

COUNTY BOARD SUMMARY REPORT

TO : County Clerk: Attn: Monet McCullen

FROM : David R. Cary, Director of Planning

RE : **County Text Amendment 18013**
(Amend various articles of the Lancaster County Subdivision Regulations)

DATE : October 26, 2018



1. On October 24, 2018, the Planning Commission held a public hearing on County Text Amendment 18013 and the associated County Text Amendment 18012, requested by the Director of the Planning Department.
2. Attached are the Planning staff report (pp.1-3) and the minutes of the Planning Commission (pp.4-5) on **County Text Amendment 18013**, requested by the Director of Planning, to amend the Lancaster County Subdivision regulations to clarify minor discrepancies, delete outdated references to other codes and update requirements for water wells. The proposed legislative changes to the County Subdivision 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.1-3, concluding that the current subdivision regulations are in need of minor updating. This amendment is a result of looking at the entire subdivision 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.4-5.
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 18013. The Planning Commission also voted 8-0 (Joy absent) to recommend approval of the associated Text Amendment 18012.
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 #18013	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE October 24, 2018	RELATED APPLICATIONS None

RECOMMENDATION: APPROVAL

BRIEF SUMMARY OF REQUEST

This application is to amend the Lancaster County Subdivision Regulations. The text amendment is proposed by the Planning Director to clarify minor discrepancies, delete outdated references to other codes and update requirements for water wells.

JUSTIFICATION FOR RECOMMENDATION

The current subdivision regulations are in need of minor updating. This amendment is a result of looking at the entire subdivision regulations and making additions and amendments where necessary. The proposed changes should make the regulations easier to understand and implement.

APPLICANT

David Cary, Planning Director

STAFF CONTACT

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

ANALYSIS

This text amendment is to revise and update the Lancaster County Subdivision Regulations. The following is a summary of the significant proposed amendments. 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.

A briefing was done for the Planning Commission on October 10, 2018.

Definitions-Chapter 2

Amend 2.17 Frontage to add that the end of a temporary dead-end street is not frontage. There has been confusion if access is allowed off the end of a temporary dead-end street. This language clarifies that it is not allowed.

Procedure- Chapter 3

Amend 3.01 Subdivision to add that conveyance of abandoned railroad right-of-way to adjacent property and the conveyance of surplus property does not require a subdivision. This language is in Lincoln’s subdivision ordinance and makes it clear that no subdivision is required. Railroads and governmental agencies that have power of eminent domain are exempt from subdivision regulations.

Amend 3.04 Department Reports on Preliminary Plats to change the time for other departments to respond from 30 days to 10 days. Ten days response time has been the policy for many years. A public hearing is required before the Planning Commission within 30 days after receiving an application.

Amend 3.06 Hearing by Commission by deleting that reports are required from the planning director, Health Department and County Engineer. Reports are included in the staff report prepared by the Planning Department.

Amend 3.08 Approval of Preliminary Plat by changing the appeal process. Currently an appeal of an action by the Planning Commission to the County Board is filed with the county clerk within 7 days following the filing of such findings. The proposed change would allow an appeal to be filed 14 days after the Planning Commission's action. This allows for a simpler appeal process and corresponds with the City process to avoid confusion.

Amend Section 3.10 Authority to Proceed with Final Plans and Installation of Improvements by deleting the requirement of the subdivider to post a surety in the amount of 5% of the estimated construction costs of the roads. This surety has not been required in the past and all improvements are required to be installed prior to approval of a final plat per Section 3.14.

Amend Section 3.12 Filing Final Plat by deleting language in (a)(3) pertaining to the use of property. Uses are regulated by the zoning regulations, not subdivision. In addition in (c)(4) delete that the subdivider is required to install individual water well systems and individual wastewater systems. These improvements have routinely been done by the home builder.

Amend Section 3.14 Requisites for Final Plat Approval by deleting the last sentence requiring the subdivider to install individual water well systems and wastewater systems. These improvements are normally installed by the home builder.

Amend Section 3.18 Survey Errors by deleting reference to corrected final plat and replacing it with Affidavit of Surveyor. In most cases where there is an error on a final plat it is a minor error such as a typographical error. An affidavit is a simpler and quicker process than a corrected final plat. If there is a major error, a new final plat would be required.

Amend Section 3.21 Expiration of Applications to delete administrative subdivision permit. Administrative subdivision permits have not existed since 2012.

Design Standards-Chapter 4

Amend Section 4.07 Blocks by adding language that a block length may exceed 1,320 feet when a major street, man-made barrier or natural barrier forms one boundary of the block. Adding this language eliminates the need for a waiver to the block length.

Amend Section 4.08 Lots by deleting the first sentence in (d) relating to the minimum width of a residential lot shall be 50 feet. This is confusing with other parts of the zoning regulations. In the R District the minimum width is 60 feet. The zoning code regulates lot and area requirements.

Amend Section 4.08 Lots by adding language that private roadways for residential lots must be in a minimum 60' wide outlot and are not encouraged when there are less than 10 dwelling units. By requiring the road to be in an outlot it eliminated the issue of having each property owner maintain their portion. A homeowners association would own the outlot and be responsible for the maintenance of the road. This should help to ensure that the road is maintained.

Amend Section 4.14 Street and Road Design to update the name of Nebraska Department of Roads to Nebraska Department of Transportation. Also delete references to specific codes. This makes it more generalized and removes the need to update the subdivision regulations if a specific code reference is changed.

Minimum Improvements-Chapter 5

Amend Section 5.01 Street and Road Improvements by deleting references to specific sections on road construction. Also change the name of Nebraska Department of Roads to Nebraska Department of Transportation.

Amend Section 5.03 Water Supply by updating the name of Nebraska Department of Health.

Amend Section 5.04 Wastewater Disposal by clarifying that a community wastewater system is only required when lots

are less than 3 acres in size.

Amend Section 5.05 Drainage by updating the name of Nebraska Department of Transportation and deleting reference to specific sections.

Amend Section 5.07 Temporary Turnaround and Barricades by adding language that proper drainage and grading shall extend around the temporary turnaround until the temporary dead-end street is extended. This makes it clear that grading and drainage may need to be extended beyond the end of the temporary dead-end street.

Amend Section 5.09 Seeding and Erosion Control by updating the name of Nebraska Department of Transportation and deleting reference to specific sections.

Form of Preliminary Plat-Chapter 7

Amend Section 7.01 Information on a Preliminary Plat by revising part J to update requirements for a water well report and allow a waiver to requiring test wells. Currently when water wells are being proposed for a development test wells are required. There is no waiver process in the current code. This would allow for a waiver if satisfactory geological and hydrological information is provided. This change is supported by Lincoln-Lancaster County Health Department.

Form of Final Plat-Chapter 8

Amend Section 8.03 Certificate and Acknowledgements on Final Plat to add language that a lien holder must sign the final plat. This is a requirement, but was not specifically listed in the subdivision regulations.

Amend Section 8.04 Data Required on a Final Plat to add language that a blank space on the first sheet is required. This is a requirement of Lancaster County Register of Deeds so that there is blank space for their notations. In addition delete part 8. It is a repeat of part 7.

Amend Section 8.06 Survey Requirements to change he or his to “the surveyor” to make it gender neutral.

General Provisions Chapter 9

Amend Section 9.01 Modification of Requirements to allow the Planning Commission to grant waivers. This will expedite the approval process.

Amend Section 9.05 Notice of Hearing to change the number of days from 8 to 5 prior to a hearing that a notice must be in a newspaper. This would match what is required in the County zoning regulations. There have been situations in the past where the newspaper failed to get the noticed published in time and the application was delayed two weeks. The Planning Department will still a goal of publishing the notice 8 days prior to the public hearing.

Prepared by

Tom Cajka, Planner

Date: October 11, 2018

Applicant: David Cary, Planning Director
Lincoln-Lancaster County Planning Department

Contact: Tom Cajka, Planner

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COUNTY TEXT AMENDMENT 18013

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 18013

ACTION BY PLANNING COMMISSION:

October 24, 2018

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