

## FACTSHEET

**TITLE:** TEXT AMENDMENT NO. 17006 -  
**(Ordinance)** - 2017 proposed amendments to  
Title 26 and Title 27 of Lincoln Municipal Code.

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** David Cary, Director  
Planning Department

**RECOMMENDATION:** Approval (9-0: Beckius, Corr,  
Edgerton, Finnegan, Harris, Washington, Weber, Scheer  
and Hove voting 'yes')

**STAFF RECOMMENDATION:** Approval.

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None present at hearing.

### **REASON FOR LEGISLATION:**

This is a set of proposed text amendments to Lincoln Municipal Code Title 26 Land Subdivision Ordinance, Title 27 Zoning Ordinance.

### **DISCUSSION/FINDINGS OF FACT:**

1. This text amendment had public hearing before the Planning Commission on May 24, 2017.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on pp.2-8, concluding that the proposed changes are in conformance with the 2040 Comprehensive Plan, and should not have a significant negative impact on surrounding properties affected by these amendments. The staff presentation can be found on pp.9-10 .
3. There was no testimony in support or in opposition to this text amendment.
4. Planning Commission questions of staff are found on pp.9-10.
5. On May 24, 2017, the Planning Commission voted 9-0 to recommend approval of this text amendment.
6. This application is associated with Bill No. 17R-148, which is the related amendments to the Zoning Design Standards that were also a part of Text Amendment No. 17006.

**FACTSHEET PREPARED BY:** Geri Rorabaugh, Administrative Officer

**DATE:** May 26, 2017

**REVIEWED BY:** David R. Cary, Planning Director

**DATE:** May 26, 2017

# LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

## for May 24, 2017 PLANNING COMMISSION MEETING

**PROJECT #:** Text Amendment No. 17006

**PROPOSAL:** This is a set of proposed text amendments to Lincoln Municipal Code Title 26 Land Subdivision Ordinance, Title 27 Zoning Ordinance and the Zoning Design Standards.

**CONCLUSION:** The proposed changes are in conformance with the 2040 Comprehensive Plan, and should not have a significant negative impact on surrounding properties affected by these amendments.

<b>RECOMMENDATION:</b>	Approval
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### GENERAL INFORMATION:

These revisions have been collected by City staff over the past several years, and range from correction of minor errors, to deletion of obsolete provisions, to more substantive changes that improve the approval processes for City staff and the public and eliminate burdensome requirements.

### **COMPREHENSIVE PLAN SPECIFICATIONS:**

P. 1.2 - LPlan 2040 is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's new and established neighborhoods.

P. 1.7 - The area of transition from one land use to another is often gradual. LPlan 2040 also encourages the integration of compatible land uses, rather than a strict segregation of different land uses.

P. 2.7-2.8 - Guiding Principles for Community Form - The Urban Environment

- The community's present infrastructure investment should be maximized by planning for well-designed and appropriately-placed residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in existing neighborhoods, redevelopment of underperforming commercial areas into mixed use redevelopment areas that include residential, retail, office and entertainment uses, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods.
- Mixed use redevelopment, adaptive reuse, and well-designed and appropriately-placed infill development, including residential, commercial and retail uses, are encouraged.

P. 3.12 - Production of food closer to the urban center, if not within it, reduces the distance food must be transported, increases the freshness of food available, supports the local agricultural economy, and provides nutritious food to those who might not otherwise be able to obtain it.

P. 3.12 - Local food may be produced in the rural area of the county, or counties nearby; or it may also be produced within the urban area itself.

P. 3.12 - Strategies for Local Food

- Promote more community gardens.
- Allow community gardens in all zoning districts at appropriate locations and with appropriate standards.

P. 7.2 - Strive for predictability for neighborhoods and developers for residential development and redevelopment.

- P. 7.9 - Encourage well-designed and appropriately placed density, including within existing apartment complexes and special needs housing where there is land available for additional buildings or expansions.
- P. 7.10 - Detailed Strategies for Existing Neighborhoods -Redevelopment and infill should strive for compatibility with the character of the neighborhood and adjacent uses (i.e., parking at rear, similar setback, height and land use).
- P. 12.10 - Zoning is a legal means cities and counties use for deciding how land can be used, the intensity of those land uses, and the relationships between various land uses. Nebraska State law, as with most states, requires zoning to be developed in accordance with the community's adopted Comprehensive Plan.

## **ANALYSIS:**

These text amendments have been posted on the Planning Department website for public review since March 20, 2017. They were sent out to neighborhood organization representatives and the development community requesting comments and presented at the Mayor's Neighborhood Roundtable on May 8, 2017. There was limited response, none negative, to the request for input on the proposed text amendments.

Text changes proposed as part of the Planning Department's 2013 proposed ReFORM package are not included, with the exception of an amendment removing the density penalties for community unit plans between 1 and 10 acres.

The revisions proposed with this application are summarized below. The amendments are listed in full legislative format on the attached draft ordinance and resolution documents.

### **Subdivision Ordinance, Procedure for Processing Subdivisions– Chapter 26.11**

#### *26.11.036 Hearing on Preliminary Plat*

The proposed amendment is to change the required notice time frame for public hearings as it pertains to the legal ad in the newspaper from eight (8) days to five (5) days. The actual practice of eight days of notice will still be followed. This change is to allow flexibility in the unusual instances where the legal ad is not published as requested which happened in 2016. The deadlines for neighbor letter notices and zoning signs will remain the same.

### **Subdivision Ordinance, Procedure for Processing Subdivisions– Chapter 26.11**

#### *26.11.037 Commission Action on Preliminary Plat*

This chapter section contains the appeal provisions for preliminary plats. The proposed amendment is to change the filing notice of appeal from City Clerk to Planning Department. This is a simple procedure change that will make the process easier for the applicant and staff.

### **Subdivision Ordinance, Preliminary Plat – Chapter 26.15**

#### *26.15.015 Information on a Preliminary Plat*

#### *26.15.020 Information on or Accompanying a Preliminary Plat.*

These chapter sections contain provisions for information required on preliminary plats. The sections proposed for amendment contain a requirement that is no longer needed due to its date reference (preliminary plats submitted before March 1, 2000). Therefore, these provisions are proposed to be deleted.

## **Subdivision Ordinance, Certificates and Acknowledgments on Final Plat– Chapter 26.19**

### *26.19.020 Certificates and Acknowledgments on Final Plat*

This chapter section contains provisions for required certificates and acknowledgments on final plats. The specific amendment proposed is to add lien holder acknowledgment. 26.19.010 Form of Final Plat references lien holder consent but adding a specific provision to 26.19.020 would add more clarity and specificity. This has been the practice for many years though not in the Ordinance.

## **Subdivision Ordinance, Certificates and Acknowledgements on Final Plat– Chapter 26.19**

### *26.19.041 Survey Requirements*

This chapter section contains survey requirements. The proposed changes simply are to make the references to the surveyor gender neutral.

## **Subdivision Ordinance, Development Standards – Chapter 26.23**

### *26.23.140 Lot*

This chapter section contains provisions for minimum lot development standards. Specific changes proposed include deleting a reference to a table which no longer exists and adding requirement that for residential lots a private roadway is permitted provided it is within a 60' minimum wide out lot with sidewalk required on both sides of the vehicle access. Also, a change is proposed to discourage for residential lots a private roadway where it serves less than 10 dwellings. The reason for this proposed amendment is to provide a consistent standard of 60' wide out lot for a private street to match the 60' right of way width if it were a public street. The 60' width is to allow sufficient space for the roadway, sidewalk, trees and utilities. Also, when the out lot was only the width of the street paving, 27 feet, it caused significant problems in measuring setbacks. So for residential development, the out lot needs to be kept at the same width as the public right of way to avoid problems. The City in the 60 foot out lot will be requiring sidewalks to be spaced from the curb the same distance as public right of way in order to provide adequate space for street trees and utilities. The threshold of 10 dwellings is a recommendation such that anything less than this would be discouraged due to the difficulty of maintaining the roadway and other infrastructure in the out lot with few homes. In the long term, property owners might otherwise be faced with infrastructure repairs beyond their financial ability to maintain.

## **Design Standards for Zoning Regulations - Chapter 3.05**

### *Chapter 3.05 General Requirements for Submission of An Environmental Impact Statement for B-5 Planned Regional Business District.*

This chapter section contains standards for environmental impact statement for B-5 District which is not used. An EIS has not been required for B-5 zoning for decades. Therefore, it is proposed to be deleted. Environmental aspects, storm water for example, would be reviewed as part of the Use Permit for a development in the B-5 District or where applicable per State and/or Federal requirements.

## **Design Standards for Zoning Regulations– Chapter 3.15**

### *Chapter 3.15 Standards for Banks and Other Financial Institutions Drive-in Teller Facilities in O-1 District.*

This chapter section contains design standards for banks and other financial institutions in the O-1 District which are not used and which are addressed through existing standards such as Capitol Environs review. As such, it is proposed to be deleted.

### **Design Standards for Zoning Regulations– Chapter 3.20**

*Chapter 3.20 Signage for Historic Building Reuse by Special Permit.*

This chapter is not used. If there was a designated historic property this review authority would already apply. Therefore, it is proposed to be deleted.

### **Design Standards for Zoning Regulations– Chapter 3.25**

*Chapter 3.25 Standards for Exceeding Maximum Height by Special Permit.*

Maximum height is already regulated through existing height regulations, Capitol Environs and Special Permit process in the Zoning Ordinance. Therefore, it is proposed to delete this Chapter.

### **Design Standards for Zoning Regulations – Chapter 3.50**

*3.50 Design Standards for Screening and Landscaping*

This chapter section contains the landscaping design standards. The proposed change pertains to 7.1 (d) such that no screening would be required if the parking lot, parking area or drive aisle were setback 100 feet or more from the lot line or edge of pavement on private streets. A parking lot with a setback of 100 feet or more will not have a visual impact that warrants the screening versus parking that is closer to the street. Although not in the current ordinance, historically there was a 10% reduction in requirement for every 10 feet, effectively removing the requirement where the parking was setback 100 feet or more.

### **Design Standards for Zoning Regulations – Chapter 3.60**

*Chapter 3.60 Design Standards for Construction, Development and Maintenance of Park Land*

This chapter proposed to be deleted contains standards which are obsolete and not used for private parks.

### **Design Standards for Zoning Regulations– Chapter 3.80**

*Chapter 3.80 Technology Park Design Standards*

This chapter section contains design standards for technology parks which is no longer used. The only previous example would be the Highland technology park, which is about half built and will be undergoing revisions and the standards of this chapter are no longer pertinent. Therefore, it is proposed to be deleted.

### **Zoning Ordinance, Use Groups– Chapter 27.06 and Related Amendment Chapters**

*27.06.020 Classification of Use Types*

This section contains Use Groups. The proposed amendment is to add another provision for

clarification under 27.06.020 which would permit access to cross different zoning districts. This would be in the case where an access has been approved but there is more than one zoning district involved. This change is therefore to avoid issues where zoning districts would be crossed.

*27.06.120 Office Use Group , 27.06.130 Retail Sales and Services Use Group, 27.51.030 General Regulations, 27.62.090 Office Use Group, 27.62.100 Retail Sales and Services Use Group*

These multiple chapters include retail and office use provisions in the I-3 zoning district. The proposed changes would be to relocate where the required cap on the overall amount of office and retail is in some I-3 use permits. The office and retail sales would be listed as conditional uses in the I-3 zoning district with the required cap.

*27.06.150 Commercial Recreation and Entertainment Facilities Use Group*

Amusement license is proposed to be added as conditional use in the AG District. An Amusement License would be issued by the Lancaster County Board and would be for events such as Frog Fest for example. This is related to the amendment to 27.62.120 below.

## **Zoning Ordinance, Conditional Uses - Chapter 27.62**

*27.62.030 Agricultural Use Group*

This chapter section contains conditional uses which are allowed in designated zoning districts subject to specific conditions of approval. Currently this section permits Urban Gardens in all zoning districts except the AG zoning district under two conditions: 1) there is no commodity sold on the premises and 2) approval has been granted by the Lincoln Lancaster County Health Department. The proposed amendment would allow plants and accessory items for cultivation but not accessory buildings in the front yard.

*27.62.120 Commercial Recreation and Entertainment Facilities Use Group*

This chapter section includes a provision whereby any use which has received an Amusement License from the Lancaster County Board is permitted as conditional use with a limit of no more than one event per calendar year but adds exception for a Place of Religious Assembly. This is to accommodate churches or other Places of Religious Assembly which have more than one event per year as part of their religious holidays or traditions.

## **Zoning Ordinance, Special Permits - Chapter 27.63**

*27.63.025 Appeal of Planning Commission Action*

This chapter section contain the appeal provisions for Special Permits. The proposed amendment is to change the filing notice of appeal from City Clerk to Planning Department for the same reasons as noted previously.

*27.63.140 Outdoor Lighting for Recreational Facilities*

This chapter section contains Special Permit requirements for Outdoor Lighting for Recreational Facilities. This section is no longer needed as there are now Design Standards for recreational lighting. The section would be deleted.

*27.63.180 B-4 District*

This chapter section contains Special Permit requirements for the B-4 District. The proposed change is to replace “motor fuel sales facilities” with “motorized vehicle fuel sales facilities” and to replace “car washes” with “motorized vehicle wash facilities” so as to be consistent with the Use Groups reference of the same.

*27.63.500 Salvage Yards*

This chapter section contains Special Permit requirements for Salvage Yards. The proposed changes are to clarify the geography of the entrance corridors for which salvage and/or recycling material kept subject to specific provisions.

*27.63.510 Cemeteries and Mausoleums*

This chapter section contains Special Permit requirements for Cemeteries. The proposed amendment is to add the word mausoleum to the specific section and Chapter index. This would be to allow for freestanding mausoleums.

*27.63.570 Race Tracks for Motorized Vehicles*

This chapter section is proposed to be amended to correct references to Ldn which should be DNL (Day-night average sound level).

**Zoning Ordinance, Use Permits -Chapter 27.64**

*27.64.010 Procedures and Requirements*

This chapter section contains the appeal provisions for Use Permits. The proposed amendment is to change the filing notice of appeal from City Clerk to Planning Department as noted previously.

**Zoning Ordinance, Community Unit Plan - Chapter 27.65**

*27.65.020 Requirements*

This chapter section contains provisions for Community Unit Plans. The first proposed amendment to 27.65.020 would allow CUPs in the AG District to follow the height and area regulations of the AGR District where the lots created are less than 5 acres in size. This is justified because generally CUPs in AG zoning necessitate waivers from the height and area regulations.

The reFORM planning draft in 2013 recommended eliminating the “penalty” provision limiting density in small scale Community Plans. Specifically language in the CUP Chapter imposes a 10% density reduction on CUPs that are between 5 and 10 acres and a 20% reduction for those less than 5 acres. The second proposed amendment to 27.65.020 reflects this recommendation from reFORM. This amendment would be to help with redevelopment in older areas. Typically it is much more challenging to redevelop older areas which often involve smaller properties. If these density penalties are removed, then the four paragraphs under 27.65.020(b)(1) can be deleted as these existing requirements are stated elsewhere in the Ordinance. There have been several potential redevelopment projects in the past that have been abandoned due to this current requirement.

## **Zoning Ordinance, Parking - Chapter 27.67**

### *27.67.040 Parking Requirements; Special Condition*

This amendment would reduce the parking requirement for sale of alcoholic beverages for consumption on the premises from 1:100 to 1:200 consistent with the 2016 amendment that reduced parking for restaurants.

## **Zoning Ordinance, Signs - Chapter 27.69**

### *27.69.030 General Provisions*

This amendment pertains to wall signs for O-1, O-2, and R-T zoning districts. This amendment is to eliminate the limit of only one wall sign per architectural elevation in the O-1, O-2 and R-T zoning districts, and instead allow multiple signs while retaining the 25 square foot maximum sign size per individual sign, and adding a limit on wall signs shall not exceed more than 25% of each architectural elevation. This specific amendment was requested by a property owner with multiple office tenants in one building.

### *27.69.090 Places of Religious Assembly, Schools, and Community Playhouses*

This amendment is a further clarification of a prior sign chapter amendment adopted in the fall of 2016. The proposed change pertains to wall signs for places of religious assembly, schools and community playhouses and further clarifies the prior amendment by referencing the building facade in relation to the abutting street frontage.

## **Zoning Ordinance, Height and Lot Regulations -Chapter 27.72**

### *27.72.010 Height and Lot Regulations AG and AGR Districts*

The proposed changes to 27.72.010 are to clarify the lot requirements where lots are less than 20 acres in size for the AG District such that any such lots legally created as of May 9, 1979 would follow the requirements for farmsteads in the current Ordinance. Also, the changes are to have consistent exception language as far as frontage for AG and AGR Districts and to delete different ownership statement for AG zoning district, since ownership would not matter in so far as the height and lot requirements.

### *27.72.020 Height and Lot Regulations R-7 and R-8 Districts*

This chapter section contains requirements for maximum height and minimum lot requirements. The proposed change to Table 27.72.020(b) which pertains to buildings over 35' in height, adding one foot to the required side/rear yards for each additional two foot of height and also to remove somewhat similar provision pertaining to increased side yard for height of buildings over 45' in height in the R-8 District. The intent of removing these two restrictions is to encourage redevelopment of older properties in the R-7 and R-8 Districts. Generally the R-7 and R-8 are high density zoning districts found close to Downtown.

## **Zoning Ordinance, Board of Zoning Appeals -Chapter 27.75**

### *27.75.030 Appeals and Petitions Procedures*

This chapter section contains appeals and petitions procedures for the Board of Zoning Appeals. The proposed amendment would change the filing deadline from 60 days to 90 days from the date of the final order, decision or determination made in enforcement of the Zoning Ordinance. This is to allow more time as in some cases an error may not be discovered in the first 30 to 60 days.

## **Zoning Ordinance, General Provisions -Chapter 27.81**

### *27.81.010 General Regulations*

This chapter is being amended for a reference to a non-existent Chapter 27.71 and adding the correct reference to 27.06 in so far as one main building on one lot regulations and exceptions thereto.

### *27.81.050 Notice of Public Hearings*

This chapter section contains provisions including notice of public hearings. The proposed amendment is to change the required notice time frame for public hearings as it pertains to the legal ad in the newspaper from eight (8) days to five (5) days. The actual practice of eight days of notice will still be followed. This change is to allow flexibility in the unusual instances where the legal ad is not published as requested which happened in 2016. The deadlines for neighbor letter notices and zoning signs will remain the same.

Prepared by:

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George Wesselhoft, Planner

(402-441-6366, [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov))

**DATE:** May 11, 2017

**APPLICANT:** Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

**CONTACT:** George Wesselhoft, Planner  
402-441-6366 or [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)

# TEXT AMENDMENT NO. 17006

**TEXT AMENDMENT NO. 17006 AMENDING TITLE 26 SUBDIVISION ORDINANCE, TITLE 27 ZONING ORDINANCE AND TITLE 3 DESIGN STANDARDS AND DELETING APPROPRIATE SECTIONS AS HITHERTO EXISTING:** **May 24, 2017**

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Scheer, Washington and Weber.

**Staff recommendation:** Approval.

Corr disclosed that this Text Amendment was presented at the Mayor's Roundtable Meeting of May 8, 2017.

**Staff Presentation:** **George Wesselhoft of the Planning Department** stated these are primarily minor cleanup items. The proposed amendments have been circulated to the public since March 20, 2017, including all neighborhood and homeowner organizations, developer representatives, and at the Mayor's Roundtable.

There are a few more substantive changes. In Chapter 26.23 pertaining to lots, there is a provision for a threshold of 10 dwellings to avoid issues where the owner might find it beyond their financial capability to maintain the structure. The 60-foot width requirement provides space for roadway sidewalk, trees, and utilities and avoid problems that have come up in the past. In Chapter 27.62.030, changes were made pertaining to urban gardens and what districts they are allowed. No commodity can be sold on premises and approval must be obtained from the Health Department. Plants are allowed in front for cultivation, but no structures are allowed. In Chapter 27.65 of the Zoning Ordinance, there are density penalties in place. These have been relaxed to encourage redevelopment in older areas. Some projects were proposed and abandoned in the past due to the inability to meet previous density requirements.

Harris asked about notice of public hearings and the change from the 8-day requirement to a 5-day requirement. She wondered how this reduction was reconciled with the fact that a common complaint heard by this body is lack of notification time. Wesselhoft responded that there are three general ways the public is notified. The first is a sign posted on the property. Second, a notification letter is sent out to surrounding property owners and neighborhood organizations, and the third is the legal advertisement. The current practice will still be adhered to; however, the extra time is to allow for reaction time in cases where the legal ad deadline is missed. This happens only on very rare occasions.

Corr asked about 27.60.020 and the classification of use types crossing over into different districts. Wesselhoft said this could apply in PUD situations where more than one district is included in the development area. The intention for this change was to codify the rules to allow this for the sake of Building and Safety review. Corr noted that this was really about access roads and easements from public streets to private roads.

In answer to a question from Corr regarding uses changing, Wesselhoft said the changes mainly move provisions around to bring them in-line as far as where they can be more appropriately located within the code. Those are not substantive changes.

Corr went on to wonder why height waivers are granted in AG Districts. Wesselhoft said it is related to AG community unit plan (CUP) waivers that have been granted in the past. This will streamline the process. **Steve Henrichsen of the Planning Department** stated the height allowed is 36 feet. In an AG CUP, it keeps AG zoning. When lots are created in a cluster and are smaller lots, they will follow the setbacks and heights of the AG-R District so a waiver is needed. In this case, the height requirement is the same.

Corr asked how changes in the sign codes align with how signage is treated in other districts. Wesselhoft said this particular change was prompted by a specific property. In certain districts, multiple wall signs will be allowed while still maintaining the 25-foot maximum. Corr explained that she wants to be sure that the code is not being changed for a single property owner. Wesselhoft said these districts are not usually as permissive. Henrichsen said this does not change the total square footage allowed. It was just found that if the first person went in and put up a sign, it could lock everyone else and that should be avoided. The 25 feet allowed is relatively small when compared to some other districts.

There was no public testimony on this item.

**TEXT AMENDMENT NO. 17006**

**ACTION BY PLANNING COMMISSION:**

**May 24, 2017**

Beckius moved Approval; seconded by Corr.

Hove expressed his appreciation for efforts of Staff in their review of the ordinances.

Motion carried 9-0: Beckius, Corr, Edgerton, Finnegan, Harris, Scheer, Washington, Weber and Hove voting 'yes'.

Note: This is a recommendation to the City Council.