

COUNTY BOARD SUMMARY REPORT

TO : County Clerk: Attn: Monet McCullen

FROM : David R. Cary, Director of Planning

RE : **County Text Amendment 18012**
(Amend various articles of the Lancaster County Zoning Regulations)

DATE : October 26, 2018



1. On October 24, 2018, the Planning Commission held a public hearing on County Text Amendment 18012 and the associated County Text Amendment 18013, requested by the Director of the Planning Department.
2. Attached are the Planning staff report (pp.1-4) and the minutes of the Planning Commission (pp.5-6) on **County Text Amendment 18012**, requested by the Director of Planning, to amend the Lancaster County Zoning regulations by adding definitions, adding uses to the AG, AGR, R and B Districts; reorganizing AG Preservation in the AG District; adding special permits, adding a new chapter for Historic Preservation District and other miscellaneous minor changes. The proposed legislative changes to the County Zoning Regulations will be provided by the County Attorney's Office separately.
3. The staff recommendation of approval is based upon the Analysis as set forth on pp.1-4 concluding that the current zoning regulations are in need of some minor updating. The previous text amendment done in 2017 focused primarily on the special permit chapter. This amendment is a result of looking at the entire zoning regulations and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement. The staff/applicant presentation is found on pp.5-6.
4. There was no testimony in support or in opposition to these proposed changes.
5. On October 24, 2018, the Planning Commission agreed with the staff recommendation and voted 8-0 (Joy absent) to recommend approval of Text Amendment 18012. The Planning Commission also voted 8-0 (Joy absent) to recommend approval of the associated Text Amendment 18013.
6. Please take the necessary steps to schedule these items on the County Board agenda and inform us of the public hearing date. The Planning staff is scheduled to brief the County Board on these amendments at their regular staff meeting on Thursday, November 1, 2018, at 10:15 a.m., in Room 113 of the County-City Building, 555 South 10th Street, Lincoln, Nebraska.

If you need any further information, please let me know (402-441-6365).

cc: County Board
David Derbin, County Attorney's Office
Pam Dingman, County Engineer
Kerry Eagan, County Commissioners

Ann Ames, County Commissioners
Tom Cajka, Planning



LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #18012	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE October 24, 2018	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

To amend the Lancaster County Zoning regulations by adding definitions, adding uses to the AG, AGR, R and B Districts; reorganizing AG Preservation in the AG District; adding special permits, adding a new chapter for Historic Preservation District and other miscellaneous minor changes.

JUSTIFICATION FOR RECOMMENDATION

The current zoning regulations are in need of some minor updating. The previous text amendment done in 2017 focused primarily on the special permit chapter. This amendment is a result of looking at the entire zoning regulations and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement.

APPLICANT

Tom Cajka, 402-441-5662

STAFF CONTACT

Tom Cajka, (402) 441-5662 or
tcajka@lincoln.ne.gov

ANALYSIS

In May 2017 the County Zoning Regulations were amended. That amendment focused primarily on the special permit chapter. This proposed text amendment looks at the entire zoning regulations. The proposed text amendments are the result of input from Building and Safety Department, Lancaster County Engineer, Lincoln-Lancaster County Health Department and County Attorney. The following is a summary of the proposed amendments.

There are also numerous small corrections to spelling and format that do not change the regulations. These minor corrections are not listed in the analysis, but are in the proposed text.

The proposed text was emailed to the public for review on September 14, 2018. A briefing was done for the Planning Commission on October 10, 2018.

Definitions-Article 2

Add definitions for "Agricultural Attraction", "Contractor Services", "Early Childhood Care Facility", and "Mini-Warehouse."

These definitions are added for new uses to the zoning regulations and to clarify other uses. AG Attraction allows for a limited amount of area devoted to entertainment, but the main use shall be agriculture. Examples of agricultural attraction include pumpkin patch, corn maze, or apple orchard.

Contractor Service was added to clarify that this use is different than manufacturing or repair establishments.

Early Childhood Care Facilities was added because there is no reference to this use in the zoning regulations. Academies and private schools specifically exclude early childhood care facilities.

Mini-warehouse was added to differentiate it from storage warehouse. It was not clear if storage warehouse was just for businesses or included storage for private individuals.

Amend definition for "Campground"

Amend the definition for "campground" to allow cabins within campgrounds. Currently only tents and recreational vehicles are allowed. Modern campgrounds have more options in sleeping arrangements. Places like Mahoney Park have cabins to rent. Allowing cabins to be part of a campground allows for more options.

Amend the definition of "Dwelling"

By striking the word "exclusively" this removes a loophole that could allow a second dwelling on a lot. Currently if a dwelling is not used exclusively by someone living there for more than 30 consecutive days, then it is not considered a dwelling.

Amend definition of "Garden Center"

The definition is amended by changing "a building" to "one or more buildings." Garden centers often have more than one building on the site.

Amend the definition "Lot Buildable"

Language was added to this definition to clarify that a lot legally created in another jurisdiction and deemed buildable, would be buildable under Lancaster County zoning regulations even if it may not meet the area, width of frontage or any combination thereof.

Amend the definition for "Recreational Facilities"

Amend the definition by adding "outdoor shooting" and "archery" as a type of recreational facility. This also matched the definition of recreational facilities in the Lincoln zoning ordinance.

AG-Agricultural District-Article 4

Amend 4.005 -Permitted Conditional Uses by adding "temporary paving plants", "agricultural attraction", and "early childhood care facilities" as conditional uses. These uses are not allowed in any district per the current regulations. Temporary paving plants would be allowed only for federal, state or county road projects. These plant are only allowed during the project construction and then must be removed.

Agricultural attraction would be allowed on a parcel of 20 acres or larger to have uses such as a pumpkin patch, apple orchard or corn maze, but the primary use must be agricultural.

The current zoning regulations does not have a use for early childhood care facility. Academies and private schools specifically exclude early childhood care facilities. Prior to May 2017 (the last amendment) early childhood care facilities were considered a part of private schools. There was no definition of private schools. In May 2017 private schools were defined and excluded early childhood care facilities. This oversight is now being corrected.

Amend 4.007 -Permitted Special Uses by adding "early childhood care facilities." A special permit would be required if there are more than 15 kids or the provider does not live on site.

Add a new section 4.016 for AG Preservation. AG Preservation is not a new use, but it is being reorganized so that all information pertaining to AG Preservation will be in this section.

Amend 4.017(a)(1)(ix) by deleting part 2 that describes setbacks to a side yard for accessory buildings. This was in conflict with Section 17.005(a) which does not allow accessory buildings in the side yard setback.

AGR- Agricultural Residential District- Article 5

Amend 5.005-Permitted Conditional Uses by adding "temporary paving plants" and "early childhood care facilities" as conditional uses.

Amend 5.007-Permitted Special Uses by adding "early childhood care facilities."

R-Residential District-Article 6

Add new section 6.004-Permitted Conditional Uses for “group homes” and “early childhood care facilities.”

The “R” District has never had a conditional use section. These uses are allowed without a public hearing as long as they meet the conditions.

Amend 6.005-Permitted Special Uses to add “early childhood care facilities.”

B-Business District-Article 7

Amend 7.003 Use Regulations to change “shops” to “retail”, delete part of section “O” and to add “mini-warehouse”, “motor vehicle sales”, “early childhood care facilities” and “contractor services” as allowed uses.

Changing “shops” to “retail” removes confusion about what exactly is a shop. Retail is more all-inclusive. Adding the other uses also helps to clarify what is permitted in the “B” District.

Nonconforming and Nonstandard Uses-Article 12

Amend 12.001 Continuation of Nonconforming Use by deleting reference to Section 11.015 and 11.023.

Those sections do not apply to nonconforming uses.

Special Permit-Article 13

Throughout this chapter text was added to clarify that each special permit **may** be allowed. This will clarify that even if the conditions of the special permit are met, it does not guarantee approval of that special permit.

Amend 13.003 Appeal of Planning Commission Action to change that an appeal is to be filed with the Planning Department instead of the County Clerk.

Amend 13.019 Excavation to delete the requirement of a reclamation plan. The reclamation plan has routinely been waived and addressed through a note on the site plan. There is a requirement that the land disturbed by excavation must be restored and the land seeded. A surety is required to guarantee that the land is restored.

Amend 13.039 Expansion of Nonconforming by adding nonstandard uses. Nonstandard applies to an allowed use, but that the building may not meet setbacks or the lot area is too small. This clarifies that this special permit applies to both a nonconforming use or a nonconforming building.

Amend 13.041 Historic Preservation by allowing it in the I-Industrial District and adding language that the special permit applies to structures or sites approved as landmarks by the County Board in accordance with Article 24. New language was added that the Historic Preservation Commission shall review all proposals. 2

Amend 13.047 Race Tracks, Drag Strips and Motor Sports Facilities in the “AG” District by deleting “morals” in the last paragraph. No other special permit uses the term “morals”.

Add new section 13.049 Early Childhood Care Facilities for early childhood care facilities that have more than 15 children or the provider does not live on site.

Community Unit Plan-Article 14

Amend 14.005 Procedure to clarify that an appeal is to be filed with the Planning Department.

Amend 14.013 Form of Community Plan to revise the information required for water wells. This section now has a provision to waive test wells.

Delete 14.014 Design Standards; Density; There are no design standards in the zoning regulations The subdivision regulations has design standards, but they only reference CUP when discussing lots taking access off of a private road.

Additional Height and Area Regulations-Article 17

Amend 17.029 Enlargement and Alteration of Lots to change Section 4.017 h to c. There is no “H” in Section 4.017.

Board of Zoning Appeals-Article 19

Amend 19.005 to change that notice in a newspaper for an application is 5 days instead of 8 days. The 8 days was in conflict with Article 22.

Historic Preservation District-Article 24

This is a new chapter for Historic Preservation. The 2040 Comprehensive Plan includes as a Historic Preservation strategy in Chapter 4, “Expand the community’s historic preservation program to include Lancaster County... and widen the scope of the mission and membership of the Historic Preservation Commission to include all of Lancaster County. The proposed text would make Lancaster County eligible to become Nebraska’s first county-wide Certified Local Government.

Lancaster County had long included in its zoning regulations Special Permits for historic properties, by which uses not otherwise allowed in a zoning district may be permitted by the County Board. The proposed changes make available the expertise of the Historic Preservation Commission in identifying historic properties, and in reviewing proposed changes to those properties for consistency with any guidelines adopted by the County Board.

Prepared by

Tom Cajka, Planner

Date: October 8, 2018

Applicant: David Cary, Planning Director

Contact: Tom Cajka, County Planner

F:\DevReview\TX\18000\TX18012 County zoning.tjc.docx

COUNTY TEXT AMENDMENT 18012

COUNTY TEXT AMENDMENT 18012, TO AMEND THE LANCASTER COUNTY ZONING REGULATIONS BY ADDING DEFINITIONS AND VARIOUS USES TO THE AG, AGR, R, AND B DISTRICTS; ADDING ARTICLE 24 FOR HISTORIC PRESERVATION; AND OTHER MINOR CHANGES.

PUBLIC HEARING:

October 24, 2018

Members present: Beckius, Campbell, Corr, Edgerton, Finnegan, Harris, Scheer and Washington; Joy absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed on this item.

AND

COUNTY TEXT AMENDMENT 18013, TO AMEND THE LANCASTER COUNTY SUBDIVISION REGULATIONS BY AMENDING CHAPTERS 2, 3, 4, 5, 7, 8, AND 9.

PUBLIC HEARING:

October 24, 2018

Members present: Beckius, Campbell, Corr, Edgerton, Finnegan, Harris, Scheer and Washington; Joy absent.

Staff recommendation: Approval.

There were no ex parte communications disclosed on this item.

Staff Presentation: Tom Cajka, Planning Department, stated that these items were reviewed during a briefing. Much of this amendment is to clean up, reformat, and clarify existing language. Some definitions were added or amended. More significant amendments were made under the CUP chapter related to working with the Health Department on well water information, including waiving the requirement for test wells when appropriate. A new chapter has also been added for Historical Preservation guidelines.

Harris asked the reason for striking language related to design standards and density. Cajka noted that there are no design standards in the County, but the language has never been removed. Harris wondered if it was a carry-over from City language. Cajka said it is possible the language has been there since 1979. The density has been determined to be 1 lot every 20 acres, plus a 25% density, as laid out in the CUP language. Harris said it is appropriate to strike the language.

Edgerton asked about the Historical Preservation chapter and the language relating to Lancaster County as a certified local government. Cajka said that language came from Ed Zimmer, Historic Preservation Planner, is required to allow for eligibility to receive federal funding for projects and also allow the opportunity for historical preservation review.

Corr questioned waiving test well results and wondered how the hydrological and geological information will be obtained. Cajka said it is possible to test wells in surrounding areas, and that practice has been applied to past CUP applications. The new language spells out more clearly the process and expectations from the Health Department. It is the same language for both the zoning and subdivision regulations. Corr noted this will solidify the language.

Cajka said the changes to the Subdivision regulations included in Text Amendment 18013 went through the same process. There are some changes to definitions, cleaning up of language and making other various minor corrections. Section 7 relates to the well information. There was also outdated language that has been updated.

Corr asked about the requirements in Chapter 9 that allow Planning Commission to grant waivers. Cajka said the Commission is allowed to grant waivers for everything else, but for some reason in this chapter, the waivers were still required to go through County Board.

There was no public testimony on either item.

There were no additional staff questions.

TEXT AMENDMENT 18012

ACTION BY PLANNING COMMISSION:

October 24, 2018

Campbell moved Approval, seconded by Edgerton.

Corr said it makes sense to clean up the language and to make sure the language matches current practices. It also makes regulations more consistent with those under the City jurisdiction.

Scheer said it is great that Staff goes through this process and it is a huge benefit to align City and County regulations as much as possible.

Motion for Approval carried 8-0: Beckius, Campbell, Corr, Edgerton, Finnegan, Harris, Scheer and Washington voting 'yes'; Joy absent.