/recreation

During the strategic planning process, the participants focused on several strategic areas, including:

ECONOMIC DEVELOPMENT

QUALITY OF LIFE

LAND USE AND THE ENVIRONMENT

Committees organized around these strategic focuses and defined the following priority goals and issues:

ECONOMIC DEVELOPMENT

- Maintain and encourage growth of existing industry on a region-wide basis, such as a 10-20 mile radius from Norfolk. Have the county coordinate the economic development activities of all of the towns, with each designating funds for a full time economic development position. Build off of agriculture, the county's primary industry.
- Have each community identify industrial tracts that are served by utilities and transportation routes. The county should fill in the gaps where needs are not being met by the individual communities. The county should provide funding for infrastructure development and provide industrial development areas within the county.
- Establish a county economic development corporation. A possible project would be to research the possibility of constructing a speculative building and provide seed money to assist in the relocation or up-start of an industry.

- Industrial recruiting should be done on a regional basis with county involvement. This could be accomplished at a county-wide level, with the small communities playing a part in this. Hire a paid development recruiter to bring in industry for the region.
- Recognize the vital nature of education. K-12 education and the community college are assets for the communities and a major key to attracting industry. Each community within the county should look into distance learning opportunities for their residents and install fiber optic networks to assist in communication and the dissemination of information. The comprehensive plan must recognize that entities within the county must work within the lid bill, where only \$1.10/\$100.00 of property value can be taxed for schools.
- Identify value-added agricultural products (such as seed corn and soybean processing) to provide a market for the county's agricultural products. Value-added production will lead to an increase in job opportunities and an increased quality of life for the county's residents. Do not always follow a commercialized chain of production. Instead, promote more direct farm to market activity.
- Form an agriculture awareness group to promote existing agriculture activities and to foster community support for agriculture within the county. Many organizations within the county would support this, and the goal would be to work together, lobby, and influence people's perceptions of agriculture. The group could create an Agricultural "Dude Farm" and bus city kids into the county for farming experiences. The Fair Board could take a lead in this area.
- Industrial jobs are important to farming because they are an important source of supplemental income. Good jobs, off the farm, help maintain many small farmers. As a result, jobs need to be in places besides Norfolk. This will allow smaller farms to remain sustainable within the county.
- Form a Madison County Visitor's Center or some kind of vehicle to promote the tourism industry (Pierce's Cuthill Winery, Bed & Breakfasts', etc.). Market infrastructure such as motels, restaurants, and points of interest that promote the history of the area and establish links with the Cowboy Trail and proposed convention center.
- Continue to develop and promote the Cowboy Trail. Take advantage of the opportunity by creating historical areas and amenities along the trail in each community. Work with the Elkhorn Valley Trails Network and Keep Madison County Beautiful agencies. Continue to promote and support recreation and economic development opportunities associated with the trail system.

- Develop a convention center in Norfolk that is economically feasible. The size would need to be supportable and affordable. This could be tied in with a possible expansion of the Lifelong Learning Center.

QUALITY OF LIFE

- Improve the maintenance of the fairgrounds by ensuring that the county knows how important the fairgrounds are to the residents of the county. The Fair Board lost its taxing authority, so funds must now come from the general county budget. This means that it will need to compete with other agencies for funding. The county needs to work with groups like 4-H for fundraising, maintenance, and community service.

- Improve the utilization of community facilities like the schools and churches. Maintain the current infrastructure and use the schools and churches as assets.

- Improve county-wide participation in recycling. Northeast Nebraska needs to address the problems as a region more than as individual communities. Household hazardous waste must be addressed and localized recycling locations must be identified. This could be the responsibility of the Conservation District.

- Preserve the country schools in order to help maintain choices for residents regarding education. Strategies to accomplish this must consider taxation and funding issues.

- Target schools on a cooperative basis, creating specialized magnet programs. This will help keep schools that have low enrollments open. Utilize distance learning opportunities as necessary. Cooperation is the key to keeping schools open.

- Build farm to market roads and designate them as such. Not all of these would need to be "all weather" roads. Study existing traffic patterns and identify major arteries that receive heavy truck traffic. Designate these roads with higher design standards, while maintaining the roads that currently exist within the county.

- Institute a county-wide recreational trail system. Research potential locations and connect these to the Cowboy Trail. Consider providing a connection between Norfolk and Columbus.

LAND USE AND THE ENVIRONMENT

- Ensure that family farms stay family farms by preserving prime agriculture land. Maintain existing restrictions, such as specific use permits with standards and rules. Identify areas and characteristics for different types of development, zone to protect agriculture, and maintain the 40 acre density limit.

- Identify appropriate locations for residential development within the county. Develop a nice mobile home park adjacent to one of the towns in order to take advantage of existing infrastructure and schools. This would address several goals and be a good opportunity for one of the smaller communities. In addition, identify areas for acreage development that are not on prime agricultural land and keep housing developments closer to established communities.
- Existing regulations allow feedlots to be developed 1/4 mile from a house. Increase this radius or use the prevailing wind to determine the appropriate location.
- Reduce homeowner's sense of vulnerability to adverse rural development and increase residents' awareness of new proposals for development. Conversely, rural home builders need to be made aware of agricultural and environmental conditions prior to allowing them to build.
- There needs to be more protection for farmers from increasing property values, based on adjacent urban development.

A HISTORY OF MADISON COUNTY

Madison County experienced exploration as early as 1795, when James Mackay mapped the county during his exploration of the Louisiana Territory. Louis and Clark held council in 1804 with local Native Americans in Madison County. In 1859, General John M. Thayer sent a small army from Omaha to the present site of Norfolk to pursue a band of Native Americans who had stolen property from settlers. However, Chief Peta-le-sharu surrendered and Battle Creek is named for this battle, which was never fought.

The Homestead Act of 1862 allowed many people to travel west in search of free land. Among these travelers was a group of 125 from Wisconsin, of German descent, led by Herman Braasch and Louis Heckendorf who settled at the junction of the Elkhorn and North Fork rivers. This group came by wagon, with four oxen and two cows per family, but only seven men had horses. When the group arrived at their destination, they found a small group of settlers who had come a few months beforehand from Illinois. Not wanting to live among the Germans, the group from Illinois moved to Columbus. Several settlers later moved and re-settled on Union Creek, forming what later became the town of Madison. Others started a settlement at present-day Battle Creek the same year.

The settlers lived in their wagons while their log cabins, sod houses, or dugouts were being built. Many suffered through harsh conditions such as locusts, blizzards, floods, and prairie fires throughout the beginning of their settlement. In December of 1867, the county was officially organized. The county was called Madison, as a tribute to the capital city of the settler's former home in Wisconsin. Norfolk was chosen as the county seat, but later a dispute arose and, by a majority vote, Madison became the new county seat.

Soon after the organization of the county, many more settlers moved to Madison County. In 1874 the government land office was opened in Norfolk, and stage coach lines were established from Norfolk and Madison to Wisner, O'Neill, Niobrara, and Columbus. The Madison Review, the first county newspaper, was first printed by T.M. Blakely in 1874. The gold rush to the Black Hills in 1876-1878 provided an increase in business and trade in Madison County. Trains of wagons carried food provisions to the miners, helping the county to prosper.

At this time, railroads were connecting more and more cities across the United States. Numerous proposals were made for a railroad going from Sioux City to Kearney that would pass through Madison County, and in 1876 bonds were voted to start construction but the project was abandoned. Three years later the Fremont, Elkhorn, & Missouri Valley Railroad was built and reached Norfolk. One year after that, the Omaha, Niobrara, & Black Hills Railroad reached Norfolk and in 1882 the St. Paul & Sioux City Railroad also reached the county. The railroads provided an increase in business and profits for merchants and farmers within the county, triggering a significant population growth. The completion of a railroad lines paved the way for a successful future for Madison County.

METHODOLOGY

Because of the special nature of planning in Madison County, with substantial environmental conservation concerns combined with competition for space between agricultural uses and urban and rural residential development, traditional planning methodologies (such as population projections and resulting calculation and allocation of urban land conversion needs) have limited usefulness. As a result, this plan uses methodologies that are more appropriate for planning at the county level. The methods used were derived, in part, from the pioneering planning work of the landscape architect and environmental planner Ian McHarg. McHarg's methods overlay environmental constraints and opportunities to determine appropriate development policies for specific areas.

Reflecting this method, the Madison County land use plan is divided into the following sections:

- *Part 1: Land Use and Land Use Trends.* This section reviews land use and development patterns and trends in the county planning jurisdiction, including an analysis of population and development in the jurisdiction since the completion of the previous comprehensive plan in 1975.
- *Part 2: Environmental and Development Resources.* This section analyzes those features that add value to the environment of the planning area and affect the course of

future development. It also examines infrastructure resources including transportation and major utility systems.

- *Part 3: Development Policy Districts.* This section relates land use and environmental characteristics to define development policy districts. It establishes policies that are matched to the special constraints and opportunities presented by these districts.
- *Part 4: Land Use Plan.* This section presents a land use concept, along with principles and recommendations guiding land use policy in the planning jurisdiction. The plan, built on the concept of Development Policy Districts, provides a guide for future public and private development decisions.
- *Part 5: Transportation, Infrastructure, and Public Facilities Plan.* This section presents specific improvements designed to support the concepts of the land use plan. These include public services, transportation, trails, and greenway corridors.
- *Part 6: Plan Implementation.* This section provides guidance and techniques for implementing key aspects of the county plan.

PART ONE

LAND USE AND LAND USE TRENDS

This section examines population and land use characteristics in Madison County.

PLANNING AREA CHANGES AND POPULATION

The Madison County planning jurisdiction has remained relatively constant since the adoption of the previous comprehensive plan in 1975. With the exception of Norfolk, the communities in Madison County have remained relatively static in geographical size. Madison County is square in dimension and each side is 24 miles long. The total area is 576 square miles or 368,640 acres. The total county jurisdiction, the total county area excluding the area of communities, is approximately 563 square miles or 360,334 acres.

The population of Madison County is representative of the land use and population trends occurring throughout the midwest. The rural population and the population of the smaller communities within Madison County experienced population decreases between 1980 and 1990. The rural population decreased from 6,693 in 1980 to 6,032 in 1990, a decline of 661 persons. Between 1990 and 2000 the rural population decreased from 6,033 to 5,999, a decline of only 31 persons. During these same time periods, the overall population of the county increased. This is consistent with the current migration trends in agricultural regions, where the number of farmsteads is decreasing. Consequently, there is less reliance of local economies on agriculture. As a result, residents of smaller communities tend to migrate toward larger communities in search of employment opportunities outside the agricultural field. This trend accurately describes population activity in Madison County during the 1980s. However, during the 1990s, even the smaller communities tended to grow in population.

The population of the rural population decreased at a much lower rate during the 1990s than during the 1980s. This is primarily attributed to development demands in and around the City of Norfolk. Most rural development within the County's jurisdiction has occurred on lot splits from farmsteads rather than in rural subdivisions. Rural subdivisions require rezoning to a residential classification. Currently, an existing parcel of land within the county can be divided to one time to create a separate lot. The minimum lot size for lots with septic sewer systems is two and one-half acres. For a lot to be split more than once, a subdivision must be platted and the minimum lot size is 40 acres.

As existing smaller lots and lot splits become more unavailable, the trend of 40 acre lots being created for the sole purpose of residential development will increase. The high cost of developed urban lots contrasted with the low cost of rural farmland, particularly land that is not considered prime-ag land, increases the propensity for rural development. The result is a high occurrence of rural development on scattered lots at the fringe of urban employment centers.

Madison County Population Projections							
	Migration Rate	1990 (actual)	2000 (actual)	2005	2010	2015	2020
Battle Creek	15%	997	1,158	1,248	1,347	1,464	1,597
Meadow Grove	6%	332	311	311	313	318	323
Norfolk	8%	21,476	23,516	25,737	27,192	28,664	30,097
Newman Grove	10%	787	797	786	788	803	830
Madison	6%	2,135	2,367	2,420	2,506	2,616	2,740
Tilden	10%	895	1,078	1,087	1,119	1,172	1,236
Rural MadisonCo.	-6%	6,033	5,999	5,832	5,690	5,588	5,486
County Totals		32,955	35,226	39,426	40,965	42,640	44,329

Census 1990, 2000

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LAND USE

Map 1, Existing Land Use, displays the distribution of existing land uses in the Madison County planning jurisdiction in 1999. Information was gathered from current aerial photography, updated and verified by field inspection and special use permit records.

■ Agricultural and Open Land

Agriculture remains the dominant land use in the planning jurisdiction in Madison County, lending the area its distinctive rural quality. In general, urban development has been contiguous to existing communities or has occurred within their respective planning jurisdictions. Crop production predominates in the undulating uplands and in the productive floodplains of the Elkhorn River and associated tributaries. Remaining undeveloped areas include wetlands and forested areas along the rivers and streams.

■ Residential Uses

Residential development makes up the second most prevalent land use in the county planning jurisdiction and presents some of the most significant planning issues. Most land use changes within the county have been a result of residential growth. As the number of farmsteads decrease and the trend of rural residential development increases, the character and use of the rural landscape changes. Changing commuting patterns and service demands of rural residents will necessitate a new look at rural infrastructure needs.

■ Commercial Uses

Commercial land uses comprise a small portion of the Madison County planning area. The majority of the uses reflect businesses that were in operation prior to the adoption

of the zoning and subdivision regulations. Relatively few commercial developments have occurred in the planning area since the adoption of the 1975 Comprehensive Plan, and those that have are, for the most part, in conformance with it. Existing commercial land uses can be found along Highways 275 and 81, near the cities of Norfolk and Madison. Major commercial uses consist of implement dealers, auto-related service and retail, and restaurant/entertainment.

■ Industrial Uses

The existing Land Use Map categorizes Industrial uses as Industrial, Ag-Industrial, and Quarry. Many of the major industries in Madison County are clustered around the City of Norfolk. Affiliated Foods, Vulcraft, and Good Year are located southwest of Norfolk along Omaha Avenue, near the intersection of Highways 275 and 81. Well's Blue Bunny, IBP (formerly Beef America) and Progressive Nutrition are located southeast of Norfolk along or near Highway 275. Kendall Medical, Air Park industrial park, and many other smaller industries are located along Highway 81 south of Norfolk. Coe Cattle is also located in this general vicinity, just west of the airport. Other major industries in Madison County include IBP near Madison, multiple grain storage sites at various locations around the county, and three quarries located along the Elkhorn River. Industrial development is likely to extend along both sides of the Highway 275 and 81 corridors. However, many of the existing industries may become annexed into the City of Norfolk as the community grows and encompasses their locations.

■ Civic Uses

The most significant public open space in the county planning jurisdiction is the Cowboy Recreation and Nature Trail. The trail is located on the historic Chicago and Northwestern Railroad right-of-way and passes through Battle Creek, Meadow Grove and Tilden as it travels from Norfolk west through the Elkhorn River Valley. When completed, this hiking, biking, and equestrian trail will stretch 321 miles across Nebraska, making it the longest rail-to-trail conversion in the nation. The trail is not fully completed, but a 34 mile segment extending through Madison County from Norfolk to Neligh is fully operational.

There are three State Wildlife Management Areas (SWMA) located in Madison County: Yellowbanks SWMA, Oak Valley SWMA, and Elkhorn SWMA. The Yellowbanks SWMA is located approximately 12 miles west of Norfolk and two miles north of U.S. 275 along the Elkhorn River. Yellowbanks SWMA allows hunting on its 663.71 acres and consists of 55.0 acres of crop, 309.0 acres of pasture, 261.71 acres of timber, and 38.0 acres of water. The Oak Valley SWMA is located three miles south of Battle Creek and one mile west of State Highway 121. It also allows hunting on its 480 acres of land. It is divided into 197.0 acres of crop, 180 acres of pasture, 100.00 acres of timber, and 3.0

acres of water. The Elkhorn SWMA is located at the north edge of Norfolk and is 32.42 acres in size. Hunting is not allowed and the entire area is categorized as pasture.

There are several other public recreation opportunities in Madison County. The Elkhorn State Wayside Area has 44 acres and is open to picnicking and camping. The Millstone State Wayside Area offers 4 acres with minimum basic facilities for picnicking and camping. Skyview Lake, a watershed structure operated by the Lower Elkhorn Natural Resources District on the edge of the city of Norfolk attracts approximately 25,000 visitors a year. Picnicking, swimming, fishing, and boating are the most popular attractions.

Other outdoor recreation opportunities include a gun club, an archery club, and auto racing. Hunting for dove, pheasant, bobwhite quail, and deer is common on private lands throughout the county during regular hunting seasons. Opportunities for catfish, bass and bluegill fishing are available on farm ponds and on the Elkhorn River.

There are three golf courses located within the county planning area. They consist of the Fair Play Golf Course located three miles south of Norfolk and just west of U.S. 81, Kelly's Golf Course located six miles west of Norfolk along the south side of U.S. 275, and Evergreen Hill Golf Course located approximately three miles south of Battle Creek along the east side of State Highway 121.

■ Water Surfaces and Water-Related Uses

The Elkhorn River is the principal water resource in Madison County. The river corridor is lined with natural vegetation and timber, providing shelter for wildlife. The river provides opportunities for fishing and other water related recreation such as canoeing and tubing. Other bodies of water include smaller tributaries to the river, several sand and gravel pit lakes, and small farm ponds. All of these bodies of water provide an attraction for other land uses. For example, gravel pit lakes are frequently converted to residential uses after extraction activities are complete.

RESIDENTIAL USES AND DEVELOPMENT TRENDS

The conversion of land from agricultural to residential land use is one of the leading land use policy question that confronts the rural Madison County planning area. Currently, the Madison County planning jurisdiction contains 2,039 dwelling units located within the Madison County Planning Area. This total consists of several different types of units, including subdivision dwellings, farm dwellings, non-farm dwellings, mobile homes, and seasonal units.

■ Subdivision Improvements

The majority of rural development, to date, has occurred as individual lot splits. If rural subdivisions become more common, the county will need to become increasingly involved in the level of improvements necessary to support multi-lot subdivisions.

Improvements to county subdivisions fall into three separate categories: water systems, sewer systems, and road access. Water is currently provided to the majority of the lots in the county subdivisions through wells. Sewage disposal is provided to the majority of the lots in the county subdivisions through septic systems. Road access is the third major subdivision improvement category. Access to county subdivisions is provided by either hard surfaced or gravel roads. Hard surfaced access may include paved roads within a multi-lot subdivision or single lot subdivisions that are connected by a driveway to a paved county road. Gravel access can include unpaved roads within a multi-lot subdivision, or direct access off of a gravel county road. The size of rural subdivisions and the demand for county services, is directly proportional to the level of improvements that should be required.

■ Development Activity and Trends

Building permit activity in Madison County has consisted of 52 permits issued for single-family residences from 1990 through the middle of 1999. The number of permits being issued appears to be increasing over time, with twelve permits being issued in 1998 which is a considerable increase over 1990 through 1993 where only two permits were issued per year. There have been no duplex or multi-family permits issued within the county jurisdiction.

Rural Madison County single-family building permits										
1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
2	2	5	2	8	6	4	6	12	5	52

LAND USE ISSUES

This analysis of land use and development patterns suggests the following major conclusions and issues:

- Subdivision activity within the planning jurisdiction has been primarily located within the planning jurisdiction of the City of Norfolk. Nearly all of the rural development outside of the Norfolk planning jurisdiction has been the result of lot splits or conversion of farmsteads to residences.
- The conversion of the Chicago and Northwestern Railroad right-of-way to the Cowboy Recreation and Nature Trail represents a major transition in land use

and opportunity. The recreation and tourism potential provided by this trail create exciting new opportunities for the county.

- Current techniques of preserving prime agricultural land, such as minimum lot size requirements, are less effective when residential market demand exceeds agricultural land values.
- The viability of existing farms is negatively affected when land valuations are increased based on adjacent non-agricultural land uses.

PART TWO

ENVIRONMENTAL AND DEVELOPMENT RESOURCES

A basic principle of this land use plan for the Madison County planning jurisdiction is the need to establish a balance between environmental values and reasonable development demands. A corollary to this principle is matching development policy to environmental attributes, placing a value on conserving the region's most important natural resources and assets. This section includes a series of maps which identify and locate these vital assets. These maps are then overlaid to establish specific development policy districts that will ultimately guide land use decisions and project design.

THE COUNTY PLANNING JURISDICTION: A GEOGRAPHIC OVERVIEW

Madison County can be divided into essentially three specific environmental districts: the Bottom Lands and Upland Valleys, the Uplands and Stream Terraces, and the Elkhorn River Corridor.

Bottom Lands and Upland Valleys. The Bottom Lands and Upland Valleys generally coincide with the Elkhorn River and associated creek corridors throughout Madison County. The soils in these lower lowland regions consist of silty, sandy and loamy types. They are poorly drained and range from level to gently sloping. These lands are generally characterized as floodways and floodplains, or lowlands. The river plains corridor is located entirely within the Bottom lands and upland valleys.

Uplands and Stream Terraces. The Uplands and Stream Terraces are located outside of the stream and river corridors and make up the remainder of the county. These lands consist of silty, sandy and loamy soils; are generally well to excessively drained; and range from level to strongly sloping. The uplands and stream terraces generally characterized as rolling hills that drain toward the Elkhorn River.

The river plains corridor extends along the edges of the Elkhorn River. It has a generally flat topography, most of which is located within 100- and 500-year floodplains. Soils vary in their physical properties; significant gravel deposits occur in these alluvial soils, producing significant gravel extraction uses throughout the plains. Soil conditions and high water tables complicate residential development; but offer excellent areas for farmland.

PRIME FARMLAND

Map 2, Prime Farmland, displays those areas defined as prime agricultural lands. These areas can be found throughout the county, but are primarily located within the southern half and western areas south of the Elkhorn River. Generally, the uplands and stream terraces of the southern portion of the county offer better farmland than the

bottom lands and upland valleys along the Elkhorn River corridor. The silty soils of these uplands areas is ideal for agricultural production. The only constraints to this otherwise fertile land are the scattered slopes greater than 9%.

Prime farmland, is the land that is best suited to producing food, feed, forage, fiber, and oilseed crops. It has the soil quality, growing season, and moisture supply needed to economically produce a sustained height yield of crops when it is treated and managed using acceptable farming methods. Prime farmland produces the highest yields with minimal inputs of energy and economic resources, and farming it results in the least damage to the environment.

URBAN SUITABILITY

Map 3, Urban Suitability, displays the suitability of various parts of the county jurisdiction, based on soil absorption capacity for septic fields and the ability to construct buildings with basements. Where septic systems are used in favor of community sewer systems, favorable conditions exist when soils include a water table or impervious layer that is at least four feet below the bottom of the proposed lateral trench, and which have a medium texture, neither too fine and silty or coarse and gravelly. In addition, high water tables and flood plain elevations generally discourage basement construction.

Based on these criteria, land most suitable for urban development is found in the uplands and stream terraces of the southern and western sectors of the county, and in a few locations of the northern part of the county to the west of Norfolk. Within these areas, soils in stream and drainageway corridors and their immediate drainageways are least appropriate for residential development. The entire Elkhorn River corridor experiences substantial problems for both basement construction and septic fields.

Severe limitations to urban development are found predominantly in the northern tier of the county, coinciding with the Elkhorn River corridor and associated bottom lands and upland valleys. Other areas of severe limitations can be found scattered throughout the county, but with less geographic intensity. Ironically, the majority of urban development within the county has occurred within areas defined as having severe limitations. This illustrates that market demand for development can overcome challenges such as building limitations, such as is happening west of Norfolk.

Another important consideration is the need to locate animal confinement operations outside of those areas defined as having severe limitations. An animal confinement operation can easily produce a demand for wastewater treatment that exceeds rural residential or even urban density development.

FLOODPLAINS

Map 4, Flood Plains, displays the location of floodplains within Madison County. These are areas that have a 1% probability of inundation during any given year. Contemporary floodplain regulations require elevation of finished floor levels one foot above the 100-year flood level. Most of the land area within the Elkhorn River corridor and major creek corridors are designated as 100-year floodplain.

VEGETATION

Map 5, Vegetation, displays the location of within Madison County. Vegetation refers primarily to major stands of trees and brushy areas. These occur at points along the Elkhorn River and at scattered locations along creeks and drainageways throughout Madison County.

STEEP SLOPES

Map 6, Slopes, displays the location of slopes within Madison County that exceed 9%. Slopes in excess of 9% can be found throughout Madison County, but are primarily located intermittently across the southwestern half and in the north, west of the city of Norfolk. These slopes are considered very erodible; thus land disturbing activities here should generally be avoided.

WETLANDS

Map 7, Wetlands, displays the location of wetlands within Madison County. Wetlands, as identified in the most current National Wetlands Survey maps, occur in and along the Elkhorn River corridor, but also in spotted locations throughout the county. There are two major concentrations of wetlands outside of the Elkhorn River corridor. The first is located equidistant between the communities of Meadow Grove and Battle Creek, and are approximately one-half mile south of the Cowboy Trail. The second area of significance is located north of Enola along either side of the NCRC Railroad.

INFRASTRUCTURE: TRANSPORTATION SYSTEMS

Map 8, Base Information, illustrates the transportation resources of the county planning jurisdiction. Principal roads are classified as follows:

- *State and Federal Highways.* These major regional arterials include:
 - US Highway 275, extending east-west through the northern tier of the county. It extends through the communities of Tilden, Meadow Grove, and Norfolk.

- US Highway 81, extending north-south through the eastern portion of the county. It extends through Norfolk and Madison.
 - Nebraska Highway 32, an east-west route through the southern third of the county, extending through Madison and briefly combining with State Highway 45 at the western edge of the county.
 - Nebraska Highway 45, a north-south route along the western edge of the county which connects Tilden and Newman Grove. This highway is located on the western county boundary between Tilden and Nebraska Highway 32.
 - Nebraska Highway 121, extending north-south from US Highway 275 to Nebraska Highway 32 in the general center of the county. This corridor passes through Battle Creek.
 - Nebraska Highway 35, extends north-east from Norfolk and is the major connection to Wayne, Nebraska and Sioux City, Iowa.
 - Nebraska Highway 24, extends south-east from Norfolk and links Norfolk to Stanton, Nebraska.
 - US Highway 275-B, the business route for US Highway 275, extends east-west through Norfolk and links Nebraska Highways 35 and 24. *(It is anticipated that the US Highway designation will be removed from US 275-B at some time in the future.)*
- *Hard-Surfaced Roads.* These roads generally follow section lines and are paved to rural standards, generally in asphalt with grass shoulders.
 - *Gravel Roads.* These county roads are generally found on section lines, although some diverge off the grid or use half-section line routes where the Elkhorn River corridor disrupts the grid. These roads primarily provide agricultural access.
 - *Dirt Roads.* These county roads are generally found on section lines and are minimum maintenance. Dirt roads primarily provide agricultural access. The level of operation is dependent upon weather conditions.

PART THREE

DEVELOPMENT POLICY DISTRICTS

The previous two sections of the Madison County Land Use Plan have examined land use patterns and environmental characteristics of the Madison County planning jurisdiction. This section overlays these factors to establish Development Policy Districts, which are then used to guide future development concepts in the jurisdiction. **Map 9**, Severe Limitations, displays an overlay of the environmental categories presented in the previous chapter. An analysis of this overlay provides a clear indication of where severe limitations occur.

This analysis considers two types of Conservation Zones:

Primary Conservation Zones include those areas which do not support substantial urban development because of major environmental constraints. Primary Conservation Zones include one or more of the following environmental features:

- Floodways.
- 100-Year Floodplains.
- Wetlands.
- River corridors, Streams and Drainageways.
- Steep slopes and erodible bluffs.

In general, these areas should be preserved for agriculture, open space, parks, and other very low-intensity uses. Residential development in subdivisions should occur only as a follow-up to resource extraction activities in the river plains environment.

Secondary Conservation Zones include those areas which are generally developable, but include primary resources and environmental assets whose preservation should be encouraged through land use policy and development design. Secondary Conservation Zones include one or more of the following environmental features:

- Prime Farmland
- Forested Areas.
- Buffers around Water Bodies and Wetlands.
- Unique Areas of Ecological Significance, such as mature stands of pines or other trees, native prairies, and wildlife habitats.

Conservation of these areas should be encouraged where development is permitted. Policies that encourage or require builders to cluster development in less sensitive areas in exchange for maintaining environmental assets as common or preserved open space should be considered. This development concept is called “conservation subdivision.” For example, in areas where single 40 acre lots are being developed as rural residences,

a technique referred to as "community unit plan" should be used to preserve prime agricultural land while maintaining the one unit per 40 acre density. Both of these techniques receive a more complete treatment in the land use section of this plan.

DEVELOPMENT POLICY DISTRICTS

The Development Concept Map illustrates a conservation zone concept and establishes the general boundaries of development policy districts. The following conservation zones were considered during the preparation of the Development Concept and should continue to be considered when land use decisions are made.

- *The Primary Conservation Zones*, in which major development outside of lakeside residential subdivisions should be discouraged. Primary Conservation Zones include 100-year floodplains; as a result, this district encompasses the majority of the Elkhorn River corridor. Uses in the Primary Conservation Zone should be restricted to agricultural and open space uses with the following permitted exceptions:
 - Water-oriented residential development, following completion of extraction activities at gravel pits.
 - Single-family residential development related to agricultural uses or on lots which maintain the density requirements within the county. All residential development must comply fully with local and regional floodplain regulations.
 - Limited commercial development along the Highway 275 and Highway 81 corridors.
 - Industrial development related to the NCRC Railroad corridor parallel to Highway 81.

Within the 100-year floodplain, all designated wetlands should be preserved.

- *The Secondary Conservation Zones*, in which development designs and processes which conserve important environmental assets are required. These areas include:
 - The 100-year and 500-year floodplains throughout the county.
 - Prime farmland resources, ridges, view corridors, and drainageways.
 - Wooded areas and moderate slopes along the Elkhorn River corridor.

Priority uses in Secondary Conservation Zones include low-intensive agriculture and open space or incorporation of major assets as open or preserve space within conservation developments.

- *Areas with Urban Suitability Limitations.* These areas include drainageway corridors or other areas that pose soil limitations within otherwise developable areas.

PART FOUR

MADISON COUNTY LAND USE PLAN

This section establishes a Land Use Plan for Madison County, based on the principles outlined in the introduction to this plan. The Land Use Plan utilizes the analysis set forth in previous sections and the Development Policy Districts established in Part Three to define land use concepts and categories for the county jurisdiction.

THE MADISON COUNTY LAND USE PLAN: MAJOR CONCEPTS

Agriculture will remain the primary land use within Madison County throughout the life of this plan. However, growth and change in and around the metropolitan areas and the development of more intensive agricultural practices can radically change the character of rural Madison County. Without a structure of basic concepts, growth will occur in an unmanaged way, adversely affecting the character of the rural landscape and compromising those values and features which are attractive to both present and future residents. The basic land use challenge posed for the county jurisdiction involves accommodation of current development pressures while maintaining and preserving the rural character of the land. The basic concepts presented in this section establish the guiding principles which can provide this needed and desirable balance.

The basic principles and concepts designed to meet the challenge of growth and preservation of rural character in the county include:

- MAINTENANCE OF RURAL CHARACTER
- VALUE OF RESOURCE CONSERVATION
- GRADIENT OF DEVELOPMENT
- INTERLINKED NETWORK OF OPEN SPACE
- SPECIAL RESIDENTIAL ENVIRONMENTS
- CONSERVATION DEVELOPMENT
- LAKESIDE DEVELOPMENT
- REGIONAL RECREATION

Each of these concepts is summarized below.

MAINTENANCE OF RURAL CHARACTER

The area of the County outside of community jurisdictions should maintain itself as a relief to conventional suburban development and should maintain the character of the rural landscape.

The comprehensive plans for the communities within Madison County anticipate some degree of development beyond their current limits. These Plans are based on probable development demand and they provide a guide for the efficient

extension of transportation, infrastructure, and open space systems to serve their anticipate growth areas. This concept of development within the community jurisdictions provides abundant land for expansion of conventional urban subdivisions. Development in rural Madison County should provide a counterpoint to this future of conventional urban development, using the special landforms within the county jurisdiction to provide a rural counterpoint to prevalent urban development patterns.

VALUE OF RESOURCE CONSERVATION

Development areas in the County jurisdiction should be defined on the basis of their suitability for development and the presence or absence of major natural resources and features. Those areas that possess the greatest environmental sensitivity or most important assets should be preserved, while at the same time rewarding developers and landowners for their preservation.

The county jurisdiction includes important environmental assets, identified in Part Two of this plan. These include prime farmlands, forested areas, wetlands, river corridors, and Wildlife management Areas. The conservation of these important features can make the county jurisdiction special and distinguish development in the area from conventional growth in the metropolitan area.

However, preservation should not come at the expense of landowners. The concept of balancing environmental conservation and development calls for establishing policies which preserve the rural landscape, while permitting owners and developers the same yield on property that they would experience with conventional development.

Standards for development in the County should:

- Restrict the amount of filling taking place within available 100-year floodplain areas. The Papio-Missouri River Natural Resources District recommends restricting fill to 25% of the available floodplain.
- To the maximum degree possible, preserve existing tree canopies.
- Protect all unique geographic or geologic formations, such as the bluffs of the Elkhorn River.
- Follows Section 404 procedures to minimize impact on designated wetlands and other essential ecosystems. These procedures call for avoiding impact on wetland areas as a first priority; minimizing impact as a second priority; and mitigation through reconstruction of new wetlands as a last resort.

GRADIENT OF DEVELOPMENT

Developable areas between the agricultural floodplains along the Elkhorn River and the urban development of the community jurisdictions should be viewed as a gradient of development, combining the attributes of reasonable residential growth with preservation of rural character.

Urban development and intensive agricultural development must be considered in Madison County. Urban development will continue to be focused around the City of Norfolk and the dominant uses throughout the county will remain agricultural. Land use policy in Madison County should provide that the fringe areas that are currently in its jurisdiction remain buffers between urban density residential development and agricultural land. Likewise, intensive agricultural uses should be directed to those locations where they are less likely to cause negative effects to both sensitive environmental features and urban development. As a result, developable areas in the county should provide a gradient between urban and rural uses.

INTERLINKED NETWORK OF OPEN SPACE

Developable areas should be punctuated by interlinked, continuous corridors of open space that preserve natural assets.

Open land resources that are interconnected into a continuous network preserve rural character more effectively than isolated patches of open space. These networks can flow among residential areas, providing more significant vistas and maintaining the sense of open space that causes people to move into rural fringes of metropolitan areas. In addition, continuous networks of open land preserve larger parcels for crop production and maintain wildlife habitats and corridors.

The concept of an interlinked open space network does not imply public ownership of lands, although that has been done in major linear park systems such as the Chicago Forest Preserve system. Instead, it means the maintenance of key lands in agricultural and open space uses within and through development areas. Subdivision design policies and ordinances should encourage the preservation of these key open lands.

SPECIAL RESIDENTIAL ENVIRONMENTS

Residential development in the county jurisdiction should provide residential environments that conventional growth within metropolitan jurisdictions does not or cannot accommodate, but which have unique value.

Conventional subdivision growth provides relatively homogeneous, undifferentiated environments. One powerful inducement to residents moving to rural areas is to escape this homogeneity. Madison County's jurisdiction, in particular, traditionally offers three residential environments that are typically not found within the urban environment:

- Rural development, providing the sense of living within rural areas and open country.
- Small towns. The towns Tilden, Meadow Grove, Battle Creek, Newman Grove, and the traditional core of Madison provide a special quality of community life that is becoming increasingly popular in the United States. While not located within the county's jurisdiction, the traditional civic quality of these towns provide unique living situations in the rural county.
- Water-oriented development. Water assets have been used in the county jurisdictional area to create unique residential environments. These include Andy's Lake, Pofahl Lake, and Medelman's Lake; all of which are located on abandoned gravel pits south of Norfolk.

Residential development policy should emphasize the expansion of recreation of these proven residential assets, while not providing more of the same type of development that is more appropriately found within municipal jurisdictions.

CONSERVATION DEVELOPMENT

In rural development areas, land use policy should encourage or require the development of conservation subdivisions, preserving major open space assets as common or open ground while providing developers with the same development yield and overall density as would be permitted with conventional development.

Conventional, large lot subdivisions often are designed in the same way as conventional subdivisions, only with larger lots. In many cases, these designs compromise or degrade the very sense of low density and rural character that cause people to move to the edges of cities. In areas where preservation of rural character is a major value, the concept of conservation subdivisions is more appropriate.

In a conservation subdivision, the density yield of a parcel of ground remains neutral. However, environmental assets are pooled together as open spaces or preserves, in exchange for somewhat smaller lots in the built-up part of the development. The open space may be owned in common by property owners, or may be maintained in private ownership. Conservation designs, skillfully

executed, are more successful at preserving such features as vistas, waterways, and agricultural lands, than conventional parceling. As a result, this technique preserves environmental features, thereby furthering the public interest, while at the same time creating more marketable developments. The techniques of developing conservation subdivisions are considered below. Conservation subdivision should prohibit the further platting of land designated as common open space within a pre-existing conservation subdivision.

The concept of conservation development encourages developers to preserve areas of environmental or scenic significance in exchange for allowing greater development density in other parts of the project or by lessening the minimum lot size of the parcel if the overall percentage of open space or agricultural land stays constant. However, within projects, areas of unique significance may exist whose preservation should be required through project design. These may include small natural areas such as wetlands or prairie remnants or individual trees. Through revised subdivision regulations, the county should establish a mechanism requiring the preservation of these limited areas, which do not significantly affect the development capacity of a project.

LAKESIDE DEVELOPMENT

The county should take advantage of opportunities for the development of water and lake-related developments, capitalizing on water assets or flood management projects.

Water-oriented developments may be viewed as a variation of conservation development, where common open space is a body of water. Several settings have been created in the past, including Andy's Lake and other lakeside subdivisions created after the completion of gravel extraction operations. Opportunities for further development may include:

- Continuation of gravel pit lake development following completion of extraction activities. In some cases, excavated soil resulting from construction of lakes may be used to raise house sites above 100-year floodplain elevations. Review of such projects to monitor impact on the carrying capacity of the floodplain and assure that surface drainage is accommodated in appropriate ways.
- Utilization of these unique environments for the creation of public parks, natural wildlife habitats, or greenspace.
- Consideration of other cost-share developments with federal or state agencies.

REGIONAL RECREATION

The county plan should provide opportunities for popular forms of recreation, including camping, multi-use open space, water recreation, bicycling, and trail activities.

Regional recreation is a fundamental concept in the county plan. Components of the recreational program include:

- The existing Cowboy Trail corridor.
- Preserve areas along the Elkhorn River that combine private property and some public access points and public lands along the corridor for passive recreation.
- Proposed Parks located within the County jurisdiction and in new development sites within communities.
- Recreational trails, utilizing major on-road corridors and other open space corridors defined in the plan.

LAND USE POLICY DISTRICTS

Map 10, Development Concept, illustrates the future land use plan for Madison County. The following descriptions identify the land use policy districts defined in the Madison County Development Concept map.

■ INTENSIVE AGRICULTURE

The intent of the Intensive Agricultural designation is to minimize conflicts between rural residential development and agricultural uses. This district will provide similar opportunities for agriculture and residential development, but will offer increased opportunity for activities considered to be more intensive, such as animal confinement operations. The Intensive Agricultural areas are generally located in the central section of the county and are relatively isolated from population centers and sensitive environmental features, such as wetlands and river corridors.

Performance standards for lagoon sizing per soil type, distance to streams and drainageways, and distance to population centers will need to be developed. Likewise, the County should adopt animal unit regulations based on State Livestock Waste Management Regulations. The Livestock Waste Management Act of April 15, 1998, defines animal units as follows:

Animal unit means a unit of measurement for any livestock operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing fifty-five pounds or more multiplied by 0.4, plus the number of weaned pigs weighing less than fifty-five pounds multiplied by 0.04, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0, plus the number of chickens multiplied by 0.01, plus the number of turkeys multiplied by 0.02, plus the number of ducks multiplied by 0.2.

Classification of livestock operations shall be as follows:

- A class I livestock waste control facility is designed for one thousand or less animal units;
- A class II livestock waste control facility is designed for more than one thousand and five thousand or less animal units;
- A class III livestock waste control facility is designed for more than five thousand animal units and twenty thousand or less animal units; and
- A class IV livestock waste control facility is designed for more than twenty thousand animal units.

All classes will be considered in the Intensive Agricultural areas with conformance to performance standards and receipt of state permits.

■ GENERAL AGRICULTURE

The General Agricultural areas are intended to provide opportunity for agricultural uses, but with a higher level of protection for environmentally sensitive lands and adjacent population centers. General Agricultural areas are generally located in the northern and southern thirds of the county. More restrictive standards will be necessary to regulate intensive agricultural development. Class I livestock waste control facilities may be permitted by right, but higher classifications will require conditional use permits.

The General Agricultural Districts, because of their proximity to urban centers and recreational and geographic opportunities, are more likely to experience rural residential development. Currently, most rural residential development occurs on lots created by a lot split. Per the Madison County Subdivision Ordinance, an existing lot can be split one time to create a lot no smaller than 2 1/2 acres, which is the minimum size allowed for a septic sewer system. Subsequent lot splits require a formal subdivision process and require a minimum lot size of 40 acres.

As smaller rural lots become less available, 40 acre lots may be created for rural residences. If this happens, a major increase in the conversion of agricultural land to rural residential will occur. To counteract the loss of valuable agricultural and environmentally unique lands, a method of conservation should be adopted. One

possibility is a technique called the Community Unit Plan. The Community Unit Plan would allow rural residences to occur on smaller lots, with the requirement that the overall density (currently, one unit per 40 acres) be maintained. For example, a 160 acre parcel could be divided into five lots. Four lots, with a minimum size of 2 1/2 acres, could be used for rural residential, provided that the remaining 170 acres within the parcel be reserved for agricultural crop production or undisturbed open space. Development would not be permitted on the remaining land until it was either rezoned or annexed into the jurisdiction of a municipality.

■ CITY JURISDICTION

The City Jurisdiction areas are those areas located outside the corporate limits of communities, but within their one mile jurisdictional boundary. Communities may enforce zoning and subdivision ordinances within this jurisdiction. The primary use of the City Jurisdiction areas continues to be agricultural. As communities grow, it is the City Jurisdiction that provides land for expansion. However, rural residential development often occurs within this area, such as the large lot development occurring northwest of Norfolk. This rural development may, over time, create hindrances to the efficient extension of urban density development and the delivery of services to future development. Likewise, rural residential development may increase the tax valuation of adjacent properties, resulting in higher expenses for existing farming operations.

It is essential that communities reserve land within the City Jurisdiction for future growth and the extension of services. Techniques such as the Community Unit Plan and the "Greenbelt" Program, which will be discussed in the next section, may be appropriate in this area.

■ URBAN PROTECTION AREA

The Urban Protection Area is designed to provide an extra layer of protection around population centers. These areas are intended to remain in crop production or low intensity agricultural uses. Animal confinement operations and other intensive uses should be restricted. Because these areas are likely candidates for rural residential development, a "Greenbelt" Program should be implemented to protect existing farms from being burdened with inflated tax valuation based on their potential for redevelopment.

The Greenbelt program was enacted because urban development and other non-agricultural development can have an economic impact on neighboring agricultural and horticultural land. Special valuation, in the form of a taxable value based solely on eighty percent of actual value of land for agricultural and horticultural use without respect to other uses, allows persons wishing to continue to engage in agriculture as a livelihood without being forced to discontinue their agricultural endeavors as a result of

excessive tax burdens. It is also recognized that special valuation reduces the value base for property tax purposes. To limit this effect, a recapture of the tax benefit received during the current and preceding three years, is imposed when the property ceases to qualify for the special valuation.

In order to be eligible for the special valuation the land must meet four criteria. First, the land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village. Second, the land must be zoned predominantly for agricultural use. Third, the land must not be subdivided. Fourth, the land must be used exclusively for agricultural use. Eligibility shall be determined annually as of January 1. However, the land must remain eligible the entire year in order to retain the special valuation for that year.

The county board may initiate the implementation of special valuation by passing a resolution adopting its implementation. If a resolution is passed, the county assessor shall implement special valuation in the next assessment year after the resolution is passed. The initiation of special valuation does not require any action by the county board or county assessor.

Application for special valuation must be submitted to the county assessor on or before August 1. Any application received after August 1 shall be accepted only as an application for the following year. The application shall be made on the Special Assessment Application for Special Tax Treatment of Lands Zoned and Used exclusively for Agricultural or Horticultural Purposes, Form 456, prescribed by the Property Tax Administrator and supplied by the county assessor. *(See Appendix A for full description of the Greenbelt Program.)*

■ INDUSTRIAL

A special opportunity industrial park is proposed west of State Highway 81 and along the Nebraska Central Railroad between Norfolk and Madison. The location of the proposed industrial park is intended to accomplish four specific criteria. First, to have adequate access to rail, highway, and quality local roads. Second, to be located away from communities to provide opportunities for alternative land uses not currently available or desired in existing industrial parks. Third, to be located near population centers to provide a sustainable workforce. Finally, to be located on appropriate soils and away from environmentally sensitive lands.

■ ELKHORN RIVER ENVIRONMENTAL/RECREATION CORRIDOR

The Elkhorn River corridor should be maintained as open or agricultural land and generally includes major environmental assets such as woodlands, steep slopes, prime farmland, wetlands or areas with special scenic or historic value. This corridor may be used for agricultural purposes, provided it does not cause the loss of major environmental features. Open space corridors may be held privately, cooperatively by residents' associations, by nonprofit organizations such as camps and land trusts, or by public agencies.

The land use plan proposes an interlinked system of recreational opportunities designed to enhance the quality of life for Madison County residents and promote economic development by building a strong potential for tourism. The proposed environmental/recreation corridor follows the Elkhorn River, but also includes the Cowboy Trail. The river corridor provides opportunity for fishing, canoeing/tubing, hiking, photography, and animal/bird watching. Proposed features to enhance the corridor include the creation of multiple river access points, trail linkages between the river corridor and the Cowboy Trail, trailhead parks where the river corridor and the Cowboy Trail coincide, and a proposed regional park. The regional park would include camping facilities, restrooms, welcome center, trailhead and river access, and a local trail linking it with Ta-Ha-Zouka Park.

■ STREAM ENVIRONMENTAL CORRIDOR

It is important for Madison County to maintain and support agriculture as an essential economic activity. Opportunity for all forms of agricultural activities are maintained within the proposed agricultural districts. However, the protection of sensitive environmental features is also an important element of this plan. As part of the development concept, a one-half mile buffer is located around all major streams and drainageways to create stream environmental corridors. These corridors are specifically intended to protect waterways and drainageways from the potential hazards associated with animal confinement operations and other intensive agricultural uses, such as chemical storage. Intensive agricultural uses are not permitted within these stream environmental corridors.

■ PROPOSED PARKS/RECREATION

In addition to the Elkhorn River environmental/recreation corridor, a regional wildlife/nature preserve is proposed along Shell Creek on the north side of Newman Grove. This area contains unique opportunities for preserving woodlands and wetlands, in their natural state. **Map11**, Parks & Trails, illustrates the recreational components of the Madison County Plan

TRANSPORTATION, INFRASTRUCTURE, AND PUBLIC FACILITIES

This section addresses community service systems necessary to support the concepts and directions of the Land Use Plan.

TRANSPORTATION PLAN

Map 12, Transportation, displays the proposed transportation plan for the county, based on both regional needs and the proposed Land Use Plan. Elements of the Transportation Plan include:

■ Expressways and Major Arterials

• *US Highways*

US 275 is the major east-west route through Madison County, providing the major access east to Omaha and west to O'Neill. The State of Nebraska is upgrading US 275 to a four-lane divided expressway standard from Waterloo to Norfolk. Within Madison County, US 275 is four-lane divided between the eastern border of the county and 37th Street, west of Norfolk. US 275 proceeds west from that point as a two-lane Highway. According to the State Functional Classification Map, US 275 is classified as expressway east of Norfolk and major arterial for the remainder of the county. Proposed improvements to US 275 consist of upgrading the section between State Highway 121 and Norfolk to four-lane divided.

US 81 is a four-lane divided highway between Norfolk and Madison. US 81 continues north of Norfolk as a two-lane highway. US 81 is classified by the State Functional Classification Map as an expressway throughout most of the county. The only exception is north of Norfolk, where US 81 is classified as a Major Arterial. Recent improvements include the upgrading of the highway to four-lane expressway south of Madison to Columbus. A proposed improvement is the creation of a by-pass around the east side of Norfolk. The proposed by-pass is unlikely to occur within the 20 year life of this plan, but the determination of a corridor and the preservation of right-of-way should need to be considered.

• *State Highways*

State Highway 35 is two-lane and is classified as a major arterial. This highway is the major connection between Norfolk and Sioux City. Proposed improvements consist of upgrading this highway to four-lane divided. State Highway 35 is currently linked to US 275 and State Highway 24 via US 275-B. US 275-B is in the process of being upgraded to four-lane, but will be turned over to the City of Norfolk in the year 2000. A

future US 81 bypass around the east side of Norfolk will create a higher level of service for the connections between US 275, US 81, State Highway 35, and State Highway 24.

State Highway 24 is two-lane and provides direct access from Norfolk to Stanton. This highway connects into US 275 and US 275-B at the southeast edge of Norfolk. Recommended improvements are to continue regular maintenance.

State Highway 32 provides an east-west route for the southern portion of the county. It is classified as a major arterial and is two-lane. State Highway 32 combines with State Highway 45 for approximately five miles at the western edge of the county. Recommended improvements are to continue regular maintenance.

State Highway 45 is a major arterial and is two-lane. This highway extends north from Newman Grove, then combines with State Highway 32 for five miles, before extending north along the western county border to Tilden. Recommended improvements are to continue regular maintenance.

State Highway 121 extends north-south between US 275 and State Highway 32 and is located in the geographic center of the county. It is the primary access route for Battle Creek. State Highway 121 is classified as a major arterial and is two-lane. Recommended improvements are to continue regular maintenance.

■ Pavement Upgrades and Reconstructions

Major elements of the jurisdictions' collector system should be programmed for pavement upgrades or reconstruction where conditions warrant. Upgrades include widening and providing shoulders along certain corridors to accommodate multiple transportation uses such as bicycle travel. Corridors proposed for upgrades include:

- *US 275 from 37th Street to State Highway 121.* This corridor should be programmed for improvement to four-lane divided expressway.
- *State Highway 121 from Oak Valley SWMA to US 275.* This corridor should include shoulders or parallel recreational trails. Improvements to this corridor are proposed in the Battle Creek Plan whereby the State Highway 121 corridor would be improved as a "green street," linking Memorial Park with the Cowboy Trail. Within the county jurisdiction, this corridor should include scenic turnouts, road beautification, and shoulder or parallel trails. Specifically, a trail should be created to link the Cowboy Trail and the Oak Valley SWMA. Likewise, roadway beautification efforts designed to attract visitors to Battle Creek and a trail linkage between the Elkhorn River and the Cowboy Trail are important for local and regional economic development efforts.

- *State Highway 121 from Oak Valley SWMA to State Highway 32.* This corridor should include shoulders or parallel recreational trails.
- *State Highway 32 from Madison to State Highway 45.* This corridor should include shoulders or parallel recreational trails.
- *State Highway 45 from Newman Grove to State Highway 32.* This corridor should include shoulders or parallel recreational trails.

■ **Paving of Unpaved Roads**

Paving of current gravel roads is proposed to provide increased accessibility. The primary function of the proposed road improvements is to provide better accessibility for farmers and agricultural markets. Roads that should be programmed for pavement include:

- 833rd Road (Enola Road) from existing paving west to State Highway 121.
- 833rd Road (Enola Road) from State Highway 121 to State Highway 45 at the western edge of the county.
- 540th Avenue from State Highway 32 to the southern county border.
- 824th Road from existing paving to 540th Avenue.

■ **Maintenance of Existing Roads and Bridges**

The County should continue its ongoing program of maintaining existing roads and bridges.

TRAIL CORRIDORS

The Madison County Land Use Plan anticipates significant trail corridor use by both Madison County residents and tourists. The existing Cowboy Recreation and Nature Trail provides the most significant recreation opportunity in the county. All of the communities along the Cowboy Trail have begun or have plans to create local trail systems in conjunction with the Cowboy Trail. It will be important for the county to also create linkages with this major recreational resource, providing increased accessibility and exposure to other recreation opportunities within the county. On-road routes should provide bicycle shoulders on both sides of the roadway; or provide an exclusive off-street trail paralleling the road on one-side of the right-of-way. These corridors include:

- 534th Avenue extending north from US 275 to the Elkhorn River, providing an on-road trail linkage from the Cowboy Trail in Tilden to a proposed river access park.
- An off-street trail linkage from the Yellowbanks SWMA to the Cowboy Trail. The linkage should be located in the general vicinity of Deer Creek. A new trail bridge over the Elkhorn River may be necessary at the Yellowbanks SWMA.
- State Highway 121 from the Cowboy Trail to a proposed river access park along the Elkhorn River. This may include provision of bicycle shoulders on both sides of the roadway; or an exclusive off-street trail paralleling the road on one-side of the right-of-way.
- A connection from the Oak Valley SWMA to Memorial Park in Battle Creek along State Highway 121. This may include provision of bicycle shoulders on both sides of the roadway; or an exclusive off-street trail paralleling the road on one-side of the right-of-way.

This trail concept takes advantage of the existing Cowboy Trail to connect the rural communities of the county together with the State Wildlife Management Areas and recreational opportunities afforded by the Elkhorn River corridor. In addition, it provides regional links to local trails, parks, and services located within the communities of Madison County.

INFRASTRUCTURE

Storm drainage is handled by surface drainage throughout the county jurisdiction.

Most of the county's subdivisions utilize wells for their water supplies.

In general, the county jurisdiction is adequately served by electrical service.

The plan makes the following infrastructure recommendations for the county jurisdiction:

■ **Wastewater**

- The operation of septic systems in larger rural subdivisions should be monitored. Within subdivisions with a gross density of more than one unit per two acres, community wastewater systems meeting contemporary treatment standards should generally be installed. In addition, the county should promote efforts to replace septic systems in larger subdivisions with community systems wherever feasible. This is particularly important when subdivision density and lot sizes

cannot accommodate replacement septic systems. Candidates for replacement include those areas designated for conventional subdivision development and water-related residential in the Land Use Plan.

- When subdivisions are developed in areas that are proposed for eventual interceptor sewer service by the Comprehensive Plans of any Madison County municipalities, the design of those developments should accommodate connection to the system, even if septic or self-contained community wastewater systems are used in the interim.
- In new development, the county should encourage the use of environmentally sensitive methods of wastewater treatment and disposal. The conservation concept, maintaining common open space, provides greater opportunities for development of these systems. Techniques such as spray irrigation or land treatment should be incorporated into new projects, and may represent cooperative efforts among several development. With these methods, wastewater is aerated in deep lagoons and applied to the land surface at rates consistent with the absorption capacity of the soil.

Other techniques which should be considered for incorporation into new development include:

- Wastewater Reclamation and Reuse. This represents a refinement of the land treatment option. Treatment is achieved in deep aerated cells with a residence time of 14 to 40 days. Wastes are macerated or pulped before introduction to the lowest level of the first cell. After further settlement and treatment, the water can then be applied to cropland and open space. A number of these systems have been installed in the greater Chicago area.
- Constructed Wetlands. Artificial wetlands are gaining growing acceptance for treatment of wastewater. Generally, this technique supplements rather than replaces septic treatment. The wetlands provide further treatment for septic effluent before that effluent is conducted to drainage fields.
- Alternative Sewer Systems. These systems include septic tank effluent drains, which are small diameter lines that conduct liquid effluent from septic tanks, which settle out solids. This tandem system reduces the cost of sewer lines and, by reducing solids from the waste stream, permits smaller, less expensive treatment plants.

■ Water Systems

- The county should encourage connections of existing subdivisions to community water supplies, generally phasing out individual wells in more developed areas. Community well systems are becoming increasingly difficult to develop because of nitrate contamination from past agricultural practices, inadequate potable water supplies in some areas, and reluctance to convert land to densities which support community well systems.
- New subdivisions developed at higher residential densities should utilize community water systems. The extension of municipal systems to serve these growth areas, particularly in the northeast sector of the county jurisdiction, should be encouraged. The design of these systems should complement the conservation subdivision concept proposed in the Land Use Plan.

PUBLIC FACILITIES

Public facilities include public buildings and community services which are necessary to support development in the jurisdiction. These facilities include schools, public safety facilities, health facilities, and parks and open spaces.

■ Schools

Madison County has nine Class I schools. Five are located near Norfolk and the remaining four are located at rural locations in the southern half of the county. There are three schools classified as Class II. Class II schools are located in Tilden, Meadow Grove, and Newman Grove. The Norfolk, Battle Creek, and Madison Schools are classified as Class III. Additional education facilities within the county consist of Northeast Community College, Lifelong Learning Center, and Nebraska Christian College; all of which are located in the City of Norfolk.

School facilities within the county are generally located within constituent communities. Property tax ceilings passed by the Nebraska Unicameral in 1997 may encourage future consolidations and administrative efficiencies. The trend of decreasing population in rural areas combined with legislative initiatives designed to consolidate smaller schools will likely cause the closure of some schools in Madison County during the life of this plan. Madison County has passed bonds to upgrade schools, and all of the communities have been very supportive of their schools. However, school closings appear to be inevitable. Communities will need to prepare for the effects of school closings. The adaptive reuse of school facilities to fulfill other needs will be imperative.

The plan projects varying degrees of growth within the communities and rural development being primarily focused around Norfolk. The ability of existing school districts to support this new population must be monitored. A site for new educational

facilities, including both elementary and secondary facilities, should be incorporated into planning efforts, should such growth occur.

Madison County will need to prepare for both local and national trends effecting schools. Schools will begin to rely on private providers or parents for transportation of children. Increasing percentages of low-income families will increase the need for hot lunch and breakfast programs. Schools will need to provide daycare programs, to facilitate working parents.

■ Public Safety Facilities

The Madison County Sheriff's Department provides police services throughout the jurisdiction and outside the municipal limits of communities. The Sheriff's base of operations is the County Courthouse, located in Madison. This site provides adequate access throughout the service area, but may benefit from a satellite office near Norfolk. This would provide a secondary base of operations near the areas of greatest population within the Sheriff Department's jurisdiction.

Emergency 911 telephone service is available throughout the county and the emergency addressing system is nearly complete. A new enhanced 911 system is scheduled to be in place by 2003. The Sheriff's Department is generally well supplied and has excellent equipment. The most immediate need is a new base station for communications. The existing communications system is outdated and will need replacement during the life of this plan. However, the county is hoping to postpone major updates to the existing system until State requirements on emergency and law enforcement radio frequencies are finalized.

The Sheriff's Department, community law enforcement agencies, and other county departments do a good job of sharing equipment. The communities within Madison County do not contract with the Sheriff's Department for law enforcement services, but there is good communication between the agencies. Law enforcement agencies within the county share equipment, when necessary, as a way to both save costs and provide better service.

County development issues that affect the Sheriff's Department consist primarily of regulating nuisance items, such as junk (vehicles) and animal control (dogs). The Sheriff's Department only enforces state statutes. It is not responsible for the enforcement of development ordinances. Likewise, the Sheriff's Department does not have jurisdiction to enforce traffic laws on private streets and roads. The county will need to develop methods of providing law enforcement for rural subdivisions.

Fire protection services are provided through rural volunteer departments, housed jointly at fire stations in individual communities. These districts, complemented by

mutual assistance agreements, provide generally adequate coverage to the county jurisdiction. A chronic limiting factor has been the availability of adequate water storage to provide good fire protection.

■ Infrastructure

Maintaining the existing infrastructure and providing opportunities for growth, where appropriate, is a paramount concern for Madison County. By efficiently planning for maintenance needs and by strategically locating maintenance equipment and personnel throughout the jurisdiction, the county can ensure that maintenance and construction occur timely and cost effectively.

The primary maintenance and construction concerns of the county lie with Roads and bridges. The county contains 210 bridges, of which 40% are in need of major repair or replacement. Currently, every bridge is inspected yearly. To facilitate this major infrastructure maintenance, the county will need to continue its current efforts in addition to programming for equipment replacement and upgrades. The most pressing needs within the county consist of a larger crane to facilitate bridge maintenance, additional gravel pits for the maintenance of gravel roads, and a determination of a paving standard and the purchase of a paver that utilizes the most economical materials.

■ Parks and Recreation

Parks and recreation concepts have been discussed in the context of the land use plan. In addition to municipal parks within constituent towns, the jurisdiction's main recreational facility is the Elkhorn River corridor and the Cowboy Trail. In addition, the jurisdiction includes several privately owned recreational facilities and campgrounds.

Major park, open space, and recreation recommendations include:

- Incorporation of park land and open space by use of the conservation subdivision and the community unit plan concepts. The preservation of a substantial part of a subdivided parcel in common or open space will provide adequate reservations of open space for recreational purposes.
- If subdivision design does not use conservation subdivision techniques, alternative methods are necessary to preserve rural character through purchase of open space. These subdivisions should make a payment into a special open space acquisition fund, based on a ratio of open space to platted residential land.
- The development of a detailed implementation plan for the Elkhorn River and Cowboy Trail corridors. This concept envisions a system of public lands, lands

held by nonprofit organizations and land trusts, and private lands, united in maintaining the integrity of this unusual environment. The implementation plan and its execution should be developed in cooperation with Norfolk, Battle Creek, Meadow Grove and Tilden, whose jurisdictions incorporate significant parts of these corridors. It must include adjacent property owners and the Natural Resources District to develop a cooperative concept for management and to define appropriate levels and locations for public use and access.

- The completion of regional parks, trail linkages, and river and trail access sites, identified earlier in this plan.

PART SIX

PLAN IMPLEMENTATION

This section addresses steps necessary to implement key provisions of the Madison County Comprehensive Development Plan.

■ Interlocal Cooperation

Madison County currently utilizes joint planning processes, whereby shared planning staff and Commissions are used for the county and most of the communities. However, growing communities with annexation programs mean that municipal planning jurisdictions are likely to change over time. These jurisdictional boundaries may come into conflict with the policies established in this plan. The County should continue to act as a facilitator to establish interlocal partnerships to guide development in rural areas in the county and at the fringes of all community jurisdictions within the county. Therefore, the County should promote inter-local cooperation among its municipalities that:

- Establishes consistent policies regarding development of rural areas, without restricting the ability of municipalities to exercise local zoning control within their jurisdictions.
- Establishes an ongoing system of consultation and cooperation among the county's various planning jurisdictions.

■ Land Use Regulation

Updated land use regulation is a key area of plan implementation. The county should undertake a review of current zoning and subdivision regulations and modify these ordinances in order to be consistent with the recommendations of this comprehensive development plan. Specific areas of review include:

- Revising permitted densities to be consistent with the land use categories established in the future land use plan. For example, the 40 acre lot size minimum for rural residential development could be reduced, where there is assurance that a maximum density will be maintained to minimize focalized demands for public services. The density requirements should be linked to the Development Concept. Density maximums should be no greater than four (4) units per quarter-section within the Urban Protection Zones; two (2) units per quarter-section in areas designated for General Agriculture; and one (1) unit per quarter-section in areas designated for Intensive Agriculture. With density assurances, minimum lot sizes could be decreased to five (5) acres. Farmsteads should be exempt from the density requirement and should not be considered as

a unit for density calculation. For densities higher than the required maximum, rezoning to a residential classification will be required.

- Establish new zoning districts or zoning overlay districts to facilitate the land use goals of the Madison County Plan. These goals include the protection of environmentally sensitive areas such as the Elkhorn River corridor, the direction of rural residential development into areas that minimize conflict with agricultural uses, and the direction of intensive agricultural uses away from environmentally sensitive lands and urban population centers.
- Circulating new subdivision applications for review and comment by such service providers as schools, public safety services, and other public service providers. Comments should be included in staff recommendations to the Madison County Planning Commission and Board of Commissioners.
- Development of special regulations to allow and encourage conservation subdivisions.
- Modification of subdivision standards to encourage innovative methods of wastewater treatment.

■ **Transportation Plan Implementation**

Major capital expenditures are anticipated with proposed transportation improvements. Funding sources for construction include:

- User fees such as wheel taxes.
- General obligation bond proceeds.
- Federal funds (ISTEA or successor programs) for financing improvements on the major highway system.

Trail development is generally been funded by local bond proceeds, ISTEA Enhancements, and county or Natural Resource District contributions. Trail projects associated with major transportation corridors should be considered as part of the overall improvement budget.

■ **Parks and Open Space**

The county should undertake the following steps to implement the park and open space recommendations of the plan:

- Initiate the creation of an Elkhorn River corridor and Cowboy Trail study committee, charged with developing a management plan for this important natural resource. The committee should include the county; private property owners; the cities of Norfolk, Battle Creek, Meadow Grove, and Tilden whose planning jurisdictions include some parts of the Elkhorn River corridor or the Cowboy Trail. The objective of this plan should be the creation of a diverse network of ownerships, united toward protecting private property rights while maximizing conservation and public use of the river corridor. Economic development efforts, such as creating attractions and linkages to promote tourism within Madison County should also be a priority of the committee.
- Work with the Natural Resources District to secure funding for a new regional park along the Elkhorn River to provide trail-head, river access, and camping opportunities in addition to offering a prime location for a welcome center.

Appendix A

Agricultural and Horticultural Land Special Valuation Regulations

Purpose

The Greenbelt program was enacted because urban development and other non-agricultural development can have an economic impact on neighboring agricultural and horticultural land. Special valuation, in the form of a taxable value based solely on eighty percent of actual value of land for agricultural and horticultural use without respect to other uses, allows persons wishing to continue to engage in agriculture as a livelihood without being forced to discontinue their agricultural endeavors as a result of excessive tax burdens. It is also recognized that special valuation reduces the value base for property tax purposes. To limit this effect, a recapture of the tax benefit received during the current and preceding three years, is imposed when the property ceases to qualify for the special valuation.

Definitions

For the purpose of this regulation, the following definitions shall be used:

- Additional taxes shall mean the amount of potential tax liability constituting the difference between real property taxes due as a result of the special value and taxes which would have been due had the land been taxed at the recapture value.
- Agricultural use shall mean the use of land primarily for the production of agricultural and horticultural products as defined in section 77-1359 (of the Nebraska Code). The land shall be exclusively used for agricultural production.
- Zoned for agricultural use shall mean the designation of any land predominantly for general farming and ranching operations by a valid zoning ordinance duly passed by a county or municipality under the authority vested in it by statute. The prevailing allowable use must be agricultural.
- Actual value shall mean the market value in the ordinary course of trade. Actual value shall be determined using the methods specified in section 77-112 (of the Nebraska Code).
- Special value shall mean eighty (80) percent of the actual value for comparable uninfluenced agricultural and horticultural land.
- Recapture value shall mean 80 percent of the actual value. If land which received the special valuation did not qualify as agricultural or horticultural land on January 1, then the recapture value for that year shall mean the actual value.
- Uninfluenced agricultural and horticultural land shall mean land that has an actual value which represents influences related only to the agricultural market.

- Subdivided shall mean the division of land into two or more parcels, either of which is less than ten acres, for the purpose of ownership or building development.

Initiation of Greenbelt

In order to be eligible for the special valuation the land must meet four criteria. First, the land must be located outside the corporate boundaries of any sanitary and improvement district, city, or village. Second, the land must be zoned predominantly for agricultural use. Third, the land must not be subdivided. Fourth, the land must be used exclusively for agricultural use. Eligibility shall be determined annually as of January 1. However, the land must remain eligible the entire year in order to retain the special valuation for that year.

- If eligibility is lost prior to levy date of the current tax year, the land shall be assessed and taxed at the recapture value for that year. The additional taxes accrued during the prior three or fewer years shall be collected in the manner prescribed in the Tax Calculation section and are considered a lien against the property as of December 31 of each tax year in which the valuation was allowed.
- If eligibility is lost after levy date of the current year, the additional taxes accrued during the last four or fewer years shall be collected in the manner prescribed in the Tax Calculation section, except that the current year shall be year one of the four-year period. The additional taxes are considered a lien against the property as of December 31 of each tax year on which the special valuation was allowed.
- When eligibility is lost and the land is acquired by an ownership which may make application for exemption from property taxes pursuant to section 77-202.03(3) (of the Nebraska Code) the lien for additional taxes for the current year shall attach as of the day preceding the sale or transfer if such property is transferred on or before levy date. The lien for additional taxes in the previous three or less tax years shall attach as of December 31 of each tax year which the special valuation was allowed.
- When eligibility is lost as a result of sale or transfer to an entity which did or has authority to acquire land through eminent domain, no additional taxes are due for the current or any previous tax year.

The county board may initiate the implementation of special valuation by passing a resolution adopting its implementation. If a resolution is passed, the county assessor shall implement special valuation in the next assessment year after the resolution is passed. The initiation of special valuation does not require any action by the county board or county assessor.

Eligibility

Application for special valuation must be submitted to the county assessor on or before August 1. Any application received after August 1 shall be accepted only as an application for the following year. The application shall be made on the Special Assessment Application for Special Tax Treatment of Lands Zoned and Used exclusively for Agricultural or Horticultural Purposes, Form 456, prescribed by the Property Tax Administrator and supplied by the county assessor. The application must be submitted on behalf of the owner of record of the property and be signed by one of the following persons:

- The owner of the land holding title in fee simple or for life,
- Any one of tenants in common or joint tenants, when such tenancy of the land is in fee simple or for life,
- Any person of legal age duly authorized to sign an application on behalf of an owner described in this regulation,
- The guardian or conservator of an owner or the executor or administrator of the owner's estate,
- The purchaser of the fee simple or life estate interest of the owner under a contract of sale.

The assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney, or other appropriate instrument evidencing the signer's interest or authority.

The county assessor shall verify the information contained on the application as to the status of the applicant, the description, the zoning, the use of the property, that the property is not annexed to a sanitary improvement district, city or a village, and ascertain that the property is not subdivided. If all of the information on the application is proper and all criteria for special valuation are met, the county assessor shall approve and sign the application. After approving the application the assessor shall apply the special valuation to the property.

If the application is deficient of any of the required criteria, the county assessor shall reject the application. The county assessor shall send written notification of such rejection immediately to the applicant. The notice of rejection shall state the reason or reasons why the application for special valuation was rejected. The applicant may correct the deficiency and submit a new application, however the new application must be filed on or before August 1.

Valuation

The county assessor shall annually utilize market valuation and comparison sales in determining the special valuation. The information shall be based upon similar classes or subclass of agricultural land from agricultural areas uninfluenced by non-agricultural market influences.

The county assessor shall annually use market valuation and comparable sales from within the influenced area or other areas of similar influence to determine the actual value of the agricultural land in the area.

The county assessor shall maintain a file of all data used for determining the special and actual valuation. The information shall be considered a public record and available for inspection by the Property Tax Division, the Tax Equalization and Review Commission, or any interested person.

Disqualification Criteria

Any land upon which the special valuation has previously been granted shall cease to be eligible for the special valuation upon the happening of one of the following events:

- Written notification by the taxpayer to the county assessor to remove the special valuation;
- Sale or transfer of the land to an ownership if it results in a status of tax exemption. If the property is sold or transferred to an entity that may qualify for a property tax exemption pursuant to section 77-202(1) (b) or (c) (of the Nebraska Code), then this subsection shall not apply until the exemption has been granted.
- Change of primary zoning of the land to other than agricultural use, even if agriculture is retained as a secondary use;
- Subdivision of the land;
- Annexation of the land by a sanitary improvement district, city or village; or
- Change in the exclusive use of the land to other than agricultural or horticultural use.

It is the duty of the owner, agent, guardian, or executor to notify the county assessor of any change in the status of the land, which will disqualify it from receiving the special valuation. It shall be the duty of the county assessor to annually verify, as of January 1 of each year, that all properties listed for the special valuation continue to qualify and apply the recapture valuation to any properties which are no longer eligible.

Protest

In the case of an application which has been rejected or canceled by the county assessor, the applicant shall have 30 days from the date of mailing of the notice of rejection in which to file a protest with the county board of equalization. The protest shall state the reasons why the land should not be disqualified. Upon receipt of the protest, the county clerk shall schedule a hearing before the county board of equalization and notify the applicant of the time and place for the hearing.

- At the hearing the board may take evidence pertinent to the protest and, for that purpose, may compel by subpoena, the attendance of witnesses and the production of books, records, and papers.
- The county clerk shall give the applicant written notification of the decision of the board within seven days. The applicant shall have the right to appeal, within 30 days of the final action of the board, pursuant to the Nebraska Tax Equalization and Review Commission Act.

Notice of Value

The county assessor shall on or before June 1, send notice to each owner of land receiving the special valuation, if the land is being assessed at a value different than in the previous year. The notice shall state the information as required pursuant to section 77-1315(2) (of the Nebraska Code) plus the old and new recapture and special valuations. The protest procedures for both the special value and the recapture value shall be as set out in section 77-1502 (of the Nebraska Code).

Tax Calculation

Each year the county assessor shall maintain the assessment roll so as to show the actual, recapture and social values on all land receiving the special valuation.

Each year the county assessor shall also calculate what the taxes on each property subject to the special valuation would be if the recapture value were applied. The amount of additional tax shall be carried on the records for the county assessor and the county treasurer as a potential tax liability.

Upon disqualifications, the county assessor shall determine the total additional taxes due. This determination shall be made by adding the potential tax liabilities accrued during the past three or lesser number of years for which the property received the special valuation, plus the current year if disqualification occurred on or after levy date. If disqualification occurred prior to levy date, then the total additional taxes due shall be made by adding the potential tax liabilities incurred during the past three or lesser

number of years, and the current year shall not be subject to special valuation. The total of these tax liabilities shall constitute the additional taxes for the disqualified land.

- The county assessor shall certify a statement to the county treasurer containing the amount of additional taxes due and payable, and the periods during which the taxes accrued.
- The county assessor shall send written notification to the owner that the land has become disqualified and state the amount of additional taxes and interest due.
- The county treasurer shall compute interest on the additional taxes from December 31 of the year such tax would have become payable had the special valuation not been granted. Interest shall continue to accrue until payment of the additional taxes. Interest shall be calculated at the rate of six percent per annum or at the rate of .00016438 per day.

The total amount of additional taxes and interest collected by the county treasurer shall be distributed by tax year to the political subdivisions levying the tax in the same manner as other property taxes.